

2017 Regular Session

HOUSE BILL NO. 533

BY REPRESENTATIVE HUNTER

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

WATER/DRINKING WATER: Provides relative to drinking water standards

1 AN ACT

2 To enact R.S. 40:5.6.1, relative to drinking water; to provide for legislative findings; to
3 require enforcement of primary and secondary maximum contaminant levels; to
4 establish the standard maximum containment levels; to require public water supply
5 testing; to require notification when levels are exceeded; to provide for enforcement;
6 to provide for a fiscal administrator; to provide for penalties; to provide for
7 emergency funding; to provide for a credit on consumer water utility bills; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:5.6.1 is hereby enacted to read as follows:

11 §5.6.1. Drinking water; primary and secondary contaminants; testing; enforcement;
12 fiscal administrator; penalties; emergency funding; utility bill credit

13 A. The Legislature of Louisiana does hereby find and declare the following:

14 (1) The provision of water for public use and consumption not only safe but
15 also acceptable in appearance, taste, and odor is of the highest priority.

16 (2) Water aesthetically unacceptable can undermine the confidence of
17 consumers, will lead to complaints, and could lead to the use of water from sources
18 which are less safe.

19 (3) Generally, consumers have no means of judging the safety of their water
20 themselves, but their attitude towards the water supply and water suppliers is often

1 greatly affected by the aspects of water quality they are able to perceive with their
2 own senses.

3 (4) It is natural for consumers to regard with suspicion water that appears
4 dirty or discolored or that has an unpleasant taste or smell. Even though these
5 characteristics may not in themselves be of direct consequence, they may
6 consequently cause a substantial number of persons to discontinue using a public
7 water system.

8 (5) On July 28, 2010, through Resolution 64/292, the United Nations General
9 Assembly explicitly recognized the right to safe and clean drinking water and
10 sanitation as a human right that is essential for the full enjoyment of life and all
11 human rights.

12 (6) In November 2002, the United Nations Committee on Economic, Social,
13 and Cultural Rights adopted General Comment No. 15, The Right to Water, which
14 states the human right to water is indispensable for leading a life in human dignity
15 and is a prerequisite for the realization of other human rights.

16 B. Therefore, the Legislature of Louisiana hereby declares it is the public
17 policy of this state to require every water utility system in the state of Louisiana,
18 whether public or privately owned or managed and whether above ground or under
19 ground, shall ensure the water provided by the utility system to the public for use and
20 consumption meets all of the primary drinking water standards and the secondary
21 drinking water standards for contaminants which may potentially be harmful
22 established by the United States Environmental Protection Agency as provided in
23 Subsection C of this Section and any successive updates issued by the agency.

24 C. All of the following secondary maximum contaminant levels shall be
25 enforced pursuant to Subsection B of this Section:

<u>Contaminant</u>	<u>Secondary Maximum Contaminant Level</u>
(1) <u>Color</u>	<u>15 color units</u>
(2) <u>Corrosivity</u>	<u>Non-corrosive</u>
(3) <u>Iron</u>	<u>0.3 mg/L</u>

1 (4) Manganese 0.05 mg/L

2 D.(1) Each water utility system shall perform, in accordance with the regular
3 testing schedule established by federal and state law, rules, and regulations, a public
4 water supply test for conformance with all of the secondary drinking water standards
5 required pursuant to Subsection C of this Section and any other secondary drinking
6 water standards established by the United States Environmental Protection Agency
7 known to be present in the utility's public water supply in an excessive amount until
8 such time as the contaminant level tests within the acceptable range.

9 (2) If the water utility system's test results reflect an amount greater than the
10 secondary maximum contaminant level for any containment for two consecutive
11 tests, the water utility system shall, within five calendar days of receiving the results
12 for the second test, perform a public water supply test for conformance with the
13 primary drinking water standards and the secondary drinking water standards
14 required pursuant to Subsection C of this Section as established by the United States
15 Environmental Protection Agency.

16 (3) If the state health officer or any water utility system issues a boil water
17 notice, the water utility system subject to the boil water notice shall, within five
18 calendar days of the issuance of the notice, perform a public water supply test for
19 conformance with the primary drinking water standards established by the United
20 States Environmental Protection Agency.

21 E.(1) In an effort to mitigate liability and provide adequate notice, if a
22 primary standards test for drinking water conducted pursuant to Subsection D of this
23 Section reflects an amount greater than the maximum contaminant level for any
24 primary containment, the water utility system shall furnish a notice to radio and
25 television stations serving the area as soon as possible but not later than twenty-four
26 hours after the water utility system receives the results for the test.

27 (2) In an effort to mitigate liability and provide adequate notice, the water
28 utility system shall also ensure a public notice is published in a daily or weekly

1 newspaper serving the area as soon as possible but no later than forty-eight hours
2 after the water utility system receives the results for the test.

3 F.(1) The Department of Environmental Quality, the Louisiana Department
4 of Health, and the Public Service Commission shall enforce the provisions of this
5 Section.

6 (2) Whenever one of the state entities responsible for the enforcement of the
7 drinking water standards pursuant to Paragraph (1) of this Subsection receives visual,
8 verbal, or written knowledge that a water utility system fails to meet the standards
9 required by this Section, that entity shall immediately provide written notice to all
10 of the other responsible entities who shall each individually take appropriate action
11 to enforce the provisions of this Section and bring the water utility system into
12 compliance.

13 (3) The Department of Environmental Quality, the Louisiana Department of
14 Health, and the Public Service Commission shall conduct random unannounced
15 inspections at sufficient intervals to determine compliance with this Section or when
16 deemed necessary. Each entity shall post and maintain the results of the inspections
17 conducted pursuant to this Paragraph on their respective internet website.

18 G.(1) After completing the tests required by Subsection D of this Section,
19 the water utility system shall submit a report of the results of the inspection to the
20 Department of Environmental Quality, the Louisiana Department of Health, and the
21 Public Service Commission and each state entity shall post and maintain the reports
22 on their respective internet website. Any water utility system who fails to conduct
23 a self-inspection or report the results as required by this Paragraph shall be subject
24 to the penalties provided for in Subsection H of this Section.

25 (2)(a) If the results of the inspection required by this Section or any other
26 inspection show an imminent danger to human health, the secretary of the Louisiana
27 Department of Health may appoint a fiscal administrator for the water utility system
28 who shall immediately consult with the chief executive of the entity that owns the
29 water utility system to determine the appropriate action to take to ensure the safety

1 of the drinking water. If the appointed fiscal administrator is unable to consult with
2 the chief executive within forty-eight hours, the appointed fiscal administrator shall
3 take any action necessary to ensure the safety of the drinking water and notify the
4 executive and the secretary as soon as practicable.

5 (b) In cases where a fiscal administrator is appointed for a political
6 subdivision, the fiscal administrator's duties shall be limited to those necessary to
7 provide the natural resource. If the political subdivision is a private entity, the fiscal
8 administrator shall limit his duties to an advisory oversight capacity.

9 H.(1) The Department of Environmental Quality, the Louisiana Department
10 of Health, and the Public Service Commission shall promulgate, in accordance with
11 the Administrative Procedure Act, appropriate penalties, including but not limited
12 to civil fines, for any violation of the provisions of this Section.

13 (2) Prior to the promulgation of the penalties required by Paragraph (1) of
14 this Subsection, and in the event of a failure to promulgate the required penalties, the
15 Department of Environmental Quality, the Louisiana Department of Health, and the
16 Public Service Commission shall enforce the provisions of this Section using the
17 corresponding penalties established by the United States Environmental Protection
18 Agency for such violations including civil fines.

19 I.(1) Whenever one of the state entities responsible, pursuant to Subsection
20 F of this Section, for the enforcement of the secondary drinking water standards
21 required pursuant to Subsection C of this Section receives knowledge that a water
22 utility system fails to meet the standards required by this Section, the state entity, the
23 parish or municipality in which the water utility system is located, or the water utility
24 system itself may request an appropriation through the Interim Emergency Board for
25 any funding necessary to take the appropriate action to bring the water utility system
26 into compliance with this Section.

27 (2) Nothing in this Section shall be construed to guarantee privately owned
28 water utility systems will receive funding assistance as a result of a request made
29 pursuant to Paragraph (1) of this Subsection. When considering funding requests

1 made pursuant to this Subsection, the Interim Emergency Board shall grant funding
2 priority in the following order:

3 (a) State-owned or operated water utility systems.

4 (b) Publicly owned and publicly managed water utility systems.

5 (c) Publicly owned and privately managed water utility systems.

6 (d) Privately owned utility water systems.

7 J. The Public Service Commission or other appropriate state entity may
8 promulgate policies and procedures to provide any consumer adversely affected by
9 water supplied to the consumer which did not meet the standards required by this
10 Section for a consecutive period of three days the right to make written demand for
11 and receive prorated reductions on his associated utility bills.

12 K. This Section shall apply exclusively to any municipality with a population
13 greater than one thousand one hundred but less than one thousand one hundred
14 eighty located within a parish with a population less than six thousand as of the latest
15 federal decennial census.

16 Section 2. This Act shall become effective upon signature by the governor or, if not
17 signed by the governor, upon expiration of the time for bills to become law without signature
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
19 vetoed by the governor and subsequently approved by the legislature, this Act shall become
20 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 533 Engrossed

2017 Regular Session

Hunter

Abstract: Requires enforcement of the primary and secondary drinking water standards established by the U.S. Environmental Protection Agency.

Present law provides for the inspection and testing of public drinking water to enforce the federal Safe Drinking Water Act.

Proposed law retains present law and requires the Dept. of Environmental Quality (DEQ), the La. Dept. of Health (LDH), and the Public Service Commission (PSC) to ensure that the potable water provided to the public for use and consumption meets all of the primary

drinking water standards and the secondary drinking water standards for contaminants which may potentially be harmful established by the U.S. Environmental Protection Agency.

Proposed law requires DEQ, LDH, and the PSC to conduct random unannounced inspections at sufficient intervals to determine compliance with proposed law or when deemed necessary and to post and maintain the results of the inspections conducted pursuant to proposed law on their respective internet website.

Proposed law requires each water utility system to conduct tests to confirm compliance with proposed law and to submit a report of the results of the inspection to DEQ, LDH, and the PSC, who shall post and maintain the reports on their respective internet websites.

Proposed law authorizes LDH, if the results of a test show an imminent danger to human health, to appoint a fiscal administrator for the water utility system who shall immediately consult with the chief executive of the entity that owns the water utility system to determine the appropriate action to take to ensure the safety of the drinking water.

Proposed law requires DEQ, LDH, and the PSC to promulgate appropriate penalties, including but not limited to civil fines, for any violation of proposed law. In the absence of promulgated penalties, proposed law requires imposition of the civil fines established by the U.S. Environmental Protection Agency.

Proposed law authorizes a request for an appropriation through the Interim Emergency Board for any funding necessary to take the appropriate action to bring a water utility system into compliance with proposed law and sets the funding priority.

Proposed law provides for a credit on a customer's water utility bill for each day that the water supplied to the consumer did not meet the standards required by proposed law.

Proposed law applies exclusively to any municipality with a population greater than 1,100 but less than 1,180 located within a parish with a population less than 6,000 as of the latest federal decennial census.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 40:5.6.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Limit the applicable secondary drinking water standards to color, corrosivity, iron, and manganese.
2. Change the required testing frequency from monthly to the regular testing schedule established by federal and state law, rules, and regulations.
3. Specify that public notice is required in an effort to mitigate liability and provide adequate notice.
4. Change the requirement that LDH appoint a fiscal administrator to an authorization.
5. Change the required time period for the appointed fiscal administrator to consult with the chief executive from timely to within 48 hours.

6. Specify that the fiscal administrator shall limit his duties to an advisory oversight capacity for a private entity.
7. Limit applicability of proposed law.
8. Make proposed law effective upon signature of the governor.