

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

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

As Engrossed: H3/20/25

A Bill

HOUSE BILL 1701

5 By: Representatives Gonzales, L. Johnson
6 By: Senator G. Stubblefield
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING SEWER COLLECTION
10 AND SEWER TREATMENT PROVIDERS AND RELATED SERVICES;
11 AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AMEND THE LAW CONCERNING SEWER
16 COLLECTION AND SEWER TREATMENT PROVIDERS
17 AND RELATED SERVICES.
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

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

23 Subchapter 1 — Oversight of Wastewater and Sewer Retail Providers
24

25 14-239-101. Legislative findings.

26 The General Assembly finds that:

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

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

32 (3) It is necessary to improve the operations and
33 infrastructures of wastewater and sewer systems in the state similar to the
34 reform of retail water providers by Acts 2021, No. 605.
35

36 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 or the Division of Environmental Quality to be in significant
18 noncompliance with rules of the commission because of inadequate funds for
19 operation and maintenance or inadequate compliance with rules of the
20 commission.

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

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

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

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

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

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

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

36 (i) Operation and maintenance;

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

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

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

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

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

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

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

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

36 (e)(1) A provider shall deposit a minimum of five percent (5%) per

1 annum of gross revenues in a dedicated refurbishment and replacement account.

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

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

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

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

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

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

21 (B) There is no other viable alternative.

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

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

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

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

31 (h) A provider shall file its most recent rate study annually with
32 Arkansas Legislative Audit at the same time the provider files its audit
33 report or agreed-upon procedures and compilation report as required under §
34 14-234-120.

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

1 (2) The provider may appeal the finding to Pulaski County
2 Circuit Court.

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

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

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

13 (ii) Modify the improvement plan; or

14 (iii) Deny the improvement plan.

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

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

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

26 (1) Incur additional debt;

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

30 (3) Transfer assets to another entity; or

31 (4) Be given corrective or enforcement actions related to the
32 provider's permitting.

33 14-239-104. Workforce recruitment and retention – Education.

34 A provider shall:

35 (1) Work with the Association of Arkansas Counties and the
36 Arkansas Municipal League to develop training for leaders of the county or

1 municipality that the provider serves;

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

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

6
7 14-239-105. Training.

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

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

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

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

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

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

24 (2) The Director of the Arkansas Natural Resources Commission or
25 his or her designee;

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

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

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

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

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

36 (8) The Chair of the Arkansas Water Works and Water Environment

1 Association, Inc., or his or her designee;

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

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

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

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

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

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

14
15 14-239-106. Applicability.

16 This subchapter does not apply to:

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

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

22 (A) Managed or operated by a nonprofit corporation under §
23 14-199-701 et seq.; or

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

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

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

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

35
36 14-239-107. Rules.

