

As Engrossed: 2/22/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Willems**

A Bill

HOUSE BILL 1609

For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 17, CHAPTER 44 OF THE ARKANSAS CODE
9 OF 1987 ANNOTATED PERTAINING TO THE REGULATION AND
10 LICENSING OF WATER SYSTEM OPERATORS; AND FOR OTHER
11 PURPOSES."

12
13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

14
15 SECTION 1. Title 17, Chapter 44 of the Arkansas Code of 1987 Annotated
16 is amended to read as follows:

17 "17-44-101. Definitions. As used in this chapter, unless the context
18 otherwise requires:

19 (1) 'Water system operator' means any person who, during the
20 performance of his regular duties at a community public water system, or a
21 noncommunity public water system which utilizes a surface water or surface
22 water influenced source, exercises individual judgment by which, either
23 directly or indirectly, the safety, quality, and quantity of water delivered
24 from the water system might be affected;

25 (2) 'Board' means the State Board of Health;

26 (3) 'Committee' means the Drinking Water Advisory and Operator
27 Licensing Committee;

28 (4) 'Public water system' means all sources and their surroundings
29 from which water is derived for drinking or domestic purposes by the public,
30 and all structures, conduits, and appurtenances in connection therewith by
31 which water for such use is obtained, treated, conditioned, stored and
32 delivered to consumers;

33 (5) 'Community public water system' means any public water system
34 which serves at least fifteen (15) connections or twenty-five (25) persons who
35 are year-round residents;

1 (6) 'Non-community public water system' a public water system that is
2 not a community public water system;

3 (7) 'Late renewal' means an application for renewal when the
4 application for renewal or the associated fee is received more than thirty
5 (30) days following the beginning of a renewal period;

6 (8) 'Department' means the Arkansas Department of Health; and

7 (9) 'Treatment' means the application of physical processes and/or the
8 addition of chemicals to water which a public water system provides to the
9 public, for the purposes of improving the quality of the water, except that
10 the addition of gaseous chlorine or calcium hypochlorite alone shall not be
11 defined as treatment.

12

13 17-44-102. Penalties.

14 Any person or persons, representing a firm, corporation, municipality,
15 or other political authority who violates any of the provisions of this
16 chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall
17 be punished by a fine of not less than one hundred dollars (\$100) nor more
18 than five hundred dollars (\$500) or by imprisonment in the county jail for not
19 more than thirty (30) days, or by both such fine and imprisonment. Each day
20 during which a violation continues shall be a separate offense.

21

22 17-44-103. Powers and duties of the Board.

23 (a) The board shall have the authority to:

24 (1) Adopt rules and regulations in accordance with this chapter
25 as may be necessary for the administration and enforcement of this chapter;

26 (2) Set fees to cover the cost of the administration of this
27 chapter;

28 (3) Revoke a water system operator's license for cause;

29 (4) Establish minimum educational standards for all applicants
30 for licensure.

31

32 17-44-104. Drinking Water Advisory and Operator Licensing Committee -
33 Creation - Members.

34 (a) There is created the Drinking Water Advisory and Operator Licensing
35 Committee to consist of seven (7) members to be appointed by the board.

36 (1) One (1) shall be a member of the staff of the Division of

1 Engineering of the Department of Health who shall be a registered engineer and
 2 who shall act as executive secretary for the board for watersystem operator
 3 licensing activities and also act as executive secretary for the committee;

4 (2) One (1) shall be an engineer on the teaching staff of any
 5 *state-supported institution of higher education* who shall be either a sanitary
 6 engineer, civil engineer, environmental engineer, or chemical engineer with
 7 expertise in the drinking water field;

8 (3) Four (4) members shall be active watersystem operators who
 9 shall hold Class A licenses;

10 (4) One (1) member shall be a consulting engineer specializing in
 11 drinking water systems design;

12 (b) Initial appointments shall be as follows:

13 (1) One (1) member shall serve a term of one (1) year;

14 (2) One (1) member shall serve for two (2) years;

15 (3) One (1) member shall serve for three (3) years;

16 (4) One (1) member shall serve for four (4) years;

17 (5) One (1) member shall serve for five (5) years;

18 (6) One (1) member shall serve for six (6) years; and

19 (7) Each subsequent regular appointment shall be for a term of
 20 six (6) years, *provided that no person shall be appointed to serve more than*
 21 *one (1) full six (6) year term.*

22 (c) In event of vacancy, a new member shall be appointed by the board
 23 to serve out the unexpired term.

24 (d) A member of the committee may be removed for cause only after the
 25 board has made an investigation at which the accused has had an opportunity to
 26 defend himself against any and all charges.

27 (e) The committee shall serve without remuneration, but shall be
 28 entitled to reimbursement for actual expenses incurred in the performance of
 29 their duties.

30 (f) All members of the committee shall be residents of the State of
 31 Arkansas. All members of the Water Operator Licensing Committee at the time
 32 of the effective date of this chapter shall be automatically appointed to
 33 terms on the committee which correspond to their remaining terms on the Water
 34 Operator Licensing Committee.

35 (g) The member of the committee who is a member of the staff of the
 36 Division of Engineering of the department shall serve at the pleasure of the

1 Director of the Department of Health.

2

3 17-44-105. Drinking Water Advisory and Operator Licensing Committee -
4 Duties.

5 (a) The duties of the committee shall be as follows:

6 (1) to assist the department in examining applicants for water
7 system operator licenses;

8 (2) to advise the department as to the fitness of the applicant
9 for licensing and certification;

10 (3) to advise the board in cases of suspension or revocation of
11 license;

12 (4) to advise the board and department in all matters, upon
13 request by the board or department, or upon its own motion, relating to the
14 operations of, and the development of regulations for, the Public Water System
15 Supervision program operated by the Division of Engineering of the department;
16 and

17 (5) to advise the board or department in all matters, upon
18 request by the board or department, relating to training programs for water
19 system operators.

20

21 17-44-106. Fees.

22 (a) The board shall have the authority to:

23 (1) Set fees to cover only the cost of the administration of this
24 chapter;

25 (2) Establish fees for:

26 (A) Examination;

27 (B) Licensing;

28 (C) Renewal of License;

29 (D) Penalty for late renewal;

30 (E) Evaluation for reciprocity; and

31 (F) Temporary permit issuance or renewal.

32 (b) Fees shall not exceed:

33 (1) Fifty dollars (\$50.00) for examination;

34 (2) Twenty-five dollars (\$25.00) for licensing;

35 (3) Fifty dollars (\$50.00) for renewal of licenses;

36 (4) Ten dollars (\$10.00) for penalty for late renewal;

1 (5) Fifty dollars (\$50.00) for evaluation for reciprocity; and
2 (6) Twenty-five dollars (\$25.00) for temporary permits or renewal
3 of temporary permits.

4 (c) All of said fees shall be deposited in a separate fund, and shall
5 be utilized only for administration of this chapter.

6

7 17-44-201. License required.

8 (a) In order to safeguard the public health, all operators of community
9 and certain non-community public water systems, from which water is sold,
10 distributed, or otherwise offered for human consumption, whether such water
11 systems are publicly or privately owned and operated, shall be licensed and
12 certified as competent by the department under the provisions of this chapter
13 and under such rules and regulations as the board may adopt under the
14 provisions of this chapter.

15 (b) It shall be unlawful for any person, municipality, political
16 subdivision, corporation, partnership, sole proprietorship, or any authority
17 that furnishes water for domestic consumption to operate any type of community
18 public water system or any non-community public water system utilizing a
19 surface water or surface water influenced source, unless the operator in
20 charge is duly licensed and certified competent by the Department of Health.

21 (c) It shall be unlawful for any person to perform the duties of an
22 operator without being duly licensed or to falsely represent himself as a
23 licensed operator.

24 (d) It shall also be unlawful for any public or private official, not
25 duly licensed, to attempt to influence the judgment of a licensed operator in
26 matters where the public health may be involved unless this official is an
27 authorized representative of the Department of Health.

28

29 17-44-202. Classifications - Examinations.

30 (a) Watersystem operators shall be licensed in appropriate grades
31 according to responsibilities and in accordance with classifications
32 designated by the board which consider both the population served and the
33 level of treatment required to produce an acceptable quality of water.

34 (b) Applicants for examination for licensing shall be examined in the
35 various phases of watersystem operations as designated by the board.

36 (c) At its discretion the committee may delete or modify any of the

1 adopted requirements where they are not applicable, but the licenses granted
 2 shall be limited and valid only under the conditions described.

3 (d) The committee at its discretion may waive the requirements, or any
 4 part of the requirements, for formal examination of an applicant for a license
 5 if the applicant holds a valid license or certificate from another state in
 6 which the requirements for license in the appropriate grade are at least equal
 7 to the requirements set forth by the board.

8 (e) The department shall conduct examinations to establish the
 9 qualifications of applicants for licensure. The department shall conduct
 10 regular examination sessions, at least annually, and may conduct additional
 11 examination sessions whenever it deems necessary.

12

13 17-44-203. Issuance - Temporary permits.

14 (a) The department shall license and certify all applicants for
 15 licenses under this chapter who satisfy the requirements of the chapter.
 16 Licenses shall be granted according to classifications set forth by the board.

17 (b) In an emergency, the department at its discretion may grant
 18 temporary permits for operation of a watersystem when and only when the public
 19 health and safety are not jeopardized. The temporary permit shall be valid
 20 for a period of one (1) year, and may be renewed only once, with the approval
 21 of the department.

22

23 17-44-204. Renewal - Standing.

24 (a) Licenses shall be valid for a period of two (2) years and shall be
 25 renewable by the department upon application without examination, providing
 26 the applicant is in good standing.

27 (b) The licensee, in order to remain in good standing, shall
 28 demonstrate his interest in the technical developments of water system
 29 operation by fulfilling requirements as the board may direct.

30

31 17-44-205. Suspension - Revocation - Reinstatement.

32 (a) The department shall suspend the license of an operator for cause.

33 (b) The suspension shall remain in effect until the case can be
 34 reviewed by the committee, where the licensee shall have the opportunity to
 35 present his defense.

36 (c) After the committee has reported its findings to the board, the

1 board shall reinstate the licensee or revoke the license.

2 (d) A license so revoked may be reinstated only if all the conditions
3 that caused revocation have been removed.

4 (e) Operators holding current licenses may request that their licenses
5 be placed on inactive status when they leave the employment of a public water
6 system by making a request in writing to the department. Inactive licenses
7 may be reinstated at any time after approval by the department, by paying all
8 renewal fees not paid during the period of inactivity, provided that the total
9 back fees shall not exceed the total cost for obtaining a new license. Re-
10 examination may be required by the department."

11

12 *SECTION 2. All rules and regulations promulgated pursuant to this act*
13 *shall be reviewed by the Joint Interim Committee on Public Health, Welfare and*
14 *Labor or an appropriate subcommittee thereof.*

15

16 *SECTION 3. All provisions of this act of a general and permanent nature*
17 *are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code*
18 *Revision Commission shall incorporate the same in the Code.*

19

20 *SECTION 4. If any provision of this act or the application thereof to*
21 *any person or circumstance is held invalid, such invalidity shall not affect*
22 *other provisions or applications of the act which can be given effect without*
23 *the invalid provision or application, and to this end the provisions of this*
24 *act are declared to be severable.*

25

26 *SECTION 5. All laws and parts of laws in conflict with this act are*
27 *hereby repealed.*

28

29 */s/ Frank Willems*

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