

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

As Engrossed: S2/23/17

# A Bill

SENATE BILL 35

5 By: Senator A. Clark  
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## For An Act To Be Entitled

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

14 *TO REQUIRE WATER PROVIDERS TO PROVIDE*  
15 *WATER SERVICE WITHIN THEIR WATER SERVICE*  
16 *TERRITORIES FAIRLY AND EQUITABLY.*  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 *SECTION 1. Arkansas Code Title 14, Chapter 229, Subchapter 1, is*  
23 *amended to add an additional section to read as follows:*

24 *14-229-105. Water providers – Service to consumers – Definitions.*

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

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

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

36 *(3) "Infrastructure developer" means an existing or formerly*



1 existing public water authority, improvement district, public facilities  
2 board, or other person or entity that developed water infrastructure and  
3 transferred or will transfer the water infrastructure to the water provider  
4 and the water provider accepted the water infrastructure;

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

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

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

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

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

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

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

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

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

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

34 (2) If a water provider is currently providing water service  
35 within an infrastructure development and annexation was not a condition of  
36 initially providing the service, a water provider shall not require

1 annexation of any property within the infrastructure development before  
2 providing water service to additional consumers within the infrastructure  
3 development.

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

7 (1) The provision of potable water; and

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

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

11 14-234-110. Waterworks operated in governmental capacity – Services to  
12 nonresident consumers.

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

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

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

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

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28 /s/A. Clark  
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