## Local Mandate Fiscal Impact Estimate Kentucky Legislative Research Commission 2016 Regular Session

#### **Part I: Measure Information**

Bill Request #: 1198		
Bill #: HB 261 GA		
Bill Subject/Title:	AN ACT relating to water utilities and declaring an emergency	
Sponsor: Representative Linda Belcher		
Unit of Government:	City County Urban-County Charter County Consolidated Local Government	
Office(s) Impacted:	None Consonance Local Covernment	
Requirement:	Mandatory Optional	
Effect on Powers & Duties:	_ Modifies Existing Adds New Eliminates Existing	

#### Part II: Purpose and Mechanics

The purpose of HB 261 GA is to foster financial stability of sewage utilities and to ensure continuity of service for customers when a private sewage utility fails or is abandoned. Section 1 of the bill would amend KRS 278.020(3) to prohibit the Public Service Commission (PSC) from issuing a certificate of public convenience and necessity to construct sewage facilities unless the applicant provides a surety bond or other "reasonable guaranty" the applicant will operate the facility in a reasonable and reliable manner for at least 5 years. The bill would specifically except from the surety bond requirement water districts and water associations and any applicant the PSC finds has sufficient assets to ensure continuity of sewage service. Section 1 of the bill would also prohibit the PSC from approving an application for transfer of control or ownership of a utility unless the applicant provides evidence of financial integrity to ensure continuity of sewage service if the acquirer cannot continue providing service. The bill would prohibit the PSC from accepting an application to abandon a sewer utility unless the applicant has provided written notice to the Kentucky Division of Water and other state and local offices, and until the PSC has held a hearing on the application. Section 2 of HB 261 GA would amend KRS 278.021 to clarify that section is not to be construed as requiring the PSC to approve an application for authority to abandon any utility or to cease service.

Sections 3 and 4 of HB 261 make conforming amendments to other statutes. Section 5 of the bill would recognize the financial burden on utility ratepayers of utility abandonment and the need to obtain replacement services. That Section would declare an emergency and provide that the bill would take effect on its passage and approval of the Governor.

### Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

# HB 261 GA would have little or no direct fiscal impact on local governments, but could have a positive fiscal impact if a privately-owned utility is abandoned without notice or otherwise fails.

Publicly-owned utilities generally are not under the jurisdiction of the PSC, therefore neither the surety bond requirement nor the notice of abandonment requirements of HB 261 GA would apply to local governments that provide utility services. For these reasons the bill would have little or no direct fiscal impact on local governments. However, on several occasions in Kentucky a private wastewater utility has been abandoned or otherwise failed to provide services, without notice, resulting in a loss of wastewater treatment services to customers and catastrophic impacts to the local environment. When this happens, the local city or county government is usually called on to take action. Action required may include emergency repairs to the abandoned/failed facility, temporary operation of the facility, and environmental clean-up, using local money, personnel, and other resources. While the surety bond and other financial assurance requirements of HB 261 GA would only apply to newly-constructed or newly-purchased wastewater utilities, those requirements could make it more likely, one, that privatelyowned wastewater utilities would be sufficiently capitalized and, two, in the event of abandonment or catastrophic failure of a wastewater utility money would be available to fund repairs, clean-up, and temporary operation of the facility.

Data Source(s):	Kentucky League of Cities; Kentucky Association of Counties; LRC
	Staff

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