

2020 Regular Session

SENATE BILL NO. 168

BY SENATORS FRED MILLS, BARROW, BOUDREAUX, MCMATH, MIZELL, POPE
AND WARD

WATER QUALITY. Creates and provides for the Community Drinking Water
Infrastructure Sustainability Act. (8/1/20)

1 AN ACT

2 To enact R.S. 40:5.9.1, relative to public drinking water; to create and provide for the

3 Community Drinking Water Infrastructure Sustainability Act; to provide for public

4 purpose; to provide for a statewide system of community water system

5 accountability; to provide for rulemaking; to provide for development of a letter

6 grade schedule reflective of community water system quality and performance; to

7 provide for publication of quality and performance scores and letter grades; to

8 provide for requirement of an improvement plan; to provide for penalties; and to

9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 40:5.9.1 is hereby enacted to read as follows:

12 **§5.9.1. Community water system accountability process; creation of letter**

13 **grade schedule; penalties for failing systems**

14 **A. This Section shall be known and may be cited as "The Community**

15 **Drinking Water Infrastructure Sustainability Act" which has been enacted by**

16 **the legislature to provide:**

17 **(1) For the development and implementation of a community water**

1 system accountability process which requires and supports drinking water
2 infrastructure sustainability for the citizens of Louisiana.

3 (2) Assurance to the citizens that the quality of drinking water is
4 monitored and maintained at levels essential for health, safety, welfare, and
5 long-term sustainability.

6 (3) Clear standards and expectations for community water systems so
7 that assessment of their quality, performance, and sustainability will be
8 understood.

9 (4) Information that will assist community water systems and citizens in
10 understanding expectations, outcomes, and consequences for failing community
11 water systems.

12 (5) For consequences and penalties for community water systems that do
13 not achieve minimum standards.

14 B. "Community water system" has the same meaning as provided for in
15 R.S. 40:5.8.

16 C. The Louisiana Department of Health, referred to as the
17 "department", shall provide for a statewide system of accountability for
18 community water systems and establish a letter grade schedule reflective of
19 community water system quality, performance, and sustainability based on, at
20 a minimum, the following standards:

21 (1) Federal water quality violation history.

22 (2) State water quality violation history.

23 (3) Water system financial sustainability.

24 (4) Operation and maintenance performance history.

25 (5) Infrastructure violations.

26 (6) Customer satisfaction.

27 (7) Level of secondary contaminants.

28 D.(1) The department shall promulgate rules and regulations to establish
29 and implement the community water system letter grade schedule provided for

1 in this Section. The rules and regulations shall provide clear and appropriate
2 point values for each standard set forth in Subsection C of this Section and
3 other assessed criteria as determined by the department that is used to calculate
4 the community water system's letter grade. Point values shall be based on
5 objective criteria so that each community water system is assessed equally and
6 fairly. Community water systems shall be assigned a letter grade of "A", "B",
7 "C", "D", or "F".

8 (2) The department shall publish scores and letter grades earned by each
9 community water system on its website in a frequency and duration established
10 by rule.

11 E. Any community water system that receives a letter grade of "D" or
12 "F" shall be considered operationally unacceptable and may be subject to the
13 following:

14 (1) Enforcement actions as provided for in R.S. 40:5.9.

15 (2)(a) In addition to the court authority to impose receivership pursuant
16 to R.S. 40:5.9(C), for any community water system that receives a grade of "D"
17 or "F", the department may appoint a receiver from a list maintained by the
18 department of receivers who have demonstrated prior success in operating and
19 improving community water systems.

20 (b) The appointed receiver, within ninety days of appointment, shall
21 develop and submit an improvement plan to the department for approval. The
22 receiver may include in his improvement plan all measures as may be necessary
23 to bring the community water system into technical and operation compliance
24 and financial sustainability. Such measures may include the ability to increase
25 rates paid by users of the community water system based on a fair assessment
26 of the community water system compared to comparable water systems, the
27 consolidation of the community water system with a neighboring system or
28 systems, or other measure which may be proposed by the receiver to ensure the
29 sustainability of the system for the benefit of the citizens who rely on the

1 community water system for their drinking water.

2 (3) Oversight of all federal or state grant funding by an auditor approved
 3 by the Louisiana legislative auditor who has experience with fiscal management
 4 of local government. The oversight provided for in this Paragraph shall include
 5 the authority to make decisions regarding the expenditure of grant funding.

6 (4) Notice being submitted to the State Bond Commission, Public Service
 7 Commission, and attorney general's office to prohibit the community water
 8 system from incurring any additional debt for anything not directly related to
 9 the improvement and sustainability of the community drinking water system
 10 pursuant to a plan approved by the department.

11 (5) Notwithstanding any provision of law to the contrary, no local
 12 governing authority that operates a community water system that receives a
 13 grade of "D" or "F" shall expend any money raised through payment by
 14 citizens for access to water or other water system revenue for any item, debt
 15 payment, or public purpose other than the improvement and sustainability of
 16 the community water system except as otherwise required by law. The
 17 provisions of this Paragraph shall not be construed to prohibit the payment of
 18 bonded indebtedness secured by the water system's revenue prior to
 19 August 1, 2020.

20 F. The department shall publish the first letter grades issued pursuant
 21 to this Section no later than January 1, 2022.

The original instrument was prepared by Christine Arbo Peck. The following digest, which does not constitute a part of the legislative instrument, was prepared by Brandi Cannon.

SB 168 Engrossed

DIGEST
2020 Regular Session

Fred Mills

Proposed law creates the "Community Drinking Water Infrastructure Sustainability Act" and provides for legislative intent for development of a community water system accountability process to provide public assurance that drinking water is of high quality with clear standards and expectations of the community water system.

Proposed law defines "community water system" as a public water system that serves year-round residents within a residential setting including systems serving municipalities, water districts, subdivisions, and mobile home parks.

Proposed law provides that LDH will implement a statewide accountability system that assesses letter grades to community water systems based on a clear and appropriate point value assigned, at a minimum, for federal water quality violation history, state water quality violation history, water system financial sustainability, operation and maintenance performance history, infrastructure violations, customer satisfaction, and level of secondary contaminants. Proposed law provides for the assignment of a letter grade of "A", "B", "C", "D", or "F".

Proposed law provides that LDH shall publish scores and letter grades earned by each community water system on its website in a frequency and duration established by LDH in rulemaking.

Proposed law provides that any community water system that receives a letter grade of "D" or "F" shall be considered operationally unacceptable and may be subject to present law enforcement actions including administrative compliance orders, civil actions, and court appointed receivership, LDH mandated receivership, oversight of federal or state grant funding by an auditor approved by the Louisiana legislative auditor, or being placed on notice to the State Bond Commission, Public Service Commission, and attorney general's office to prohibit the incurring of any additional debt for anything not directly related to the water system.

Proposed law provides that no local governing authority that operates a community water system that receives a grade of "D" or "F" shall expend any money raised through payment by citizens for access to water or other water system revenue for any item, debt payment, or public purpose other than the improvement and sustainability of the community water system, except as otherwise required by law. Proposed law shall not be construed to prohibit the payment of bonded indebtedness secured by the water system's revenue incurred prior to the effective date of proposed law.

Proposed law provides that LDH shall publish the first letter grades no later than January 1, 2022.

Effective August 1, 2020.

(Adds R.S. 40:5.9.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Clarify that water system revenue may be used to pay for bonded indebtedness secured by the water system's revenue prior to the effective date of the Act.
2. Extend the deadline for publication of the first letter grades from January 1, 2021 to January 1, 2022.