

State of Arkansas *As Engrossed: H3/20/25 S4/7/25*

95th General Assembly

A Bill

Regular Session, 2025

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.



1 As used in this subchapter:

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

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

7
8 14-239-103. Fiscal distress — Improvement plans — Rates and rate
9 studies — Definition.

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

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

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

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

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

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

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

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

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

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

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

35 (i) Operation and maintenance;

36 (ii) Debt service;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (B) There is no other viable alternative.

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

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

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

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

30 (h) A provider shall file its most recent rate study annually with
31 Arkansas Legislative Audit at the same time the provider files its audit
32 report or agreed-upon procedures and compilation report as required under §
33 14-234-120.

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

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

1 Circuit Court.

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

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

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

12 (ii) Modify the improvement plan; or

13 (iii) Deny the improvement plan.

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

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

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

25 (1) Incur additional debt;

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

29 (3) Transfer assets to another entity.

30 14-239-104. Workforce recruitment and retention – Education.

31 A provider shall:

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

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

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

3
4 14-239-105. Training.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11
12 14-239-106. Applicability.

13 This subchapter does not apply to:

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

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

19 (A) Managed or operated by a nonprofit corporation under §
20 14-199-701 et seq.; or

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

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

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

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

32 (6) An individual homeowner.

33
34 14-239-107. Rules.

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

1
2 SECTION 2. TEMPORARY LANGUAGE. DO NOT CODIFY. Rules.

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

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

7 (2) If approval under § 10-3-309 has not occurred by January 1,
8 2026, as soon as practicable after approval under § 10-3-309.

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

13
14 /s/Gonzales

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17 **APPROVED: 4/21/25**
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