

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
95th General Assembly
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As Engrossed: H3/20/25 S4/7/25

A Bill

HOUSE BILL 1701

By: Representatives Gonzales, L. Johnson

By: Senator G. Stubblefield

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING SEWER COLLECTION
AND SEWER TREATMENT PROVIDERS AND RELATED SERVICES;
AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING SEWER
COLLECTION AND SEWER TREATMENT PROVIDERS
AND RELATED SERVICES.

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

SECTION 1. Arkansas Code Title 14, Chapter 239, is amended to add an additional subchapter to read as follows:

Subchapter 1 — Oversight of Wastewater and Sewer Retail Providers

14-239-101. Legislative findings.

The General Assembly finds that:

(1) Oversight of providers in the state is primarily handled by the Arkansas Natural Resources Commission and the Division of Environmental Quality;

(2) Wastewater and sewer systems need to have rates that support capital improvement needs; and

(3) It is necessary to improve the operations and infrastructures of wastewater and sewer systems in the state similar to the reform of retail water providers by Acts 2021, No. 605.

14-239-102. Definitions.



As used in this subchapter:

(1) "Provider" means any public or private provider of a sewage collection service or sewage treatment service; and

(2) "Provider's board" means the governing body of a provider, whether the governing body is organized as a board, commission, committee, council, or other type of entity.

14-239-103. Fiscal distress — Improvement plans — Rates and rate studies — Definition.

(a)(1) For the purposes of this section, a provider is in fiscal distress if the provider:

(A) Fails to obtain a rate study as required under this section;

(B) Fails to implement a completed rate study required under this section; or

(C) Has been found by the Arkansas Natural Resources Commission to be in significant noncompliance with rules of the commission because of inadequate funds for operation and maintenance or inadequate compliance with rules of the commission.

(2) A provider may be found by the commission to be subject to this section if a member of the provider's board does not receive the training required under § 14-239-105.

(b) The commission shall maintain and publish on the commission's website a list of providers in fiscal distress.

(c)(1) A provider shall obtain a rate study on the following schedule:

(A) By July 1, 2028, and every five (5) years thereafter for a provider that serves five hundred (500) or fewer customers;

(B) By July 1, 2029, and every five (5) years thereafter for a provider that serves not less than five hundred one (501) and not more than one thousand (1,000) customers; and

(C) By July 1, 2030, and every five (5) years thereafter for a provider that serves more than one thousand (1,000) customers.

(2)(A) Rates and other revenue dedicated to the support of the provider's wastewater and sewer systems shall adequately address costs for:

(i) Operation and maintenance;

(ii) Debt service;

(iii) Required reserves;
(iv) Depreciation;
(v) Future capital expenses;
(vi) Preparation and publication of an annual financial report as currently required by law; and
(vii) Other expenses as necessary.

(B)(i) The rates recommended in the rate study that is obtained and chosen by the provider shall be implemented by the provider in the manner provided under the applicable law for modifying rates.

(ii) Except as provided in subdivision (c)(2)(B)(iii) and (c)(2)(B)(iv) of this section, an increase in rates recommended in the rate study shall be implemented within one (1) year of the receipt of the rate study.

(iii) Except as provided in subdivision (c)(2)(B)(iv) of this section, if recommended rates increase the provider's rates by fifty percent (50%) or more from the fiscal year before the rate study was completed, the provider may phase in the rate increase over a two-year period.

(iv) If, through the rate study, it is recommended that a series of rate increases be implemented over a period of time that exceeds the periods of time required in subdivisions (c)(2)(B)(ii) and (c)(2)(B)(iii) of this section, the provider may implement the series of rate increases without regard to the limitations of subdivisions (c)(2)(B)(ii) and (c)(2)(B)(iii) of this section, provided that the series of rate increases conform with the recommendations of the rate study.

(d)(1) The commission shall determine by rule the requirements of the rate study, including without limitation a review of the provider's refurbishment and replacement account and asset management plan.

(2)(A) The rate study shall use as its basis the guidelines of the American Water Works Association and the Water Environment Federation.

(B) The commission shall determine by rule an appropriate entity to provide guidelines for the rate study to use as its basis if guidelines of the American Water Works Association and the Water Environment Federation are unavailable.

(e)(1) A provider shall deposit a minimum of five percent (5%) per annum of gross revenues in a dedicated refurbishment and replacement account.

(2) The provider may spend any amount of the provider's cash savings referenced in subdivision (e)(1) of this section at any time for refurbishment and replacement of the provider's wastewater system facilities and other real property.

(3) If a different amount to be deposited per annum is determined by a rate study, then the amount determined by the rate study shall be deposited into a dedicated refurbishment and replacement account.

(f)(1) The commission shall maintain an approved list of entities to conduct rate studies required by this section, including without limitation the Arkansas Rural Water Association, professional engineers, certified public accountants, economists, and actuaries.

(2) If a provider chooses an entity to conduct the rate study that is not on the approved list of entities, the entity shall have conducted at least one (1) rate study in the state in the previous five-year period.

(g)(1) To ensure fiscal soundness, the commission shall consider and approve a new provider with fewer than three hundred (300) customers within the proposed service area only if:

(A) The commission determines that public health or the environment is threatened without the approval of the new provider; or

(B) There is no other viable alternative.

(2) A new provider with fewer than three hundred (300) customers seeking approval shall:

(A) Be organized through a political subdivision, including without limitation an improvement district, a county, or a municipality;

(B) Demonstrate the ability to remain fiscally sustainable; and

(C) Complete a technical, financial, and managerial capacity review conducted by the commission.

(h) A provider shall file its most recent rate study annually with Arkansas Legislative Audit at the same time the provider files its audit report or agreed-upon procedures and compilation report as required under § 14-234-120.

(i)(1) The commission shall annually identify and notify a provider if the provider is in fiscal distress.

(2) The provider may appeal the finding to Pulaski County

Circuit Court.

(j)(1) A provider found to be in fiscal distress shall file an improvement plan with the Division of Environmental Quality and the commission, including without limitation specific action to be taken to correct financial, technical, and managerial deficiencies, within ninety (90) days of the finding of fiscal distress.

(2)(A) Upon receipt of an improvement plan under this subsection, the division and the commission shall review the improvement plan and:

(i) Approve the improvement plan in whole or in part;

(ii) Modify the improvement plan; or

(iii) Deny the improvement plan.

(B) At the time the commission determines that the provider is no longer in fiscal distress, the commission shall remove the fiscal distress designation and notify the provider.

(k) If a provider is found to be in fiscal distress, the provider shall not receive state financial assistance for sewage collection or sewage treatment operations until an improvement plan that has been approved by the commission is in place, unless the financial assistance is immediately necessary to ensure preservation of the public peace, health, and safety, as determined by the commission.

(l) If the provider is found to be in fiscal distress, the provider shall obtain written authorization from the commission to:

(1) Incur additional debt;

(2) Accept assistance for the refurbishment or replacement of facilities or construction of facilities not within the provider's improvement plan; or

(3) Transfer assets to another entity.

14-239-104. Workforce recruitment and retention – Education.

A provider shall:

(1) Work with the Association of Arkansas Counties and the Arkansas Municipal League to develop training for leaders of the county or municipality that the provider serves;

(2) Provide suitable compensation and incentives to encourage individuals to consider a career with the provider; and

(3) Promote the recruitment, education, and licensing of employees of the provider.

14-239-105. Training.

(a)(1)(A) Within one (1) year of election or appointment, a majority of the members of a provider's board shall receive a minimum of eight (8) hours of provider training as promulgated by rule of the Arkansas Natural Resources Commission.

(B) A member of a provider's board as of January 1, 2025, shall receive the training required under this section by December 31, 2026.

(2) If a majority of the members of a provider's board do not receive the training required under this section, the commission may find the provider is subject to § 14-239-103.

(3) This section does not apply to a member of a provider's board who has served on the provider's board for ten (10) years or more.

(b) The commission shall consult with an advisory training board for the development of the training required under this section, whose members shall include without limitation:

(1) The Secretary of the Department of Health or his or her designee;

(2) The Director of the *Division of Environmental Quality* or his or her designee;

(3) The State Director of the United States Department of Agriculture Rural Development in Arkansas or his or her designee;

(4) The Chief Executive Officer of the Arkansas Rural Water Association or his or her designee;

(5) The Executive Director of the Association of Arkansas Counties or his or her designee;

(6) The President of the Arkansas Municipal League or his or her designee;

(7) The Chair of the Board of Directors of Communities Unlimited, Inc., or his or her designee;

(8) The Chair of the Arkansas Water Works and Water Environment Association, Inc., or his or her designee;

(9) The Director of the Arkansas Environmental Training Academy or his or her designee;

(10) The Chair of the House Committee on City, County, and Local Affairs;

(11) The Vice Chair of the House Committee on City, County, and Local Affairs;

(12) The Chair of the Senate Committee on City, County, and Local Affairs;

(13) The Vice Chair of the Senate Committee on City, County, and Local Affairs; and

(14) The President of the Arkansas Water and Wastewater Managers Association, Inc.

14-239-106. Applicability.

This subchapter does not apply to:

(1) A wastewater system regulated by the Arkansas Public Service Commission as a public utility under § 23-1-101 et seq.;

(2) A municipal utility system owned or operated by a municipality that provides electric service to retail customers in addition to wastewater service, including without limitation an electric system:

(A) Managed or operated by a nonprofit corporation under § 14-199-701 et seq.; or

(B) Owned or operated by a municipality or by a consolidated utility district under the General Consolidated Public Utility System Improvement District Law, § 14-217-101 et seq.;

(3) A privately owned provider that supplies the majority of its wastewater service to nonresidential customers;

(4) A wastewater system operated jointly between two (2) municipalities in which each municipality is located in a different state;

(5) A provider during the time that the provider is subject to a federal court decree or judgment for remediation efforts related to the provider's water system or wastewater system, or both, for the purpose of compliance with federal law; or

(6) An individual homeowner.

14-239-107. Rules.

The Arkansas Natural Resources Commission shall promulgate rules to implement this subchapter.

SECTION 2. TEMPORARY LANGUAGE. DO NOT CODIFY. Rules.

(a) When adopting the initial rules to implement this act, the Arkansas Natural Resources Commission shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

(1) On or before January 1, 2026; or

(2) If approval under § 10-3-309 has not occurred by January 1, 2026, as soon as practicable after approval under § 10-3-309.

(b) The commission shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2026, so that the Legislative Council may consider the rules for approval before January 1, 2026.

/s/Gonzales