

2024 Regular Session

SENATE BILL NO. 73

BY SENATOR WOMACK

WATER QUALITY. Creates and provides for the Community Sewerage System Infrastructure Sustainability Act. (1/1/25)

1 AN ACT

2 To enact R.S. 30:2075.4, relative to community sewerage systems; to create and provide for
3 the Community Sewerage System Infrastructure Sustainability Act; to provide for
4 public purpose; to provide for definitions; to provide for compliance status
5 verification and fiscal status verification requirements for certain community
6 sewerage systems; to provide for the duties of the Department of Environmental
7 Quality, the Louisiana Department of Health, and the legislative auditor; to provide
8 for prohibited uses of sewerage system funds; to provide for penalties; to provide for
9 rulemaking; to provide for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 30:2075.4 is hereby enacted to read as follows:

12 **§2075.4. Community sewerage system infrastructure accountability**

13 **A. This Section shall be known and may be cited as "The Community**
14 **Sewerage System Infrastructure Sustainability Act" which has been enacted by**
15 **the legislature to provide:**

16 **(1) For the development and implementation of a community sewerage**
17 **system accountability process which supports sewerage system infrastructure**

1 sustainability for the citizens of Louisiana.

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

5 (3) Accountability of local government authorities and other entities
6 operating community sewerage systems.

7 (4) Consequences for community sewerage systems that do not achieve
8 state and federal standards.

9 (5) Transparent regulatory compliance and fiscal accountability
10 information presented to the State Bond Commission, the division of
11 administration for the capital outlay program, and rate setting authorities for
12 consideration in approving additional debt, capital outlay, or a rate increase.

13 B.(1) "Community sewerage system" means any treatment works,
14 whether publically or privately owned, which serves multiple connections and
15 consists of a collection or pumping and transport system or a treatment facility.
16 For the purposes of this Section, "community sewerage system" shall include
17 any local governing authority which operates a community sewerage system.

18 (2) "Community water system" has the same meaning as provided for
19 in R.S. 40:5.8.

20 C.(1)(a) Applications to the State Bond Commission. Except as provided
21 in Subparagraph (b) of this Paragraph, any community sewerage system that
22 seeks approval from the State Bond Commission to incur any additional debt
23 for anything not directly related to the improvement and sustainability of the
24 community sewerage system or a related community water system shall submit
25 with the application to the commission a compliance status verification from the
26 Department of Environmental Quality, a compliance status verification from
27 the Louisiana Department of Health, and a fiscal status verification from the
28 legislative auditor in accordance with Subsection F of this Section.

29 (b) The provisions of this Subsection shall not apply to any application

1 to the State Bond Commission seeking approval for financing involving:

2 (i) Cash flow loans.

3 (ii) Dedicated tax or bond revenue streams.

4 (iii) Emergency financing as determined by the State Bond Commission.

5 (iv) Refinancing of existing debt.

6 (2) After consideration of the information provided pursuant to
7 Paragraph (1) of this Subsection, the State Bond Commission may prohibit the
8 community sewerage system from incurring any additional debt for anything
9 not directly related to the improvement and sustainability of the community
10 sewerage system or a related community water system.

11 (3) Notwithstanding any provision of law to the contrary, the community
12 sewerage system shall not be precluded from obtaining funding for the
13 improvement and sustainability of the community sewerage system or a related
14 community water system based upon the information provided pursuant to
15 Paragraph (1) of this Subsection or R.S. 40:5.9.1.

16 D.(1) Applications to the capital outlay program. Any community
17 sewerage system that receives notification of a capital outlay appropriation
18 from the division of administration, office of facility planning and control shall
19 submit to the division of administration a compliance status verification from
20 the Department of Environmental Quality, a compliance status verification
21 from the Louisiana Department of Health, and a fiscal status verification from
22 the legislative auditor in accordance with Subsection F of this Section.

23 (2) After consideration of the information provided pursuant to
24 Paragraph (1) of this Subsection, the division of administration may prohibit
25 the community sewerage system from participating in the capital outlay
26 program for anything not directly related to the improvement and sustainability
27 of the community sewerage system or a related community water system.

28 (3) The provisions of this Subsection notwithstanding, the community
29 sewerage system shall not be precluded from obtaining funding for the

1 improvement and sustainability of the community sewerage system or a related
2 community water system based upon the information provided pursuant to
3 Paragraph (1) of this Subsection.

4 E.(1) Applications to a rate setting authority. Any community sewerage
5 system that seeks approval for a rate adjustment from the appropriate rate
6 setting authority not directly related to the improvement and sustainability of
7 the community sewerage system or a related community water system shall
8 submit with the application to the rate setting authority a compliance status
9 verification from the Department of Environmental Quality, a compliance
10 status verification from the Louisiana Department of Health, and a fiscal status
11 verification from the legislative auditor in accordance with Subsection F of this
12 Section.

13 (2) After consideration of the information provided pursuant to
14 Paragraph (1) of this Subsection, the rate setting authority may prohibit the
15 community sewerage system from adjusting rates for anything not directly
16 related to the improvement and sustainability of the community sewerage
17 system or a related community water system.

18 (3) The provisions of this Subsection notwithstanding, the community
19 sewerage system shall not be precluded from receiving approval for a rate
20 adjustment for the improvement and sustainability of the community sewerage
21 system or a related community water system based upon the information
22 provided pursuant to Paragraph (1) of this Subsection.

23 F.(1)(a) Not later than ten calendar days after receiving a request from
24 a community sewerage system, the Department of Environmental Quality shall
25 review the department's records and provide a compliance status verification
26 based upon criteria determined by the department, including but not limited to
27 the following:

28 (i) Federal water quality significant violation history.

29 (ii) State violation history.

1 **(b) The compliance status verification provided by the Department of**
2 **Environmental Quality shall clearly state whether the community sewerage**
3 **system is "NOT IN COMPLIANCE – Found on a federal or state significant**
4 **noncompliance list" or "IN COMPLIANCE – Not found on a federal or state**
5 **significant noncompliance list" as appropriate.**

6 **(2)(a) Not later than ten calendar days after receiving a request from a**
7 **community sewerage system, the Louisiana Department of Health shall review**
8 **the department's records and provide a compliance status verification based**
9 **upon criteria determined by the department, including but not limited to the**
10 **following:**

11 **(i) State violation history.**

12 **(ii) Operation and maintenance performance history.**

13 **(iii) Infrastructure violations.**

14 **(b) The compliance status verification provided by the Louisiana**
15 **Department of Health shall clearly state the community sewerage system's**
16 **compliance status using the phrase "IN COMPLIANCE" or "NOT IN**
17 **COMPLIANCE" as appropriate.**

18 **(3) Not later than ten calendar days after receiving a request from a**
19 **community sewerage system, the legislative auditor shall review its records and**
20 **provide a fiscal status verification regarding the community sewerage system's**
21 **financial sustainability based upon criteria determined by the auditor. The**
22 **fiscal status verification shall clearly state in plain language the community**
23 **sewerage system's level of financial sustainability.**

24 **(4)(a) A compliance status verification provided by the Department of**
25 **Environmental Quality or the Louisiana Department of Health pursuant to this**
26 **Section shall be either of the following:**

27 **(i) On an official certification form supplied by the department.**

28 **(ii) On the department's official letterhead and signed by a member of**
29 **the department's staff who is qualified to verify the compliance status of the**

1 community sewerage system.

2 (b) A fiscal status verification provided pursuant to this Section shall be
 3 on the legislative auditor's official letterhead and signed by a member of the
 4 auditor's staff who is qualified to verify the fiscal status of the community
 5 sewerage system.

6 G. Notwithstanding any provision of law to the contrary, a local
 7 governing authority that operates a community sewerage system shall not
 8 expend any money raised through payments made by customers for sewerage
 9 services or from any other sewerage system revenue for any item, debt payment,
 10 or public purpose other than the improvement and sustainability of the
 11 community sewerage system. A violation of this Subsection shall be grounds for
 12 a court to appoint a receiver or fiscal administrator. The provisions of this
 13 Subsection shall not be construed to prohibit the payment of bonded
 14 indebtedness secured by the sewerage system's revenue prior to August 1, 2023.

15 H. Any community sewerage system that is indicated as not in
 16 compliance on the compliance status verification or is considered not financially
 17 sustainable in the fiscal status verification provided pursuant to this Section
 18 may be subject to receivership in accordance with R.S. 30:2075.3 and R.S.
 19 33:42.

20 Section 2. The Department of Environmental Quality and the Louisiana Department
 21 of Health shall individually promulgate, in accordance with the Administrative Procedure
 22 Act, any rules necessary to implement the provisions of this Act relevant to that department.

23 Section 3. This Act shall become effective on January 1, 2025.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Jacob Wilson.

SB 73 Engrossed

DIGEST
 2024 Regular Session

Womack

Proposed law creates the "Community Sewerage System Infrastructure Sustainability Act" and provides for legislative intent to develop a community sewerage system accountability process which supports sewerage system infrastructure sustainability for the citizens of Louisiana.

Proposed law defines "community sewerage system" as any treatment works, whether publically or privately owned, which serves multiple connections and consists of a collection or pumping and transport system or a treatment facility. For the purposes of proposed law, "community sewerage system" includes any local governing authority which operates a community sewerage system.

Proposed law provides that a community sewerage system shall submit a status verification from the Department of Environmental Quality (DEQ), a status verification from the La. Department of Health (LDH), and a sewer fiscal status verification from the legislative auditor if the community sewerage system does any of the following:

- (1) Seeks approval from the State Bond Commission to incur any additional debt not directly related to the improvement and sustainability of the community sewerage system or a related community water system.
- (2) Receives from the division of administration, office of facility planning and control a notification of a capital outlay appropriation.
- (3) Seeks approval for a rate adjustment from the appropriate rate setting authority not directly related to the improvement and sustainability of the community sewerage system or a related community water system.

Proposed law provides that the application and verification requirements provided for in proposed law do not apply to any application to the State Bond Commission seeking approval for the following:

- (1) Cash flow loans.
- (2) Dedicated tax or bond revenue streams.
- (3) Emergency financing as determined by the State Bond Commission.
- (4) Refinancing of existing debt.

Proposed law provides that, after consideration of the compliance and fiscal status verifications, the State Bond Commission, the division of administration, and the rate setting authority may deny the request of the community sewerage system.

Proposed law provides that the community sewerage system shall not be precluded from obtaining funding, participating in the capital outlay program, or obtaining approval for a rate increase for the purpose of improvement and sustainability of the community sewerage system or a related community water system based upon the compliance and fiscal status verifications provided in accordance with proposed law.

Proposed law provides that not later than ten days after receipt of a request from a community sewerage system, DEQ and LDH shall each review its own records and provide a compliance status verification, with a clear statement of compliance status, based upon criteria determined by that department.

Proposed law provides that not later than ten days after receipt of a request from a community sewerage system, the legislative auditor shall review its records and provide a fiscal status verification, with a clear statement of the system's level of financial sustainability, based upon criteria determined by the auditor.

Proposed law provides that a compliance status verification provided by DEQ or LDH shall be on an official certification form or on department letterhead and signed by a qualified department staff member. Proposed law further provides that a fiscal status verification provided by the legislative auditor shall be on official letterhead and signed by a qualified

member of the auditor's staff.

Proposed law prohibits a local governing authority that operates a community sewerage system from expending any money raised through customer payments or from any other sewerage system revenue for any item, debt payment, or public purpose other than the improvement and sustainability of the community sewerage system. Proposed law shall not be construed to prohibit the payment of bonded indebtedness secured by the sewerage system's revenue incurred prior to the effective date of proposed law.

Proposed law provides that any community sewerage system indicated as not in compliance or not financially sustainable may be subject to receivership in accordance with present law.

Proposed law provides for rulemaking by DEQ and LDH.

Effective January 1, 2025.

(Adds R.S. 30:2075.4)