

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1550

By: Representative Davis

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING NONMUNICIPAL
DOMESTIC SEWAGE TREATMENT WORKS; TO INCREASE
CONTRIBUTIONS TO THE NONMUNICIPAL DOMESTIC SEWAGE
TREATMENT WORKS TRUST FUND BY NONMUNICIPAL DOMESTIC
SEWAGE TREATMENT WORKS; TO REQUIRE DOCUMENTATION
CONCERNING FUTURE OPERATIONS FROM NONMUNICIPAL
DOMESTIC SEWAGE TREATMENT WORKS; TO PROHIBIT NEW
WATER CONNECTIONS TO NONCOMPLIANT NONMUNICIPAL
DOMESTIC WASTEWATER TREATMENT SYSTEMS; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING NONMUNICIPAL
DOMESTIC SEWAGE TREATMENT WORKS AND THE
NONMUNICIPAL DOMESTIC SEWAGE TREATMENT
WORKS TRUST FUND.

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

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

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

(i) ~~paying~~ Paying the trust fund contribution fee



1 required under subdivision ~~(b)(2)~~(b)(4) of this section; and

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

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

10 (C) The following are specifically exempted from the
11 requirements of this section:

- 12 (i) State or federal facilities;
- 13 (ii) Schools;
- 14 (iii) Universities and colleges; and
- 15 (iv) Entities that continuously operate due to a
16 connection with a city, town, county, or ~~sewer~~ an improvement district.

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

- 22 (i) A cost estimate for a third party to operate and
23 maintain the nonmunicipal domestic sewage treatment works for five (5) years;
- 24 (ii) A list of all necessary capital expenditures,
25 system upgrades, or significant repairs and a milestone schedule for
26 completion within five (5) years; and
- 27 (iii) A financial plan that demonstrates to the
28 department’s satisfaction the permittee’s financial ability to operate and
29 maintain the nonmunicipal domestic sewage treatment works each year for five
30 (5) years.

31 (E)(i) Except as provided under subdivision (b)(1)(E)(ii)
32 of this section, the department shall not issue, renew, or transfer permit
33 coverage for nonmunicipal domestic sewage treatment works to property owners’
34 associations or homeowner associations after January 1, 2018.

35 (ii) A property owners’ association or homeowner
36 association with permit coverage on December 31, 2017, may retain permit

coverage if the property owners' association or homeowner association
complies with this section.

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

(B)(i) The department shall determine the required initial and annual trust fund contribution fees for each nonmunicipal domestic sewage treatment works based on each nonmunicipal domestic sewage treatment works' actual flow and existing and projected number of residential end users.

(ii)(a) The department shall require an initial trust fund contribution fee for each construction permit for a new nonmunicipal domestic sewage treatment works or any modification to an existing nonmunicipal domestic sewage treatment works resulting in an increase in design treatment capacity.

(b) The initial trust fund contribution fee required by the department for a new nonmunicipal domestic sewage treatment works is the combined total of two dollars (\$2.00) per gallon per day of design treatment capacity plus fifty percent (50%) of the five-year operation and maintenance cost estimate required under subdivision (b)(1)(D)(i) of this section.

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

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

(1) Funding is available and appropriated; and

(2) The department has issued that

1 nonmunicipal domestic sewage treatment facility's third permit renewal
2 following its initial trust fund contribution.

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

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

9 (a) Over the lifetime of a nonmunicipal
10 domestic sewage treatment facility, the reimbursement to a nonmunicipal
11 domestic sewage treatment works shall not exceed seventy-five percent (75%)
12 of that nonmunicipal domestic sewage treatment facility's initial trust fund
13 contribution fee.

14 (b) If the Director of the Arkansas Department
15 of Environmental Quality determines that a nonmunicipal domestic sewage
16 treatment works is in a state of chronic noncompliance, that nonmunicipal
17 domestic sewage treatment works shall not receive reimbursement from the
18 Nonmunicipal Domestic Sewage Treatment Works Trust Fund.

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

24 (1) Deducting the moneys required to
25 make payments to third-party contractors hired by the department from the
26 Nonmunicipal Domestic Sewage Treatment Works Trust Fund;

27 (2) Calculating the total remaining
28 funding available; and

29 (3) Allocating the moneys available for
30 reimbursement to each applicant for reimbursement.

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

33 (c) The initial trust fund contribution fee required by the
34 department for modifications to existing domestic sewage treatment works is
35 the combined total of two dollars (\$2.00) per gallon per day of net increase
36 in design treatment capacity plus fifty percent (50%) of the five-year

1 operation and maintenance cost estimate required under subdivision
2 (b)(1)(D)(i) of this section.

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

7 (9) If a nonmunicipal domestic sewage treatment works receives
8 wastewater from water users connected to a water service provider, the water
9 service provider shall not establish a new connection or initiate service to
10 existing connections for water service if the water service provider receives
11 a signed statement from the Director of the Arkansas Department of
12 Environmental Quality or the director's designated representative certifying
13 that the nonmunicipal domestic sewage treatment works:

14 (A) Is the subject of an enforcement action by the
15 department;

16 (B) Has not complied with the requirements of this
17 section, including payment of the nonmunicipal domestic sewage treatment
18 works trust fund contribution; or

19 (C) Otherwise failed to comply with its permit.

20
21 SECTION 4. Arkansas Code § 19-5-1142(c), concerning the Nonmunicipal
22 Domestic Sewage Treatment Works Trust Fund, is amended to add an additional
23 subdivision to read as follows:

24 (3) The fund may be used by the department to provide
25 reimbursement to a nonmunicipal domestic sewage treatment works under § 8-4-
26 203(b).