

1 State of Arkansas *As Engrossed: H3/1/17 S3/23/17*

2 91st General Assembly

A Bill

3 Regular Session, 2017

HOUSE BILL 1550

4

5 By: Representative Davis

6 *By: Senator D. Sanders*

7

8

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING NONMUNICIPAL
10 DOMESTIC SEWAGE TREATMENT WORKS; TO INCREASE
11 CONTRIBUTIONS TO THE NONMUNICIPAL DOMESTIC SEWAGE
12 TREATMENT WORKS TRUST FUND BY NONMUNICIPAL DOMESTIC
13 SEWAGE TREATMENT WORKS; TO REQUIRE DOCUMENTATION
14 CONCERNING FUTURE OPERATIONS FROM NONMUNICIPAL
15 DOMESTIC SEWAGE TREATMENT WORKS; TO PROHIBIT NEW
16 WATER CONNECTIONS TO NONCOMPLIANT NONMUNICIPAL
17 DOMESTIC WASTEWATER TREATMENT SYSTEMS; AND FOR OTHER
18 PURPOSES.

19

20

21

Subtitle

22 TO AMEND THE LAW CONCERNING NONMUNICIPAL
23 DOMESTIC SEWAGE TREATMENT WORKS AND THE
24 NONMUNICIPAL DOMESTIC SEWAGE TREATMENT
25 WORKS TRUST FUND.

26

27

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

29

30 SECTION 1. Arkansas Code § 8-4-203(b)(1), concerning permits generally
31 for nonmunicipal domestic sewage treatment works, is amended to read as
32 follows:

33 (b)(1)(A) The department shall not issue, modify, renew, or transfer a
34 National Pollutant Discharge Elimination System permit or state permit for a
35 nonmunicipal domestic sewage treatment works without the permit applicant
36 first:



1 (i) ~~paying~~ Paying the trust fund contribution fee
2 required under subdivision ~~(b)(2)~~(b)(4) of this section; and

3 (ii) Submitting the assessment required by
4 subdivision (b)(1)(D) of this section.

5 (B) As used in this section, “nonmunicipal domestic sewage
6 treatment works” means a device or system operated by an entity other than a
7 *city, town, or county, ~~or sewer improvement district~~ that treats, in whole or*
8 *in part, waste or wastewater from humans or household operations and must*
9 *continuously operate to protect human health and the environment despite a*
10 *permittee’s failure to maintain or operate the device or system.*

11 (C) *The following are specifically exempted from the*
12 *requirements of this ~~section~~ subsection:*

13 *(i) State or federal facilities;*

14 *(ii) Schools;*

15 *(iii) Universities and colleges; ~~and~~*

16 *(iv) Entities that continuously operate due to a*
17 *connection with a city, town, or county, ~~or sewer improvement district~~; and*

18 *(v) A commercial or industrial entity that treats*
19 *domestic sewage from its operations and does not accept domestic sewage from*
20 *other entities or residences.*

21 (D) Each application for the initial permit and any
22 subsequent permit renewal, modification, or transfer for a nonmunicipal
23 domestic sewage treatment works submitted under this section shall be
24 accompanied by an assessment developed by a professional engineer licensed by
25 the state that includes:

26 (i) A cost estimate for a third party to operate and
27 maintain the nonmunicipal domestic sewage treatment works for five (5) years;

28 (ii) A list of all necessary capital expenditures,
29 system upgrades, or significant repairs and a milestone schedule for
30 completion within five (5) years; and

31 (iii) A financial plan that demonstrates to the
32 department’s satisfaction the permittee’s financial ability to operate and
33 maintain the nonmunicipal domestic sewage treatment works each year for five
34 (5) years.

35 (E)(i) Except as provided under subdivision (b)(1)(E)(ii)
36 of this section, the department shall not issue, renew, or transfer permit

1 coverage for nonmunicipal domestic sewage treatment works to property owners'
2 associations or homeowner associations after January 1, 2018.

3 (ii) A property owners' association or homeowner
4 association with permit coverage before December 31, 2017, may retain permit
5 coverage if the property owners' association or homeowner association
6 complies with this section.

7
8 SECTION 2. Arkansas Code § 8-4-203(b)(4)(B), concerning trust fund
9 contributions for nonmunicipal domestic sewage treatment works, is amended to
10 read as follows:

11 (B)(i) The department shall determine the required initial
12 and annual trust fund contribution fees for each nonmunicipal domestic sewage
13 treatment works based on each nonmunicipal domestic sewage treatment works'
14 actual flow design treatment capacity according to the National Pollutant
15 Discharge Elimination System permit or the state permit and existing and
16 projected number of residential end users.

17 (ii)(a) The department shall require an initial
18 trust fund contribution fee for each construction permit for a new
19 nonmunicipal domestic sewage treatment works or any modification to an
20 existing nonmunicipal domestic sewage treatment works resulting in an
21 increase in design treatment capacity according to the National Pollutant
22 Discharge Elimination System permit or the state permit.

23 (b) The initial trust fund contribution fee
24 required by the department for a new nonmunicipal domestic sewage treatment
25 works is ten percent (10%) of the estimated cost of construction of the new
26 nonmunicipal domestic sewage treatment works as certified by the engineer of
27 record.

28 (c) The initial trust fund contribution
29 fee required by the department for modifications to existing nonmunicipal
30 domestic sewage treatment works is ten percent (10%) of the estimated cost of
31 construction for the modification of the nonmunicipal domestic sewage
32 treatment works as certified by the engineer of record.

33 (d) The department shall reduce the
34 initial trust fund contribution fee if:

35 (1) The nonmunicipal domestic
36 sewage treatment works is subject to an enforcement action; and

1 (2) The corrective actions
2 approved by the department would require the nonmunicipal domestic sewage
3 treatment works to make an initial trust fund contribution.

4 (e) The department shall not require an
5 initial trust fund contribution fee if the design treatment capacity
6 according to the National Pollutant Discharge Elimination System permit or
7 the state permit is not increased.

8 ~~(ii)(iii)~~ However, the The annual trust fund
9 contribution fee required by the department shall not exceed ~~two hundred~~
10 ~~dollars (\$200)~~ one thousand dollars (\$1,000) per year for no-discharge
11 permits or ~~one thousand dollars (\$1,000)~~ five thousand dollars (\$5,000) per
12 year for discharge permits.

13
14 (iv)(a) Except as otherwise provided in subsection
15 (b) of this section a nonmunicipal domestic sewage treatment works may apply
16 for reimbursement for a maximum of fifty percent (50%) of the costs for
17 capital expenditures necessary to maintain permit compliance made to the
18 nonmunicipal domestic sewage treatment facility in the previous five (5)
19 years if:

20 (1) Funding is available and
21 appropriated; and

22 (2) The department has issued that
23 nonmunicipal domestic sewage treatment facility's third permit renewal
24 following its initial trust fund contribution.

25 (b) Applications for reimbursement under this
26 subdivision (b)(4)(B) shall include a statement certified by a professional
27 engineer licensed by the State of Arkansas identifying the necessary capital
28 costs expended.

29 (v) Reimbursements from the Nonmunicipal Domestic
30 Sewage Treatment Works Trust Fund are subject to the following restrictions:

31 (a) Over the lifetime of a nonmunicipal
32 domestic sewage treatment facility, the reimbursement to a nonmunicipal
33 domestic sewage treatment works shall not exceed seventy-five percent (75%)
34 of that nonmunicipal domestic sewage treatment facility's initial trust fund
35 contribution fee.

36 (b) If the Director of the Arkansas Department

1 of Environmental Quality determines that a nonmunicipal domestic sewage
2 treatment works is in a state of chronic noncompliance, that nonmunicipal
3 domestic sewage treatment works shall not receive reimbursement from the
4 Nonmunicipal Domestic Sewage Treatment Works Trust Fund.

5 (c) The department shall reimburse a
6 nonmunicipal domestic sewage treatment works based on a pro-rata share of
7 each submitted request compared to the total remaining funding available if
8 there are insufficient moneys available in a fiscal year to make
9 reimbursements for all submitted requests under this subsection after:

10 (1) Deducing the moneys required to
11 make payments to third-party contractors hired by the department from the
12 Nonmunicipal Domestic Sewage Treatment Works Trust Fund;

13 (2) Calculating the total remaining
14 funding available; and

15 (3) Allocating the moneys available for
16 reimbursement to each applicant for reimbursement.

17 (vi) The Arkansas Pollution Control and Ecology
18 Commission may promulgate regulations to implement this subsection (b).

19
20 SECTION 3. Arkansas Code § 8-4-203(b), concerning permits for
21 nonmunicipal domestic sewage treatment works, is amended to add an additional
22 subdivision to read as follows:

23 (9)(A) The director or the director's designee may send a signed
24 statement to each water service provider that serves all or a portion of the
25 service area of a nonmunicipal domestic sewage treatment works certifying
26 that that the director finds that the nonmunicipal domestic sewage treatment
27 works:

28 (i) Is the subject of an enforcement action by the
29 department;

30 (ii) Has not complied with the requirements of this
31 section, including payment of the nonmunicipal domestic sewage treatment
32 works trust fund contribution; or

33 (iii) Otherwise failed to comply with its permit.

34 (B) The department shall include a legal description of the
35 service area for the nonmunicipal domestic sewage treatment works with the
36 signed statement under subdivision (b)(9)(A) of this section.

