

State of Arkansas
91st General Assembly
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As Engrossed: H3/1/17

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, or county, or sewer 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~~ subsection:*

- 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, or county, or sewer improvement district; and*
17 (v) A commercial or industrial entity that treats
18 domestic sewage from its operations and does not accept domestic sewage from
19 other entities or residences.

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

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

34 (E)(i) Except as provided under subdivision (b)(1)(E)(ii)
35 of this section, the department shall not issue, renew, or transfer permit
36 coverage for nonmunicipal domestic sewage treatment works to property owners’

1 associations or homeowner associations after January 1, 2018.

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

6
7 SECTION 2. Arkansas Code § 8-4-203(b)(4)(B), concerning trust fund
8 contributions for nonmunicipal domestic sewage treatment works, is amended to
9 read as follows:

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

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

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

26 (c) The initial trust fund contribution
27 fee required by the department for modifications to existing nonmunicipal
28 domestic sewage treatment works is the combined total of two dollars (\$2.00)
29 per gallon per day of net increase in design treatment capacity plus fifty
30 percent (50%) of the five-year operation and maintenance cost estimate
31 required under subdivision (b)(1)(D)(i) of this section.

32 (d) The department may reduce the
33 initial trust fund contribution fee if:

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

36 (2) The corrective actions

1 approved by the department would require the nonmunicipal domestic sewage
2 treatment works to make an initial trust fund contribution.

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

8
9 (iv)(a) Except as otherwise provided in subsection
10 (b) of this section a nonmunicipal domestic sewage treatment works may apply
11 for reimbursement for a maximum of fifty percent (50%) of the costs for
12 capital expenditures necessary to maintain permit compliance made to the
13 nonmunicipal domestic sewage treatment facility in the previous five (5)
14 years if:

15 (1) Funding is available and
16 appropriated; and

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

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

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

26 (a) Over the lifetime of a nonmunicipal
27 domestic sewage treatment facility, the reimbursement to a nonmunicipal
28 domestic sewage treatment works shall not exceed seventy-five percent (75%)
29 of that nonmunicipal domestic sewage treatment facility's initial trust fund
30 contribution fee.

31 (b) If the Director of the Arkansas Department
32 of Environmental Quality determines that a nonmunicipal domestic sewage
33 treatment works is in a state of chronic noncompliance, that nonmunicipal
34 domestic sewage treatment works shall not receive reimbursement from the
35 Nonmunicipal Domestic Sewage Treatment Works Trust Fund.

36 (c) The department shall reimburse a

1 nonmunicipal domestic sewage treatment works based on a pro-rata share of
2 each submitted request compared to the total remaining funding available if
3 there are insufficient moneys available in a fiscal year to make
4 reimbursements for all submitted requests under this subsection after:

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

8 (2) Calculating the total remaining
9 funding available; and

10 (3) Allocating the moneys available for
11 reimbursement to each applicant for reimbursement.

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

14
15 SECTION 3. Arkansas Code § 8-4-203(b), concerning permits for
16 nonmunicipal domestic sewage treatment works, is amended to add an additional
17 subdivision to read as follows:

18 (9)(A) The director or the director's designee may send a signed
19 statement to each water service provider that serves all or a portion of the
20 service area of a nonmunicipal domestic sewage treatment works certifying
21 that that the director finds that the nonmunicipal domestic sewage treatment
22 works:

23 (i) Is the subject of an enforcement action by the
24 department;

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

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

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

32 (C) Upon receipt of a signed statement that includes a legal
33 description of the service area for the nonmunicipal domestic sewage
34 treatment works, the water service provider shall not establish new
35 connections or initiate service to existing connections for water service in
36 the service area of the nonmunicipal domestic sewage treatment works as

1 defined by the legal description.

2 (D) If the director or the director's designated representative
3 finds that the nonmunicipal domestic sewage treatment works is no longer
4 subject to an enforcement action or has remedied the noncompliance that
5 formed the basis for the signed statement under subdivision (b)(9)(A) of this
6 section, the director or the director's designated representative shall send
7 a signed statement of the finding to each water service provider that
8 received the prior statement.

9 (E) Upon receipt of the signed statement required under
10 subdivision (b)(9)(D) of this section, the water service provider may resume
11 installation of new connections or resume initiation of service to existing
12 connections for water service.

13
14 SECTION 4. Arkansas Code § 19-5-1142(c), concerning the Nonmunicipal
15 Domestic Sewage Treatment Works Trust Fund, is amended to add an additional
16 subdivision to read as follows:

17 (3) The fund may be used by the Arkansas Department of
18 Environmental Quality to do the following:

19 (A) Provide reimbursement to a nonmunicipal domestic
20 sewage treatment works under § 8-4-203(b);

21 (B) Provide technical support to nonmunicipal domestic
22 sewage treatment works to promote adequate operation, maintenance, or
23 completed closure of a facility; and

24 (C) Pay reasonable costs and expenses of the department
25 for administering the Nonmunicipal Domestic Sewage Treatment Works Trust
26 Fund.

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28 /s/Davis
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