

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/22/07

A Bill

HOUSE BILL 2707

5 By: Representative Saunders
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For An Act To Be Entitled

9 AN ACT CONCERNING PROTECTION OF WATER RESOURCES;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12 CONCERNING PROTECTION OF WATER
13 RESOURCES.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 15-22-223 is amended to read as follows:
20 15-22-223. Protection of service areas.

21 (a) It is unlawful for a person to provide water or wastewater
22 services to an area where such services are being provided by the current
23 provider that has pledged or utilizes revenue derived from services within
24 the area to repay financial assistance provided by the Arkansas ~~Soil and~~
25 ~~Water Conservation~~ Natural Resources Commission, unless approval for such
26 activity has been given by the commission and the new provider has received
27 approval under the Arkansas Water Plan, § 15-22-503, if applicable.

28 (b)(1) As a condition of its approval, the commission may require the
29 payment of an equitable portion of the outstanding financial assistance
30 provided.

31 (2)(A) Any payment made shall reduce the outstanding balance of
32 the financial assistance provided by the commission to the current provider.

33 (B) To determine the amount of payment, the commission
34 shall base its approval on the following factors:

35 (i) The impact of the transfer of the area on the
36 current provider's existing indebtedness and its ability to repay the debt;



1 (ii) The value, including depreciation, of the
2 current provider's facilities in the area to be transferred;

3 (iii) The amount of any expenditures by the current
4 provider for planning, design, or construction of service facilities outside
5 the area that are directly and reasonably allocable to the area to be
6 transferred;

7 (iv) Any demonstrated impairment of service or
8 increase in cost to consumers of the current provider remaining after the
9 transfer of the area;

10 (v) The impact of future lost revenues from the
11 current provider's existing consumers in the area to be transferred but only
12 until the indebtedness is retired;

13 (vi) Necessary and reasonable legal expenses and
14 professional fees; and

15 (vii) Other relevant factors as determined by the
16 commission.

17 (3) Upon enactment of this section, financial assistance
18 provided by the commission for potable water or wastewater projects shall be
19 provided only to:

20 (A) The state, counties, cities, towns, or their agencies
21 or instrumentalities; and

22 (B) Nonprofit corporations existing on August 1, 1997.

23 (c) The commission or other parties may institute a civil action in
24 the circuit court of the county where the unlawful activities have or will
25 likely occur to:

26 (1) Restrain such activities;

27 (2) Compel compliance with the provisions of this section; and

28 (3) Recover all costs and expenses incurred as a result of
29 violations of this section.

30 (d) Nothing in this subchapter limits the applicable federal law.

31 (e) (1) The state may require that if a borrower of water loans or
32 wastewater loans is able to refinance the amount of the indebtedness to any
33 government lender then outstanding, in whole or in part, by obtaining a loan
34 for the same purpose from a responsible cooperative or private source at a
35 reasonable rate and under reasonable terms for similar loans, then the
36 borrower shall:

1 (A) Apply for and accept the loan in sufficient amount to
2 repay the government lender; and

3 (B) Take all actions required in connection with the loan.

4 (2) Subdivision (e)(1) of this section shall also apply if a
5 borrower seeks financing from the state for any water project or wastewater
6 project that is not currently funded by a government lender.

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8 SECTION 2. Arkansas Code § 15-22-503 is amended to read as follows:

9 15-22-503. Arkansas Water Plan.

10 (a) Under such rules and regulations as it may adopt, the Arkansas
11 ~~Soil and Water Conservation~~ Natural Resources Commission is charged with the
12 duty of preparing, developing, formulating, and engaging in a comprehensive
13 program for the orderly development and management of the state's water and
14 related land resources, to be referred to as the "Arkansas Water Plan".

15 (b) The commission shall be governed in its preparation of the plan by
16 a regard for the public interest of the entire state. It shall direct its
17 efforts to protect the water resources of the state, including boundary
18 waters, against unwarranted encroachments by other states and the United
19 States upon its sovereignty with respect thereto. Any attempt to transport or
20 export any of such waters against the best interests of the State of Arkansas
21 and its inhabitants shall be strongly opposed.

22 (c) The plan shall give due consideration to existing water rights of
23 the state and its inhabitants and shall take into account modes and
24 procedures for the equitable adjustment of individual water rights affected
25 by the implementation of the plan. The plan shall be the state policy for the
26 development of water and related land resources in this state and, from time
27 to time, shall be altered, amended, or repealed to the extent necessary for
28 the proper administration of the state's water resources.

29 (d) All state agencies, commissions, and political subdivisions shall
30 take the plan into consideration in all matters pertaining to the discharge
31 of their respective duties and responsibilities as they may affect the
32 comprehensive plan, but nothing in the plan shall be construed as to impair
33 any water right existing under the laws of this state.

34 (e)(1) No political subdivision or agency of the state shall spend any
35 state funds on or engage in any water development project, excluding any
36 project in which game protection funds or federal or state outdoor recreation

1 assistance grant funds are to be spent, provided that such a project will not
2 diminish the benefits of any existing water development project, until a
3 preliminary survey and report therefor which sets forth the purpose of the
4 project, the benefits to be expected, the general nature of the works of
5 improvement, the geographic area to be served by the project, the necessity,
6 feasibility, and the estimated cost thereof is filed with the commission and
7 is approved by the commission to be in compliance with the plan.

8 (2) Upon approval of the report, no political subdivision or
9 agency board or commission thereof filing the report or designated by the
10 commission as having responsibility for constructing, operating, managing,
11 and maintaining the improvement shall be dissolved, merged, abolished, or
12 otherwise changed during the life of the water development project without
13 prior approval of the commission.

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15 /s/ Saunders
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