

LAWS OF DELAWARE  
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CHAPTER 495  
151st GENERAL ASSEMBLY  
FORMERLY  
HOUSE BILL NO. 439

AN ACT TO AMEND TITLE 29 RELATING TO THE WATER INFRASTRUCTURE ADVISORY COUNCIL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 8011, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8011. Water Infrastructure Advisory Council.

(a) ~~There is hereby established a~~ The Water Infrastructure Advisory Council serves in an advisory capacity to the Secretaries, as defined in this section.

(b) ~~Definition~~ Definitions.

As used in this section:

(1) “Council” means the Water Infrastructure Advisory Council.

(2) “Secretaries” means, collectively, the Secretaries of the Departments of Natural Resources and Environmental Control (DNREC), Agriculture (DDA), Health and Social Services (DHSS), Transportation (DelDOT), and Finance (DOF).

(3) “Surface water management” means a strategy for the integration of drainage, flood control, and stormwater management through habitat protection, restoration, and other green infrastructure.

(4) “Wastewater facility” shall mean any or “wastewater infrastructure” means a property, easement, equipment, pipe, pump, plant plant, or appurtenance used in any way to collect, transport, store, handle, treat treat, or dispose of wastewater. “Surface water management” shall mean a strategy for the integration of drainage, flood control and stormwater management through habitat protection, restoration, and other green infrastructure.

(5) “Drinking water supply or water supply” facilities shall mean any “Water supply facility”, “water supply infrastructure”, “drinking water infrastructure”, or “drinking water supply facility” means a property, equipment, pipe pipe, or other conveyance, pump, tower, tank or other storage device, well, filter and any filter, or other appurtenances appurtenance used to collect, treat, store, and distribute the best quality water available to address strategies to correct, present present, or prevent future violations of health-based drinking water standards.

(c)(1) The Water Infrastructure Advisory Council (the “Council”) shall serve in an advisory capacity to the Secretaries of the Departments of Natural Resources and Environmental Control (“DNREC”), Agriculture (“DDA”), Health and Social Services (“DHSS”), Transportation (“DelDOT”), and Finance (“DOF”) and collectively the (“Secretaries”). The Council shall be Council is composed of 16 members appointed by the Governor with the advice and consent of the Senate.

(2) The Governor shall appoint a chairperson. Council’s chair. The chair serves at the Governor’s pleasure. The Governor may remove the chair from Council entirely if the Governor removes the chair from the chair position.

(3) Members of the Council shall serve for up to 3 years excluding the Chairperson who shall serve at the pleasure of the Governor. A Council member other than the chair serves for a term of 3 years.

(4) Members shall be appointed for staggered terms so that no more than 4 members’ terms expire in any calendar year. The Governor may appoint a Council member for a term of less than 3 years to ensure that terms expire on a staggered bases of no more than 4 expiring terms in a calendar year.

(5) There shall be Council members must be comprised of at least 1 member who is a resident of New Castle County, 1 member who is a resident of Kent County, 1 member who is a resident of Sussex County, and 1 member who is a resident of the City of Wilmington.

(6) Members of the Council shall Council members must represent interest and possess expertise in the areas of wastewater infrastructure, stormwater infrastructure, agricultural water use infrastructure, and drinking water infrastructure.

(7) Members may include, but not be limited to Council members may include representatives from local government, public health, agriculture, and financial management, and management. Up to 3 members representing may represent nonprofit environmental organizations, 1 of whom may represent an environmental justice organization.

~~(8) No more than 9 members shall be affiliated with any 1 major political party. Council membership must be balanced to that no more than 9 voting members are from 1 political party. An individual who declines to announce a political party affiliation is eligible for appointment as a voting member.~~

~~(9) The Governor shall appoint 3 of Council's 16 members as nonvoting members who serve at the Governor's pleasure: a 1 member representing the water utilities, 1 member who is the president district coordinator of 1 of the conservation districts, and a 1 member of representing the Farm Bureau, all of whom shall serve as nonvoting members of the Council, and at the pleasure of the Governor. The nonvoting members Bureau. These members may provide annual recommendations to the Council relating to stormwater, drainage, flood protection, resource and conservation development projects, agricultural and conservation cost share, cover crops, conservation reserve enhancement, and or tax ditches.~~

~~(d) Members of the Council shall serve without compensation except that they shall be reimbursed for reasonable and necessary expenses incidental to their duties as members of the Council. A Council member does not receive compensation but may be reimbursed for the member's actual and necessary expenses incurred in the performance of the member's official duties.~~

~~(e) The Council's duties and responsibilities shall include all of the following:~~

~~(1) To evaluate, establish, recommend, and adopt all of the following:~~

~~a. a A long-term plan for the public funding of drinking water supply facility and wastewater facility infrastructure projects that shall projects. The plan must cover a period of not less than 6 years. The plan shall years, be updated and prioritized on an annual basis basis, and incorporated in into DNREC's and DHSS's annual capital budget requests to the Governor. A Council shall submit a copy of the adopted plan shall be submitted to members of the General Assembly to the General Assembly and the Director and Librarian of the Division of Research of Legislative Council on or before November 15 of each year.~~

~~b. Additionally, the Council shall submit to the Clean Water Trust Fund Oversight Committee annual Annual advisory recommendations related to wastewater infrastructure, stormwater stormwater infrastructure, and drinking water infrastructure addressing those the elements required for inclusion in the strategic plan for clean water as required in under § 8082(a) of this title title. Council shall submit the recommendations to the Clean Water Trust Fund Oversight Committee on or before September 15 of each year.~~

~~(2)a. To establish standards and procedures for persons to submit requests for funding the construction, repair, renovation renovation, or expansion of water supply facilities and wastewater facilities and to facilities. Using the standards and procedures that Council establishes, Council shall recommend specific grants or loans, or both, in accordance with such standards and procedures using funds authorized for such purposes the grants or loans by act of the General Assembly or funds approved by that the Delaware State Clearinghouse Committee approves.~~

~~b. The Council shall develop To develop and recommend projects for the planning, construction, repair, renovation renovation, or expansion of water supply facilities and wastewater facilities to be funded in whole or in part by the Delaware Water Pollution Control Revolving Fund, the Drinking Water State Revolving Loan Fund (the "Funds") and any other Fund, or another source of funding authorized by the General Assembly; that the General Assembly authorizes.~~

~~(3)a. To develop and periodically update a nonbinding comprehensive, statewide water supply facilities and wastewater facilities assessment to be presented in 3 sections, 1 for each county. The Council may retain the services of necessary professionals and may enter into agreements in order to prepare such an the assessment.~~

~~b. Each of the counties A county may, at its option, designate a county agency responsible for preparing the assessment for such that county, provided however, that the assessments shall but the assessment must be prepared in a uniform manner pursuant to criteria established by the Council that the Council establishes. In the absence of such a the designation of a county agency to prepare an assessment, the DNREC and DHSS shall be are the lead agencies in coordinating preparation of the assessment.~~

~~c. The assessment shall include, but not be limited to, must include at least all of the following:~~

- ~~1. a A description of the status of existing water supply facilities and wastewater facilities; facilities.~~
- ~~2. the The current usage thereof, of existing water supply facilities and wastewater facilities.~~
- ~~3. the The adequacy of existing water supply facilities and wastewater facilities; facilities.~~
- ~~4. projected Projected long range requirements for such facilities; existing water supply facilities and wastewater facilities.~~

~~5. the~~ The compatibility of existing land use plans with existing and long range requirements of water supply facilities and wastewater facilities, facilities.

~~6. and recommendations~~ Recommendations for improvements to existing facilities; water supply facilities and wastewater facilities.

(4) ~~To recommend affordability standards for water supply facility and wastewater facility infrastructure projects. Such recommendations shall~~ Each recommendation must reflect the goals of establishing fair rates that equitably distribute the costs of water supply facilities and wastewater facilities using public funds based upon usage and relying upon funds, based on usage, and relying on private firms to provide services if it is economical and in the public interest to do so; and so.

(5) ~~The Council shall review~~ To review and recommend to DNREC and DHSS the payment of the Council's administrative and operating expenses of the Council to the DNREC and DHSS expenses.

(6) ~~The Council shall make~~ To make funding recommendations to the Secretaries Secretary of the DNREC and Secretary of DHSS of regarding drinking water infrastructure and wastewater infrastructure projects that are "ready to proceed." considered ready to proceed.

(f)(1) A majority of the voting members must be present at a Council meeting in order to have a quorum and conduct official business. A vacant voting member position is not counted for quorum purposes.

~~(2) The Council shall adopt all motions and approve the 6-year water supply and wastewater infrastructure plan, the assessment, and recommendations for loans or grants only by a majority vote of the entire voting membership of the Council. All voting shall be done in person and at regular or special meetings of the Council. Each motion, the plan under paragraph (e)(1)a., the assessment under subsection (e)(3), or a recommendation for a loan or grant under subsection (e)(2) may be adopted only by a majority of the voting members. A vacant voting member position is not counted under this paragraph.~~

~~(3) The Council shall conduct a public meeting in each county prior to voting on the annual adoption of the 6-year water supply infrastructure and wastewater infrastructure plan under paragraph (e)(1)a.~~

~~(4) The Council is subject to the applicable provisions of the Administrative Procedures Act (Chapter 101 of this title).~~

~~(g) The Council shall work in concert with the DNREC, DHSS, the Department of Transportation DelDOT, the Department of Agriculture DDA, the Conservation Districts, the Delaware Geological Survey, the Public Service Commission, the DOF, the Cabinet Committee on State Planning Issues and any other Issues, and another appropriate department, agency, or committee focusing on statewide planning issues and each issues. Each agency shall provide reasonable staff time and resources as may be required by the Council to fulfill it's Council may require to fulfill Council's duties and responsibilities. The Council shall also work in concert with the Water Resources Agency of New Castle County and any other appropriate agency designated by the counties each appropriate agency that a county may designate. The DNREC and DHSS shall be are the lead agencies in coordinating support for the Council.~~

~~(h)(1) The Council shall provide guidance and policy advice to the Governor and Secretaries and assistanee assist in the statewide effort to develop infrastructure programs related to water supply, drainage, stormwater management management, and flood control. This guidance shall The guidance must include State level state-level direction to the DNREC and DNREC, DHSS, and local agencies and operating units in the development of standardized processes and procedures for identifying and prioritizing problems and development of watershed-based solutions.~~

~~(2) The Council also shall provide guidance to the State in improving the quality of customer service and reviewing annual localized work plans.~~

~~(i) The Council shall provide assistanee assist in defining areas of responsibility between the State among state and local agencies, and coordinating implementation and operations.~~

~~(j) The Council shall provide assistanee to assist the State in the establishment of establishing a central response unit eordinated by the that DNREC coordinates to handle public calls relating to drainage, stormwater stormwater, and flood control.~~

~~(k) The Council shall provide assistanee assist in the statewide effort for the development of sustainable program funding options.~~

~~(l)(1) The Council shall provide assistanee assist in the development and evaluation of criteria for watershed-based plans for surface water management.~~

~~(2) The Council shall also provide assistanee assist in developing the priority needs for watershed plans.~~

(3) ~~The~~ Council shall assist in developing a strategy for long term planning for future growth ~~as it relates~~ relating to surface water management. This strategy may include options for private-public partnerships for infrastructure improvement and regional solutions.

(m) The Council may adopt procedural rules to carry out its functions under this section.

Approved October 21, 2022