

1 A JOINT RESOLUTION directing the Kentucky Division of Water in the Energy
2 and Environment Cabinet to study privately owned and operated small wastewater
3 treatment systems and declaring an emergency.

4 WHEREAS, there are over 200 privately owned wastewater package treatment
5 plants in operation in the Commonwealth with a presence in nearly every county; and

6 WHEREAS, these privately owned and operated small wastewater treatment plants
7 are commonly older than their design life and are approaching critical service junctures
8 wherein the plants may need significant infrastructure investments to continue service;
9 and

10 WHEREAS, environmental regulation, relatively small customer bases, and aging
11 infrastructure may affect the costs of operation of these plants; and

12 WHEREAS, owners of privately owned and operated small wastewater treatment
13 plants, for a variety of reasons, including death, financial distress, and abandonment,
14 become divested of the plants, leaving the users in a situation that is not easily remedied;
15 and

16 WHEREAS, these privately owned and operated small wastewater treatment plants
17 are all regulated by way of the Clean Water Act Section 402 permit process and related
18 programs and commonly cannot meet compliance standards; and

19 WHEREAS, the financial, managerial, and technical capacities of these privately
20 owned and operated small wastewater treatment plants are commonly such that the
21 continued operation of these plants is not sustainable;

22 NOW, THEREFORE,

23 ***Be it resolved by the General Assembly of the Commonwealth of Kentucky:***

24 ➔Section 1. The Division of Water in the Energy and Environment Cabinet is
25 directed to:

26 (1) (a) Identify the privately owned and operated small wastewater treatment
27 plants in Kentucky and collect the relevant information regarding the plant and collection

1 system attributes;

2 (b) Identify indicators that are useful and necessary in conducting an assessment
3 of the risks of financial failure, technical failure, structural failure, or abandonment of
4 privately owned and operated small wastewater treatment plants;

5 (c) Identify potential emergency intervention methods to respond to plant failures
6 in a collaborative manner between state and local entities; and

7 (d) Identify legislative changes that may assist to mitigate the failure or
8 abandonment of small wastewater treatment plants or to otherwise provide for continuity
9 of service to the plants' customers.

10 (2) The Division of Water shall prepare a report that outlines potential measures
11 to ensure the sustainability of privately owned and operated small wastewater treatment
12 plants and identifies actions, including proposed legislative changes, that may mitigate
13 the failure or abandonment of privately owned and operated small wastewater treatment
14 plants.

15 ➔Section 2. The Division of Water is further directed to accomplish the directives
16 set out in Section 1 of this Resolution by conferring with the following entities:

- 17 (1) Kentucky Infrastructure Authority;
- 18 (2) Kentucky Public Service Commission;
- 19 (3) Kentucky Department for Public Health;
- 20 (4) Kentucky Rural Water Association;
- 21 (5) Kentucky Rural Community Assistance Partnership;
- 22 (6) Kentucky League of Cities;
- 23 (7) Kentucky Council of Area Development Districts;
- 24 (8) Kentucky Water and Wastewater Operators Association;
- 25 (9) Kentucky Association of Counties;
- 26 (10) Kentucky Municipal Utilities Association;
- 27 (11) American Council of Engineering Companies—Kentucky;

- 1 (12) Kentucky Attorney General's Office of Rate Intervention;
- 2 (13) One member of the Kentucky Senate, as appointed by the Senate President;
- 3 (14) One member of the Kentucky House of Representatives, as appointed by the
- 4 Speaker of the House; and
- 5 (15) Any other entity or individual whose involvement is deemed necessary by the
- 6 Division to accomplish the goals of the study.

7 ➔Section 3. The Division of Water shall:

8 (1) No later than July 31, 2017, present a progress report to the Legislative

9 Research Commission, which shall refer the report to the Interim Joint Committee on

10 Natural Resources and Environment and the Interim Joint Committee on Local

11 Government. That report shall include a summary of the division's research it has

12 gathered relative to subsection (1) of Section 1 of this Act, as well as providing a planned

13 timeline for the remaining work. The report may include such other information the

14 division deems useful or otherwise informative to the committees.

15 (2) On or before December 1, 2017, prepare and present to the Legislative

16 Research Commission the report required by subsection (2) of Section 1 of this

17 Resolution. The Legislative Research Commission shall refer that report to the Interim

18 Joint Committee on Natural Resources and Environment and the Interim Joint Committee

19 on Local Government.

20 ➔Section 4. Whereas, the Division of Water will require time to complete the

21 study prior to the report deadlines and the commencement of the 2018 Regular Session of

22 the General Assembly, and to allow time for any legislative recommendations to be

23 considered prior to that session, an emergency is declared to exist, and this Act takes

24 effect upon its passage and approval by the Governor or upon its otherwise becoming a

25 law.