

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: H4/9/25

A Bill

SENATE BILL 546

By: Senator K. Hammer
By: Representative Perry

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE TRUST FUND CONTRIBUTION FEE FOR WATER PERMITS RELATED TO NONMUNICIPAL DOMESTIC SEWAGE TREATMENT WORKS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE TRUST FUND CONTRIBUTION FEE FOR WATER PERMITS RELATED TO NONMUNICIPAL DOMESTIC SEWAGE TREATMENT WORKS.

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

SECTION 1. Arkansas Code § 8-4-203(b)(1)(E), concerning a National Pollutant Discharge Elimination System permit, is amended to read as follows:

(E)(i) The division shall not consider an application to issue or modify to increase the design flow of a National Pollutant Discharge Elimination System permit or state permit for a nonmunicipal domestic sewage treatment works within five (5) miles of a publicly owned treatment works' collection system unless:

(a) The division determines there is significant threat of pollution without the issuance or modification of the nonmunicipal domestic sewage treatment works permit; or

(b) The applicant seeking approval demonstrates that there is no other viable cost-effective alternative by submitting a feasibility study for the connection to the existing publicly owned treatment works that has a collection system within five (5) miles of



the proposed treatment works.

(ii) Except as provided under subdivisions (b)(1)(C)(vi) and ~~(b)(1)(E)(ii)~~ (b)(1)(E)(iii) of this section, the division shall not issue, renew, or transfer permit coverage for nonmunicipal domestic sewage treatment works to property owners' associations or homeowners' associations after January 1, 2018.

~~(ii)~~(iii) A property owners' association or homeowners' association with permit coverage before December 31, 2017, may retain permit coverage if the property owners' association or homeowners' association complies with this section.

SECTION 2. Arkansas Code § 8-4-203(b)(2), concerning expired language to reduce or waive the amount of the required financial assurance for a National Pollutant Discharge Elimination System permit, is repealed.

~~(2) Until January 1, 2016, the Arkansas Department of Environmental Quality or the division may reduce or waive the amount of the required financial assurance if the permit applicant can demonstrate to the Arkansas Department of Environmental Quality's or the division's satisfaction that:~~

~~(A) For a renewal permit, during the five (5) years preceding the application for a renewal permit, the nonmunicipal domestic sewage treatment works has:~~

~~(i) Maintained the nonmunicipal domestic sewage treatment works in continuous operation;~~

~~(ii) Maintained the nonmunicipal domestic sewage treatment works in substantial compliance with the existing discharge permit issued by the Arkansas Department of Environmental Quality or the division, which shall be demonstrated by submitting the following:~~

~~(a) All discharge monitoring reports;~~

~~(b) Evidence that the nonmunicipal domestic sewage treatment works has not exceeded the same permit effluent criteria in any two (2) consecutive monitoring periods during the previous three (3) years;~~

~~(c) Evidence that no more than ten percent (10%) of the nonmunicipal domestic sewage treatment works' submitted discharge monitoring reports show effluent violations; and~~

~~(d) Evidence that there have not been any administrative or judicial orders entered against the owner or operator for violations of state or federal environmental laws, rules, or regulations or permits issued by the Arkansas Department of Environmental Quality or the division;~~

~~(iii) Maintained the services of a certified wastewater treatment operator, where applicable;~~

~~(iv)(a) Remained financially solvent, which shall be demonstrated by either:~~

~~(1) The nonmunicipal domestic sewage treatment works' federal tax returns for the five (5) years preceding the application for a renewal permit and a sworn affidavit from a corporate official or other responsible official representing the nonmunicipal domestic sewage treatment works that lists all assets and liabilities for the nonmunicipal domestic sewage treatment works; or~~

~~(2) An independent certified public accountant's report on the owner's or operator's independently reviewed financial statements.~~

~~(b) The review of financial statements under subdivision (b)(2)(A)(iv)(a)(2) of this section shall be conducted in accordance with the American Institute of Certified Public Accountants' Professional Standards, as they existed on January 1, 2013; and~~

~~(v) Operated the nonmunicipal domestic sewage treatment works to prevent the discharge of waterborne pollutants in unacceptable concentrations to the surface waters or groundwater of the state as defined in the permit or as defined in the state's water quality standards; or~~

~~(B) For a new permit:~~

~~(i) The reduction or waiver is necessary to accommodate important economic or social development in the area of the proposed nonmunicipal domestic sewage treatment works; and~~

~~(ii) The applicant has shown a history of financial responsibility and compliance with regulatory requirements.~~

SECTION 3. Arkansas Code § 8-4-203(b)(4)(B)(ii)(b) - (d), concerning initial trust fund contribution fees for water permittees, are amended to

read as follows:

(b) The initial trust fund contribution fee required by the division for a new nonmunicipal domestic sewage treatment works is ~~ten percent (10%)~~ eight percent (8%), not to exceed one hundred thousand dollars (\$100,000), of the estimated cost of construction of the new nonmunicipal domestic sewage treatment works as certified by the engineer of record.

(c) The initial trust fund contribution fee required by the division for modifications to existing nonmunicipal domestic sewage treatment works is ~~ten percent (10%)~~ eight percent (8%), not to exceed one hundred thousand dollars (\$100,000), of the estimated cost of construction for the modification of the nonmunicipal domestic sewage treatment works as certified by the engineer of record.

(d) The division ~~shall~~ may reduce the initial trust fund contribution fee if:

(1) The nonmunicipal domestic sewage treatment works is subject to an enforcement action; and

(2) The corrective actions approved by the division would require the nonmunicipal domestic sewage treatment works to make an initial trust fund contribution.

SECTION 4. Arkansas Code § 8-4-203(b)(4)(B)(iv)(a)(2), concerning trust fund contribution fees for water permittees, is amended to read as follows:

(2) The division has issued that nonmunicipal domestic sewage treatment facility's ~~third~~ second permit renewal following its initial trust fund contribution.

SECTION 5. Arkansas Code § 8-4-203(b)(4)(D), concerning trust fund contribution fees for water permittees, is amended to read as follows:

(D) If the total amount in the fund equals or exceeds two million one hundred thousand dollars (\$2,100,000), ~~additional~~ annual trust fund contribution fees as described in subdivision (b)(4)(B)(iii) of this section shall not be collected by the division until the total amount of the fund equals or is less than one million five hundred thousand dollars (\$1,500,000), at which time the collection of required trust fund

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contribution fees shall resume.

/s/K. Hammer

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