

1 INTERIM STUDY PROPOSAL 2017-063

2 State of Arkansas  
3 91st General Assembly  
4 Regular Session, 2017

*As Engrossed: S2/23/17*

**A Bill**

SENATE BILL 35

5  
6 By: Senator A. Clark

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

9 **For An Act To Be Entitled**

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

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16 **Subtitle**

17 *TO REQUIRE WATER PROVIDERS TO PROVIDE*  
18 *WATER SERVICE WITHIN THEIR WATER SERVICE*  
19 *TERRITORIES FAIRLY AND EQUITABLY.*

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

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

26 *14-229-105. Water providers – Service to consumers – Definitions.*

27 *(a) As used in this section:*

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

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

1 purposes;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (1) The provision of potable water; and

10 (2) The availability of new potable water service.

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

13 14-234-110. Waterworks operated in governmental capacity – Services to  
14 nonresident consumers.

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

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

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

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

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30 /s/A. Clark

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33 Referred by the Arkansas Senate

34 Prepared by: VJF