

INTERIM STUDY PROPOSAL 2017-063

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: S2/23/17

A Bill

SENATE BILL 35

By: Senator A. Clark

Filed with: Senate Committee on City, County, and Local Affairs
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO REQUIRE WATER PROVIDERS TO PROVIDE WATER
SERVICE IN CERTAIN INSTANCES TO CONSUMERS AND
PROPERTY OWNERS WITHIN SERVICE TERRITORY PROTECTED BY
THE ARKANSAS WATER PLAN; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE WATER PROVIDERS TO PROVIDE
WATER SERVICE WITHIN THEIR WATER SERVICE
TERRITORIES FAIRLY AND EQUITABLY.

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

SECTION 1. Arkansas Code Title 14, Chapter 229, Subchapter 1, is
amended to add an additional section to read as follows:

14-229-105. Water providers – Service to consumers – Definitions.

(a) As used in this section:

(1) "Adequate infrastructure" means sufficient pipe size, pumps,
water storage tanks, control valves, and related appurtenances to provide
potable water service to a consumer in compliance with the requirements of
the Department of Health and the minimum systemwide standards established by
the water provider;

(2) "Consumer" means a property owner or lawful occupant of real
property within an infrastructure development, regardless of the actual or
proposed use of the property, including without limitation agricultural,
residential, retail, educational, charitable, commercial, or industrial

purposes;

(3) "Infrastructure developer" means an existing or formerly existing public water authority, improvement district, public facilities board, or other person or entity that developed water infrastructure and transferred or will transfer the water infrastructure to the water provider and the water provider accepted the water infrastructure;

(4) "Infrastructure development" means all of the real property within the legal boundaries or under the authority or control of an infrastructure developer;

(5) "Water provider" means a community public water system defined under § 20-28-102; and

(6) "Water service territory" means the territory of a water provider as designated by the Arkansas Natural Resources Commission under the Arkansas Water Plan provided for in § 15-22-503.

(b) A water provider shall not take any actions to reduce the amount of water or water pressure available to serve consumers except:

(1) In accordance with sound engineering practices to maintain the integrity of the water distribution system; or

(2) In accordance with standard systemwide terms and conditions of water service established by the water provider.

(c)(1) Water shall be supplied to consumers at rates determined in the sole discretion of the water provider.

(2) This section does not prohibit a water provider from establishing separate rate classifications for different classes of customers, including consumers.

(3) The water provider shall charge all customers within a rate classification the same rate.

(d)(1) Except as otherwise provided in this section or by agreement between the water provider and the applicable infrastructure developer, at the request of a consumer a water provider shall provide water services to all property within an infrastructure development within the water provider's water service territory if adequate infrastructure to supply the requested water service exists at the time of the request as determined by the water provider or if the consumer is willing to install the improvements necessary to provide adequate infrastructure at the consumer's expense.

(2) If a water provider is currently providing water service

within an infrastructure development and annexation was not a condition of initially providing the service, a water provider shall not require annexation of any property within the infrastructure development before providing water service to additional consumers within the infrastructure development.

(e) Except as otherwise provided in this section or for emergency measures, it is the intent of this section that a water provider treat all customers and consumers equally in terms of service with respect to:

(1) The provision of potable water; and

(2) The availability of new potable water service.

SECTION 2. Arkansas Code § 14-234-110 is amended to read as follows:

14-234-110. Waterworks operated in governmental capacity – Services to nonresident consumers.

(a) A municipality owning a waterworks system shall operate its entire system in a governmental and not proprietary capacity.

(b)(1) ~~The~~ Except as otherwise required under § 14-229-105, the municipality shall have the option of extending its services to any consumer outside the municipal boundaries, but it shall not be obligated to do so.

(2) ~~No~~ Consistent with § 14-229-105, a municipality shall not be obligated to supply any fixed amount of water or water pressure to nonresident consumers, nor shall a municipality be obligated to increase the number or size of, or change the location of, any mains or pipes outside its boundaries.

(3) ~~Water~~ As provided under § 14-229-105, water may be supplied to nonresident consumers at such rates as the legislative body of the municipality may deem just and reasonable, and the rates need not be the same as the rates charged to residents of the municipality.

/s/A. Clark

Referred by the Arkansas Senate

Prepared by: VJF