

# Utility Update

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*Local Government Finance*

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TENNESSEE COMPTROLLER OF THE TREASURY



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## Roadmap

- History of the Office
- Legislative Changes
- The Water Loss Process
- Deprecation (maybe)

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## History of the Office

- The Comptroller's Office was created in 1836.
- The Comptroller became a constitutional officer in 1870.
- The Office is comprised of
  - 13 divisions.
  - 7 State boards
  - Over 600 employees

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## Tennessee Utility Board(s)

- The UMRB and WWFB were established in 1989.
- In April of 2007, the authority of the two utility boards was transitioned from TDEC to the Comptroller's Office
- The Tennessee Board of Utility Regulation was started in July of 2023.
  - Added municipal gas systems.
  - Authorized the review of municipal customer complaints.
  - Referral for two outstanding, late audits.
  - Authority to order the consolidation of an ailing utility system.

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## What is Regulation?

**Regulator:**  
*"One that regulates."*

**Regulate:**  
*"a: to govern or direct according to rule"*

**b(1):** *to bring under the control of law or constituted authority."*

**Regulator:**  
*"A government bureaucrat who imposes red tape and rubber stamps on simple processes through administrative law."*

*See also: Nuisance."*

**"Proactive" Regulator:**  
*"a: One who ensures the compliance of government functions, and attempts to mitigate future problems through proactive measures."*

*Keeping governments out of the ditches and on the road."*

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## Who are the Regulators?

- The TBOUR is composed of 11 members
  - The Comptroller (or designee) as Chair.
  - The TDEC Commissioner (or designee) as Vice-chair.
  - One Comptroller Appointee
  - One Senate Speaker Appointee
  - One House Speaker Appointee
  - Six Governor Appointees
- Seven of the current board members serve as officials of local government utilities.

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# Legislative Changes

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## Legislative Changes

### Public Chapter 6

- Local government utility systems are authorized to provide mutual aid to requesting jurisdictions during a municipal, county, state, or federal state of emergency.

### Public Chapter 33

- Extended the Tennessee Board of Utility Regulation to June 30, 2029.

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## Legislative Changes

### Public Chapter 140

- Requires that county, municipal, and metropolitan governments that assess a fee in excess of \$250 must provide a description that includes the justification and cost basis for such fee.
- This documentation must
  1. Be kept on file by the local government,
  2. Be made a public record and available for inspection, and
  3. Be subject to annual audit by the Comptroller's Office.

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## Legislative Changes

### Public Chapter 166

- Allows utility district commissioners who have become ineligible to serve due to failing to meet the utility training requirements to become re-eligible after completing certain requirements.
- This bill also lowers the required continuing education hours for all local government utilities from 12 to 6; this does not affect the initial period requirement.

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## Legislative Changes

### Public Chapter 170

- Allows all water, sewer, or gas utility systems to borrow money in anticipation of the collection of revenues, provided that notes do not exceed 60% of the total projected cash flows for the same fiscal year.
- The division of Local Government Finance must approve the issuance of any debt under this section, and the utility will be directly referred to the Tennessee Board of Utility Regulation for review.

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## Legislative Changes

### Public Chapter 170 (cont.)

- This bill also gave the TBOUR the authority to hold contested case hearings against non-elected municipal utility boards.
- Lastly, this bill removed the requirement for utility districts issuing bonds in excess of fifty million dollars to rebid the position for financial advisor and the underwriting services.

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## Legislative Changes

### Public Chapter 461

- Requires that municipal utilities and utility districts that have operated a wastewater system outside of its corporate boundaries cannot cease operation of the system as long as it maintains sufficient capacity, as determined by a study, report, or other information.
- This report must be presented to TBOUR for review.

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## Legislative Changes

### Public Chapter 461 (cont.)

- Additionally, county, municipal, or metropolitan utility systems must provide a wastewater service connection to a customer who owns property with an existing gravity sewer line located on the property.
- If the local government refuses to provide wastewater service, then the Customer may submit a complaint to the TBOUR once it has been appealed to the local governing body and 60 days have passed.

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## Legislative Changes

### Public Chapter 490

- County and municipal-owned utilities **must** review development plans within thirty days of them being submitted to the local government.
- If the utility fails to examine the plan in a timely manner, the developer may hire a third-party expert to review it for compliance with applicable codes and submit the reviewed codes back to the local government

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## Legislative Changes

### Public Chapter 490 (cont.)

- Once the utility receives the reviewed documentation, it will have ten business days to review and provide one of the following:
  1. Approval of plans,
  2. A report of deficiencies with the plan, or
  3. A request for additional information to ensure compliance.
- If the utility fails to take action after ten days, the plans are deemed to be approved, and the project may commence using materials for utility infrastructure as approved by the governing body.

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# Water Loss and Depreciation

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## “Excessive Water Loss” Defined

- Parameters set by TBOUR
  - Reported in Annual Information Report
  - Non-revenue water of 40% or more.
- Procedure
  - Local government must complete an AWWA Water Audit with a 3<sup>rd</sup> party expert.
  - The worksheet is reviewed and a water loss mitigation plan is requested.
  - Oversight continues until two consecutive years below 40% is reported.

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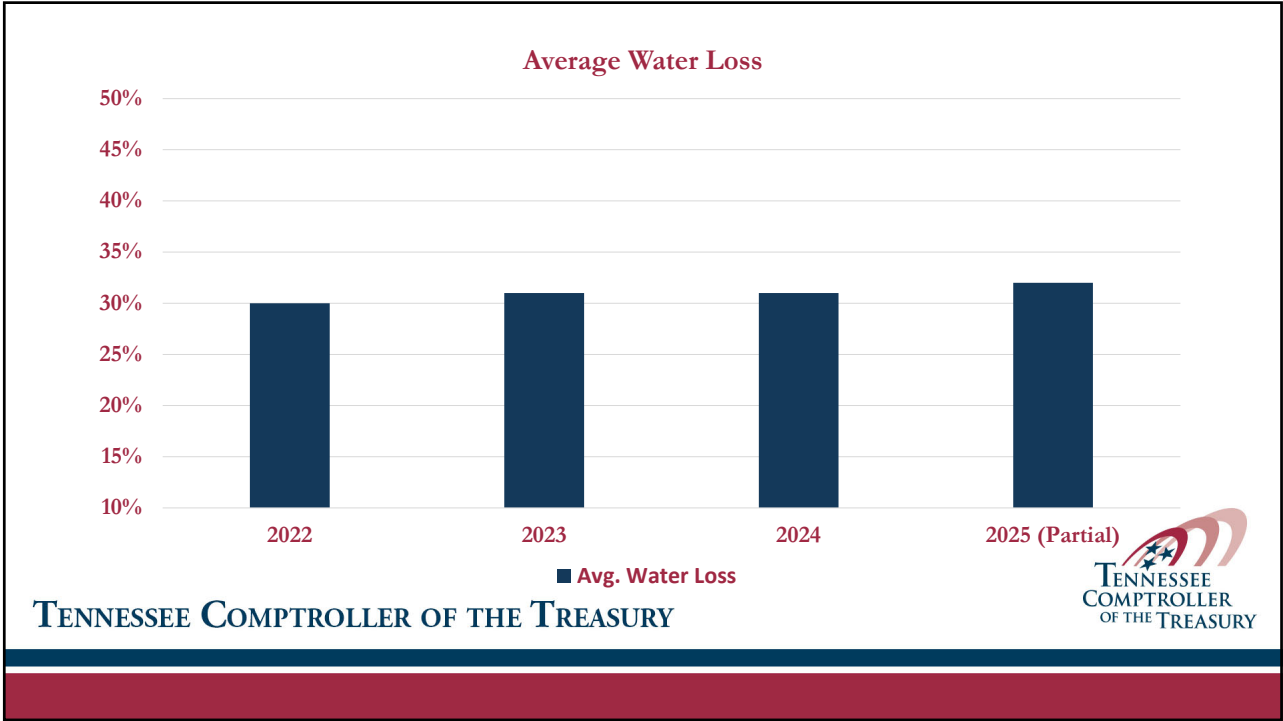
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# Common Issues

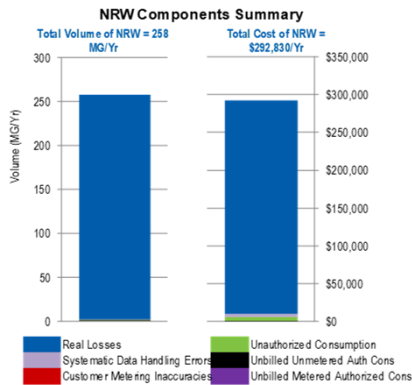
- Before the AIR
  - Non-validated data
  - Incorrect form usage
  - Unusable and non-processable data
- With the AIR
  - Non-validated data
  - Submissions can be immediately checked
  - Integration with our internal system

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## Financial Impact



- TBOUR's authority largely extends too financial compliance.

- Board staff reviews the AWWA in conjunction with the most recent audit to determine financial impact.
- The average system is losing an estimated 10% of sales revenue to non-revenue water.
- Most non-revenue water is attributed to "unaccounted leakages".
- What's TBOURs endpoint?

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Dear Sample Utility District :

The Sample Utility District was placed under Board staff review for water loss exceeding the 40% requirement set by the Tennessee Board of Utility Regulation. The District has been responsive with prior staff request to engage with a third-party expert and provide a report using the AWWA Free Water Audit Software v. 6.0. In the AWWA that was submitted, Board staff noted that the District reported Non-Revenue Water at 39.96%, which costs the District \$241,749.00 annually. This results in approximately 11.98% of the District's sales currently being absorbed by excessive water loss, based on revenue provided by the Entity. The AWWA reported unaccounted leakages in the Utility's infrastructure to be the main source of Non-Revenue Water.

At this time Board staff is requesting that Sample Utility District prepare a long-term plan to mitigate water loss that would show the Tennessee Board of Utility Regulation that the utility is taking action to come into compliance with state law. This plan may take various forms, it is our recommendation that the board and manager should consult with a third-party expert to help decide appropriate next steps.

Please provide a copy of the Water Loss Mitigation Plan by Friday, January 31, 2025.

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