

**State Water Infrastructure Authority
April 14, 2021 Meeting**

Agenda Item K –Units Considered for Distressed Designation Under Viable Utility Statute

Division of Water Infrastructure Staff Report

Background

Session Law 2020-79, entitled in part “An Act to Improve the Viability of the Water and Wastewater Systems of Certain Units of Local Government...”, authorizes the State Water Infrastructure Authority (Authority) and Local Government Commission (Commission) to develop criteria to assess and review local government units, and to utilize the assessment and review process to identify distressed units.

At a Special Joint meeting of the Authority and Commission held on October 14, 2020, staff from the Division of Water Infrastructure (Division) and the Commission presented the Authority and Commission with proposed Assessment Criteria. The Division and Commission staffs then developed criteria for identifying distressed units (Identification Criteria). The Commission and Authority adopted the Assessment Criteria and the Identification Criteria at their meetings on November 10, 2020 and November 18, 2020, respectively.

Distressed Unit Identification Criteria

The Authority and Commission adopted the following Identification Criteria to be used to identify distressed units:

1. A unit whose fiscal affairs are under the control of the Commission pursuant to its authority granted by G.S. 159-181 (“under Commission fiscal control”), or
2. A unit that has not submitted its annual audits for the last two (2) fiscal years to the Commission as required by G.S. 159-34, or
3. A unit with a total Assessment Criteria (see Attachment 1) score that:
 - a) Equals or exceeds 9 for units providing both drinking water and wastewater services, or
 - b) Equals or exceeds 8 for units providing only one service, either drinking water or wastewater, or
4. A unit for which other information is available to or known by the Authority or Commission that reflects and is consistent with, but does not expressly appear in, the Assessment Criteria to account for situations in which the Assessment Criteria score does not wholly or accurately reflect a system’s level of risk due to the limitations of available data.

Units Meeting the Approved Distressed Identification Criteria

Four units were designated as distressed by the Commission (November 10, 2020) and the Authority (November 18, 2020): Town of Eureka, Cliffside Sanitary District, Town of Bethel, and Town of Kingstown.

Division and Commission staff compiled local government unit (LGU) data in accordance with the approved criteria to identify distressed units. Draft assessment evaluation scores were provided to the Authority at the December 9, 2020 meeting showing key data values for each Assessment Criteria parameter and the scores assigned to each unit based on those parameters. Financial information was updated in the assessment evaluation to include the LGC's December 2020 revision to the Unit Assistant List and financial data for a few units that were previously missing data.

The LGUs which met the Identification Criteria (Attachment 1) were presented to the Commission and Authority during their February 2021 meetings. The Commission designated these units as distressed at their February 1, 2021 meeting. The Authority concurred with the distressed designations for the Towns of Robersonville, Askewville, Ronda and Wilkesboro during its February 10, 2021 meeting. The Authority asked for the other units to be given notice that they were proposed for being designation under the new legislation and given time to respond back with information that could lessen their assessment scores below the Identification Criteria thresholds. Letters were issued to those units on February 23, 2021 with a deadline to submit information regarding their assessment scores by March 19, 2021. The deadline was extended to March 26, 2021 due to continued interest.

The Division received responses from 32 units providing information such as: financial indicators related to timing of billing and receipts paid; adjustments to current miles of water and/or sewer lines managed by the utility; explanation their status; and other aspects of the assessment which are summarized in Attachment 2. Some units asked for their scores to be modified lower, others wanted their scores to be higher, and some provided information which provides background on their particular circumstances. Others voiced concern that they were being penalized in the assessment criteria for aspects out of their control, for example a decline in population. Eighteen LGUs provided information that needs further evaluation by the Division and/or Commission staff. Three LGUs no longer own their utility systems, and three LGUs provided information that would lower their assessment points below the Identification Criteria threshold.

In addition, staff has continued discussion with LGUs that meet the Identification Criteria that are in proximity to those already designated as distressed to hear their thoughts on paths forward, many of which may benefit from regional planning on long-term solutions.

Staff Recommendations

Staff recommends that the Authority approve the following items depicted in Attachment 1: hold consideration until further evaluation is done for those indicated as “Hold” and designate the additional units meeting the approved distressed Identification Criteria which are indicated as “Designate” in Column C; remove from the assessment evaluation those in lines 118-120 identified as no longer owning utilities; and revise the scores for units in lines 123-125 which provided information that would lower their scores below the Identification Criteria threshold.