

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 691 of the Regular Session

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: H3/22/07

A Bill

HOUSE BILL 2707

5 By: Representative Saunders  
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8 **For An Act To Be Entitled**

9 AN ACT CONCERNING PROTECTION OF WATER RESOURCES;  
10 AND FOR OTHER PURPOSES.  
11

12 **Subtitle**

13 CONCERNING PROTECTION OF WATER  
14 RESOURCES.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code § 15-22-223 is amended to read as follows:  
20 15-22-223. Protection of service areas.

21 (a) It is unlawful for a person to provide water or wastewater  
22 services to an area where such services are being provided by the current  
23 provider that has pledged or utilizes revenue derived from services within  
24 the area to repay financial assistance provided by the Arkansas ~~Soil and~~  
25 ~~Water Conservation~~ Natural Resources Commission, unless approval for such  
26 activity has been given by the commission and the new provider has received  
27 approval under the Arkansas Water Plan, § 15-22-503, if applicable.

28 (b)(1) As a condition of its approval, the commission may require the  
29 payment of an equitable portion of the outstanding financial assistance  
30 provided.

31 (2)(A) Any payment made shall reduce the outstanding balance of  
32 the financial assistance provided by the commission to the current provider.

33 (B) To determine the amount of payment, the commission  
34 shall base its approval on the following factors:

35 (i) The impact of the transfer of the area on the



1 current provider's existing indebtedness and its ability to repay the debt;

2 (ii) The value, including depreciation, of the  
3 current provider's facilities in the area to be transferred;

4 (iii) The amount of any expenditures by the current  
5 provider for planning, design, or construction of service facilities outside  
6 the area that are directly and reasonably allocable to the area to be  
7 transferred;

8 (iv) Any demonstrated impairment of service or  
9 increase in cost to consumers of the current provider remaining after the  
10 transfer of the area;

11 (v) The impact of future lost revenues from the  
12 current provider's existing consumers in the area to be transferred but only  
13 until the indebtedness is retired;

14 (vi) Necessary and reasonable legal expenses and  
15 professional fees; and

16 (vii) Other relevant factors as determined by the  
17 commission.

18 (3) Upon enactment of this section, financial assistance  
19 provided by the commission for potable water or wastewater projects shall be  
20 provided only to:

21 (A) The state, counties, cities, towns, or their agencies  
22 or instrumentalities; and

23 (B) Nonprofit corporations existing on August 1, 1997.

24 (c) The commission or other parties may institute a civil action in  
25 the circuit court of the county where the unlawful activities have or will  
26 likely occur to:

27 (1) Restrain such activities;

28 (2) Compel compliance with the provisions of this section; and

29 (3) Recover all costs and expenses incurred as a result of  
30 violations of this section.

31 (d) Nothing in this subchapter limits the applicable federal law.

32 (e)(1) The state may require that if a borrower of water loans or  
33 wastewater loans is able to refinance the amount of the indebtedness to any  
34 government lender then outstanding, in whole or in part, by obtaining a loan  
35 for the same purpose from a responsible cooperative or private source at a  
36 reasonable rate and under reasonable terms for similar loans, then the

1 borrower shall:

2 (A) Apply for and accept the loan in sufficient amount to  
3 repay the government lender; and

4 (B) Take all actions required in connection with the loan.

5 (2) Subdivision (e)(1) of this section shall also apply if a  
6 borrower seeks financing from the state for any water project or wastewater  
7 project that is not currently funded by a government lender.

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9 SECTION 2. Arkansas Code § 15-22-503 is amended to read as follows:

10 15-22-503. Arkansas Water Plan.

11 (a) Under such rules and regulations as it may adopt, the Arkansas  
12 ~~Soil and Water Conservation~~ Natural Resources Commission is charged with the  
13 duty of preparing, developing, formulating, and engaging in a comprehensive  
14 program for the orderly development and management of the state's water and  
15 related land resources, to be referred to as the "Arkansas Water Plan".

16 (b) The commission shall be governed in its preparation of the plan by  
17 a regard for the public interest of the entire state. It shall direct its  
18 efforts to protect the water resources of the state, including boundary  
19 waters, against unwarranted encroachments by other states and the United  
20 States upon its sovereignty with respect thereto. Any attempt to transport or  
21 export any of such waters against the best interests of the State of Arkansas  
22 and its inhabitants shall be strongly opposed.

23 (c) The plan shall give due consideration to existing water rights of  
24 the state and its inhabitants and shall take into account modes and  
25 procedures for the equitable adjustment of individual water rights affected  
26 by the implementation of the plan. The plan shall be the state policy for the  
27 development of water and related land resources in this state and, from time  
28 to time, shall be altered, amended, or repealed to the extent necessary for  
29 the proper administration of the state's water resources.

30 (d) All state agencies, commissions, and political subdivisions shall  
31 take the plan into consideration in all matters pertaining to the discharge  
32 of their respective duties and responsibilities as they may affect the  
33 comprehensive plan, but nothing in the plan shall be construed as to impair  
34 any water right existing under the laws of this state.

35 (e)(1) No political subdivision or agency of the state shall spend any  
36 state funds on or engage in any water development project, excluding any

1 project in which game protection funds or federal or state outdoor recreation  
2 assistance grant funds are to be spent, provided that such a project will not  
3 diminish the benefits of any existing water development project, until a  
4 preliminary survey and report therefor which sets forth the purpose of the  
5 project, the benefits to be expected, the general nature of the works of  
6 improvement, the geographic area to be served by the project, the necessity,  
7 feasibility, and the estimated cost thereof is filed with the commission and  
8 is approved by the commission to be in compliance with the plan.

9 (2) Upon approval of the report, no political subdivision or  
10 agency board or commission thereof filing the report or designated by the  
11 commission as having responsibility for constructing, operating, managing,  
12 and maintaining the improvement shall be dissolved, merged, abolished, or  
13 otherwise changed during the life of the water development project without  
14 prior approval of the commission.

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16 /s/ Saunders

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18 APPROVED: 3/29/2007  
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