

# MEMORANDUM

**Posted:** March 17, 2023 10:17 AM  
**From:** [Senator Carolyn T. Comitta](#) and [Sen. John I. Kane](#), [Sen. Timothy P. Kearney](#), [Sen. Steven J. Santarsiero](#)  
**To:** All Senate members  
**Subject:** Reforming Water Protections for All

Clean, reliable, affordable water and wastewater service is a basic necessity for all Pennsylvanians and all people. Unfortunately, as private companies continue to acquire municipal water and wastewater systems across the Commonwealth, access to affordable service appears to be growing further out of reach for too many residents and families.

Following conversations with our constituents and members of community organizations, as well as our own experiences as state lawmakers representing areas where municipal systems were acquired or attempted to be acquired by private entities, it is clear that meaningful reform is needed.

In 2016, the legislature passed Act 12 to revise Title 66 (PA Public Utility Code), adding Section 1329, to provide a framework to assess fair market value of a municipal/municipal authority's water and wastewater facilities when a private buyer is trying to purchase them.

Act 12 of 2016 fell short and did not provide sufficient protections for the public, ratepayers, and municipalities.

Soon, we will be introducing legislation that would reform Title 66 to include the following:

- **Notification & Public Hearing:** Section 1329 lacks a clear process for notifying ratepayers and municipal residents. We have learned that notice is often provided late in the process and without clear information about what the sale of the water/wastewater system will mean in terms of rates, customer assistance programs, infrastructure assessments and plans, disposition of the revenue from the sale, or how citizens can engage. Our legislation will amend Section 1329 to require written notice to ratepayers and to require a public hearing prior to a sale.
- **Needs Assessments:** Title 66, Section 1327 provided a framework that led to the sale of municipal and authority owned systems based on the financial and infrastructure conditions of the utility. It did not simply permit for any system to be sold for a profit. Our legislation would provide guiderails for when a system can be sold.
- **Clarification of the Public Benefit:** The PUC is provided with a responsibility to determine if a sale is in the public's interest, however there are no quantitative or qualitative metrics that the Commission must use to make the determination. Our legislation will provide a methodology and conditions for the PUC to make a determination if a sale is in the public interest.
- **Post-Sale Monitoring of Contract:** Private utilities make many promises on conditions of the sale, such as infrastructure upgrades, rate ceilings, customer service programs, and service provisions. Some of these have been found to be outside of the tariffs permitted by the PUC and these promises have been revoked. Either the contract promises must be honored, or it should not be permissible for them to be offered. Regardless, our legislation would require post-sale monitoring to ensure that the buying utility is held accountable for meeting the conditions of a sale.

- **Conflict of Interest:** There are no provisions in Section 1329 preventing utility valuation experts from having previous or near-term service with the buying utility. Our legislation would require a black out period before a former employee of a buying utility can be chosen as one for the experts for a sale involving a buying utility.

Please join us in supporting this legislation to provide greater protection to our fellow Pennsylvanians.