

**State Water Infrastructure Authority
September 19, 2023 Meeting
Agenda Item J – Designation of the Town of Waynesville as Distressed**

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 (LGC) to develop criteria to assess and review local government units (LGUs), and to utilize the assessment and review process to identify distressed LGUs.

In the Fall of 2020, the Authority and Commission developed the Identification Criteria and Assessment Criteria to evaluate LGUs and identify distressed LGUs. The Authority adopted the Assessment Criteria and the Identification Criteria at its meeting on November 18, 2020.

Identification Criteria

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

1. An LGU whose fiscal affairs are under the control of the LGC pursuant to its authority granted by G.S. 159-181 (“under LGC fiscal control”), or
2. An LGU that has not submitted its annual audits for the last two (2) fiscal years to the LGC as required by G.S. 159-34, or
3. An LGU with a total Assessment Criteria score that:
 - a) Equals or exceeds 9 for LGUs providing both drinking water and wastewater services, or
 - b) Equals or exceeds 8 for LGUs providing only one service, either drinking water or wastewater, or
4. An LGU for which other information is available to or known by the Authority or LGC 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.

Previous Assessments and Distressed Designations

In 2021, Division and LGC staff compiled LGU data in accordance with the approved criteria to complete the first assessment to identify distressed LGUs. Session Law 2020-79 requires that the Authority and the LGC assess and review LGUs against the distressed criteria on a frequency

of no less than every two years. At its July 14, 2021, meeting, the Authority agreed that the Division will conduct an annual review of the Assessment Criteria each spring and use a two-year cycle for notifications and designations under Identification Criterion 3. The two-year cycle involves notifying LGUs when their assessment score exceeds the designation threshold under Criterion 3 for the first time. Upon notification, these LGUs may choose to request designation at that time, provide additional information for consideration, or to correct errors in their score, or wait and see if they score above the threshold in the next assessment. Local government units that exceed the threshold a second time are automatically recommended for designation if they have not already been designated.

The 2021 and 2022 assessments used the same Identification Criteria outlined above and the same Assessment Criteria for scoring under Criterion 3. Several LGUs have been considered and designated outside of the annual assessments in accordance with the established criteria. Based on previous assessments, there are currently 131 LGUs with active water and/or sewer systems that are designated distressed. Once designated, LGUs must meet the requirements of the Viable Utility Program before the designation is removed, even if future assessment scores drop below the threshold for designation. To date, no LGUs have had the distressed designation removed. (Note, however, that the total number of designated distressed units has shifted over time as some previously designated LGUs no longer have active water and/or sewer systems.)

At the completion of the 2022 assessment round, there were 17 LGUs that had been notified that they exceeded the threshold for designation and did not opt to request designation at that time. These LGUs would be automatically recommended for designation if they score above the threshold in the next assessment.

2023 Reassessment Summary

The 2023 reassessment used the same assessment criteria that had previously been developed and used for assessments in 2021 and 2022. The data were updated with 2023 rate information, 2022 audit data (as of March 1, 2023), 2022 compliance data, and affordability data as compiled for the Fall 2022 application round. For this assessment, Division staff worked closely with LGC staff to refine the list of LGUs in the assessment, ensure that audit data are pulled correctly, and implement additional QA/QC measures to ensure data accuracy. Attachment 1 provided with the July 2023 staff report lists all LGUs currently assessed, along with their total scores from each of the annual assessments, current status if already designated distressed, and recommendations based on the 2023 assessment. Attachment 2, provided with the July 2023 staff report, provides the scoring details for all LGUs for the 2023 assessment. Key findings from the 2023 reassessment are as follows:

- ***Automatic Recommendations:*** Eight LGUs that have exceeded the thresholds for designation under Criterion #3 for the second consecutive year and were designated distressed by the SWIA and LGC in July and August.
- ***“First Year” Notices and Designation Requests:*** Twenty-five LGUs exceeded the scoring thresholds for Criterion 3 for the first time and were sent notification letters in June. Six

of these LGUs requested designation and submitted resolutions to that effect. These LGUs were designated by SWIA and LGC in July and August, respectively. One additional LGU, Town of Waynesville, requested designation and submitted their resolution but was inadvertently omitted from the list of units designated previously.

- **Late Audits:** The reassessment also identifies six (6) LGUs that had not submitted audit data as of March 1 for the second year in a row. The LGC reviewed these LGUs and has not taken any action to designate these units.

Staff Recommendations

Staff recommend that the Authority designate as distressed the Town of Waynesville, which scored above the designation thresholds for the first time in 2023 and provided a resolution indicating their desire to be designated distressed.