

State/Federal Legislation and Policy Impacting Utility Finance

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RECENT TRENDS, POLICIES AND PRIORITIES AFFECTING UTILITY FINANCE

Continued Focus On

- Funding mechanisms for infrastructure projects
- Asset management and capital planning
- System partnerships
- Resources to small water/wastewater systems
- Training for boards/managers/decision-makers

Growing Focus On

- Long-term self-sufficiency/viability of water/wastewater systems
- Affordability (for regulatory, funding, and service provision)
- Access / equity in water service
- Emerging contaminants
- Lead
- Source water protection / nutrient reductions
- Resiliency
- WRDA now being looked at

FEDERAL ACTIVITIES AFFECTING WATER FINANCE

Emerging Contaminants

Draft decision EPA will set national limits for PFOA and PFOS (out of 4,000 PFAS). Still not published in Federal Register yet.

Lead in Drinking Water: Proposed Rule Change

- [Revisions to the Lead and Copper Rule proposed.](#) Comment period closed Feb 12, 2020.
- Docket: <https://www.regulations.gov/docket?D=EPA-HQ-OW-2017-0300>
- No changes to the copper requirements were proposed.
- Changes to lead tap sampling, corrosion control treatment, lead service line replacement, consumer awareness, public education. [Read Water Finance & Management summary.](#)
- New requirements include:
 - Follow-up testing at homes with >15 ppb of lead (same action level).
 - Requires re-evaluation of chemical treatment/corrosion control if testing >10 ppb of lead (new trigger level).
 - Test at least 20% of schools and licensed day cares/year within the utility's service area.
 - Notify homes that tested >15 ppb within 24 hours instead of 30 days.
 - Replace the utility-owned portion of the lead service line if the homeowner wants to replace their side.
 - Changes to the plan for [inventorying and replacing lead service lines.](#)
- Future DW Needs Survey to include questions on cost of replacing lead service lines.

Navigable Waters Protection Rule

- [Finalized rule](#): January 2020.
- Replaced 2015's Waters of the U.S. (WOTUS).
- Identifies a narrower set of federally-protected waters (but states can set their own)
- Removed ephemeral features and groundwater (among others).
- Could mean changes in water quality in some areas = changes to the treatment costs for DW systems and for discharging WW systems

2019 NORTH CAROLINA LEGISLATIVE UPDATES AFFECTING WATER FINANCE

Emergency Operating Funds for W/WW Utilities

- [S.L. 2019-241](#): Grants from the WW or DW Reserve available to the LGC in FY2020 to cover operating deficits in an enterprise fund.
- Eligibility:
 - LGC assumes full or partial control over the utility of the local government, or
 - The charter of the local government has been suspended or revoked
- May not exceed \$1 million per FY. Filed by the LGC on behalf of the local government.

Rates Set by NC Utilities Commission- Regulated Systems

- [S.L. 2019-88](#): Allows adoption of a rate adjustment mechanism for NCUC-regulated utilities to track and true-up variations in average per customer usage from levels approved in the general rate case.
- [S.L. 2019-56](#): If NCUC approves a flat rate to be charged to contiguous dwelling units, the lessor of the units may pass through and charge the tenants the same flat rate (instead of metered consumption rate).

Costs of Relocating W/S Lines

- [S.L. 2019-197](#): Amends the percentage of nonbetterment costs paid by municipalities for relocating water/sewer lines within the existing State transportation right-of-way for transportation projects.

Municipal Population	Municipal Share (Previously)	Municipal Share (Now)
< 10,000	0%	0%
10k – 25k	25%	25%
25k – 50k	50%	25%
50k – 100k	100%	50%
100k+	100%	100%

Nutrient Offset Credit Program

S.L. 2019-86:

- Nutrient offset credits effective for the duration of the nutrient offset project unless DEQ finds the credits are effective for a limited time period.
- Expands options for the locations of projects:
 - Not all projects need to be within the same hydrologic area in which the associated nutrient loading takes place
 - To offset NPDES-permitted nutrient sources, credits may only be acquired from nutrient offset projects located in the same 8-digit HUC or location downstream from the source and upstream from the water body identified for restoration
 - To offset stormwater or other nutrient sources, credits may be acquired only within the same hydrologic area

Prohibition of Municipal Regulation of Off-Site WW Systems

- [S.L. 2019-131](#): Prohibits municipalities from regulating off-site wastewater systems

Public Enterprise Reform (Referred to Committee)

- [HB 570](#) / [SB 536](#): focus on viability
- LGC approval of grant applications
- Require certain systems to undergo review of infrastructure, organizational, and financial management
- Create viable utility reserve grant money for local govs
- Statutory process for merger and dissolution of systems
- Promote importance of interlocal agreements
- Study sub-basin transfers and historical charters

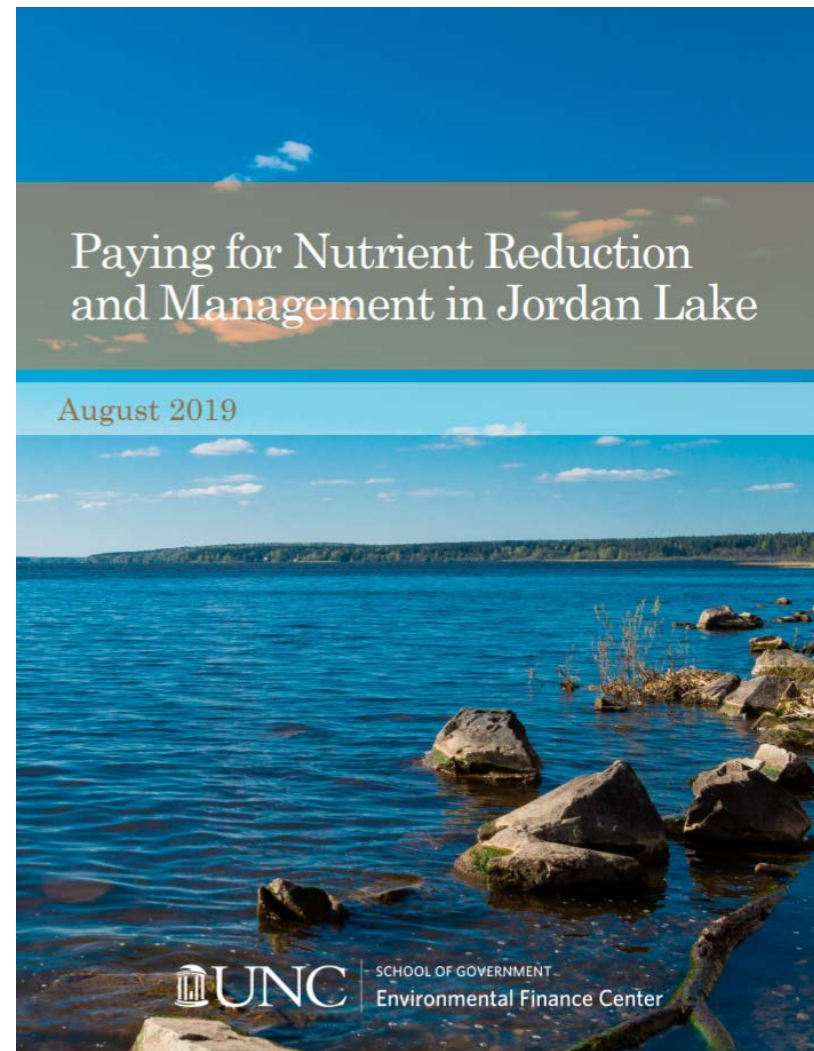
Other Bills that were Referred to Committees or were Vetoed

- HB 557/SB 504 – **SDF** calculated using the combined cost method may be expended for previously completely capital improvements for which capacity exists and for capital rehabilitation projects
- HB 873 – clarify timing of collection of **SDFs**
- HB 414/SB 320 - Promote **regional cooperation**
- SB 434 – dissolution of certain MSDs and **transferring assets** and liabilities to adjacent district in same county
- HB 386 – require schools and child care facilities to **test water for lead**
- HB 824 - greater priority to projects that **improve designated impaired waters** that serve a public water supply for >175,000 service connections. This was in SB 553 (Regulatory Reform Act) that was vetoed by the Gov.

NUTRIENT REDUCTION

Paying for Nutrient Reduction

- [EFC report \(Aug 2019\)](#)
- Comprehensive list of existing, new, and potential mechanisms to generate revenues to protect watersheds / pay for water quality improvement projects



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