

SENATE BILL NO. 171

BY SENATORS DONAHUE, ALLAIN, APPEL, BROOME, BUFFINGTON, CLAITOR, CORTEZ, CROWE, DORSEY-COLOMB, ERDEY, GUILLORY, LONG, MARTINY, MILLS, MORRELL, MORRISH, MURRAY, NEVERS, PERRY, GARY SMITH, TARVER, THOMPSON, WALSWORTH AND WARD AND REPRESENTATIVES ANDERS, ARMES, ARNOLD, BERTHELOT, BILLIOT, STUART BISHOP, BROADWATER, BURFORD, HENRY BURNS, BURRELL, CARMODY, CARTER, CHANEY, COX, CROMER, FANNIN, GAINES, GISCLAIR, GUILLORY, GUINN, HARRIS, HAVARD, HAZEL, HENSGENS, HILL, HOFFMANN, HOWARD, KATRINA JACKSON, JEFFERSON, JONES, LEBAS, LORUSSO, MACK, MONTOUCET, JIM MORRIS, ORTEGO, PIERRE, PONTI, PRICE, PYLANT, REYNOLDS, RITCHIE, SCHEXNAYDER, SCHRODER, SHADOIN, ST. GERMAIN, THIBAUT, THIERRY, WHITNEY, PATRICK WILLIAMS AND WILLMOTT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To enact R.S. 36:259(D)(10) and R.S. 40:4.13, relative to water systems; to provide for the use of the National Primary Drinking Water Regulations; to provide for a sanitary survey; to provide for the use of the Ten State Standards; to create the Louisiana Standards for Water Works Construction, Operation, and Maintenance Committee; to provide for rules and regulations; to provide for membership of the committee; to provide for powers of the committee; to provide for primacy; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:259(D)(10) is hereby enacted to read as follows:

§259. Transfer of agencies and functions to Department of Health and Hospitals

\* \* \*

D. The following agencies, as defined in R.S. 36:3, are placed within the Department of Health and Hospitals and shall perform and exercise their powers,

1 duties, functions, and responsibilities as otherwise provided by law:

2 \* \* \*

3 (10) The Louisiana Standards for Water Works Construction,  
4 Operation, and Maintenance Committee (R.S. 40:4.13).

5 \* \* \*

6 Section 2. R.S. 40:4.13 is hereby enacted to read as follows:

7 §4.13. Water systems; National Primary Drinking Water Regulations; sanitary  
8 survey; use of Ten State Standards

9 A. Neither the state health officer nor the office of public health of the  
10 Department of Health and Hospitals shall promulgate a rule or take action  
11 requiring the modification of an existing community water system in operation  
12 before August 1, 2013, unless the state health officer or the office of public  
13 health of the Department of Health and Hospitals demonstrates that such public  
14 water system, with proper operation and maintenance, is incapable of attaining  
15 compliance with the National Primary Drinking Water Regulations without the  
16 modification. For the purposes of this Section, "National Primary Drinking  
17 Water Regulations" means those requirements defined in 40 CFR 141 and 40  
18 CFR 142.16(b).

19 B.(1) A sanitary survey of a public water system shall be conducted only  
20 to ensure compliance with the National Primary Drinking Water Regulations  
21 and the state Sanitary Code requirements.

22 (2) The state health officer or the office of public health of the  
23 Department of Health and Hospitals shall classify as a significant deficiency  
24 only a defect in design, operation, or maintenance, or a failure or malfunction  
25 of the sources, treatment, storage, or distribution system that is causing, or may  
26 reasonably be expected to cause, the introduction of contamination into the  
27 water delivered to consumers.

28 C.(1) The state health officer and the office of public health of the  
29 Department of Health and Hospitals shall use the *Recommended Standards for*  
30 *Water Works*, the "Ten State Standards", promulgated by the Great Lakes and

1 Upper Mississippi Board of State Sanitary Engineers only as a guide in the  
2 review of plans and specifications submitted in connection with an application  
3 for a permit for a new public water supply system or in connection with the  
4 modification of an existing public water system.

5 (2) A permit for a public water supply system that complies with the  
6 National Primary Drinking Water Regulations shall be issued, whether or not  
7 such design adheres to the Ten State Standards.

8 D.(1) The Louisiana Standards for Water Works Construction,  
9 Operation, and Maintenance Committee, hereinafter referred to as the  
10 "committee", shall be created within the Department of Health and Hospitals  
11 to develop standards to be placed in the state Sanitary Code for water works  
12 construction, operation, and maintenance.

13 (2) No later than August 1, 2014, the office of public health of the  
14 Department of Health and Hospitals shall promulgate rules and regulations  
15 pursuant to the Administrative Procedure Act implementing the standards  
16 developed by the committee.

17 (3) The committee shall be appointed as follows:

18 (a) Two members appointed by the office of public health of the  
19 Department of Health and Hospitals.

20 (b) Two members appointed by the Louisiana Municipal Association.

21 (c) Two members appointed by the Louisiana Rural Water Association.

22 (d) Two members appointed by the Police Jury Association of Louisiana.

23 (e) Two members appointed by the Louisiana Engineering Society.

24 (f) Two members appointed by the Louisiana public water suppliers, the  
25 Southwest Section of the American Water Works Association.

26 (g) Two members appointed by the Louisiana public water suppliers, the  
27 National Association of Water Companies.

28 (h) Two members appointed by the Louisiana Section of the American  
29 Society of Civil Engineers.

30 (i) One member appointed by the Louisiana Environmental Action

1           Network.

2                   (4) The assistant secretary of the office of public health of the  
3           Department of Health and Hospitals shall appoint one of its two appointees to  
4           the committee to serve as chairman of the committee. The chairman shall call  
5           the first meeting no later than September 1, 2013. The committee shall meet  
6           monthly until the requirements of Paragraph (D)(9) of this Section are  
7           complete. Thereafter, the committee shall meet quarterly. Additional meetings  
8           may be called by the chairman. The chairman shall call additional meetings if  
9           requested in writing by at least nine committee members.

10                   (5) Nine members of the committee physically present shall constitute a  
11           quorum and the presence of a quorum shall be required to transact the business  
12           of the committee.

13                   (6) The meetings of the committee shall be subject to the Louisiana Open  
14           Meetings Law.

15                   (7) The meetings of the committee shall be held at the Department of  
16           Health and Hospitals headquarters in Baton Rouge.

17                   (8) The office of public health of the Department of Health and Hospitals  
18           shall provide administrative assistance to and serve as staff for the committee.

19                   (9) The rules and regulations for the Louisiana Standards for Water  
20           Works Construction, Operation, and Maintenance shall not be promulgated  
21           until the proposed rules and regulations or changes thereto are approved by the  
22           Department of Health and Hospitals and approved by a majority vote of the  
23           committee.

24                   E. No provision of this Section shall prohibit the Department of Health  
25           and Hospitals from promulgating rules pursuant to the Administrative  
26           Procedure Act to secure or maintain from the United States Environmental  
27           Protection Agency primacy in drinking water regulation provided such rules  
28           shall be limited to only those rules required to secure or maintain such primacy.

29           Section 3. This Act shall become effective upon signature by the governor or, if not  
30           signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_