

1 C. * * *

2 (4) No later than ninety days after appointment, the receiver shall
3 develop and submit an improvement plan to the Louisiana Department of
4 Health for approval. The improvement plan shall include the ability to increase
5 rates paid by users of the community water system based on a fair assessment
6 of the community water system compared to other comparable water systems,
7 the consolidation of the community water system with a neighboring system or
8 systems, or other measure which may be proposed by the receiver or the
9 Louisiana Department of Health to ensure the sustainability of the system for
10 the benefit of the customers who rely on the community water system for their
11 drinking water. The receiver shall include in the improvement plan any
12 additional measures proposed by the Louisiana Department of Health necessary
13 to bring the community water system into technical and operational compliance
14 and financial sustainability. The appointing court shall grant authority to the
15 receiver necessary to implement the improvement plan as approved by the
16 Louisiana Department of Health. Rate adjustments shall be subject to approval
17 by the appropriate rate setting authority.

18 ~~(4)~~(5) The receiver shall carry out the orders specified and directed by the
19 court until discharged.

20 ~~(5)~~(6) The court may dissolve the receivership if the person owning or
21 operating the defendant public water system requests that the receivership be
22 dissolved and such owner or operator can show good cause for the dissolution of the
23 receivership.

24 §5.9.1. Community water system accountability process; creation of letter
25 grade schedule; penalties for failing systems

26 A. This Section shall be known and may be cited as "The Community
27 Drinking Water Infrastructure Sustainability Act" which has been enacted by
28 the legislature to provide:

29 (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) Consequences and penalties for community water systems that do not
13 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 in this Section 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 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.(1) Any community water system that receives a letter grade of "D"
12 or "F" shall be considered operationally unacceptable and may be subject to the
13 following:

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

15 (b) Oversight of all federal or state funding by an auditor approved by
16 the legislative auditor who has experience with fiscal management of local
17 government. The oversight provided for in this Paragraph shall include the
18 authority to make decisions regarding the expenditure of funding.

19 (c) Notice being submitted to the State Bond Commission, the Public
20 Service Commission, and the attorney general to prohibit the community water
21 system or the local governing authority operating the community water system
22 from incurring any additional debt for anything not directly related to the
23 improvement and sustainability of the community drinking water system
24 pursuant to a plan approved by the department.

25 (2) A community water system that receives a letter grade of "D" or "F"
26 shall not be precluded from obtaining funding for the improvement and
27 sustainability of the community drinking water system based solely on the letter
28 grade.

29 F. Notwithstanding any provision of law to the contrary, no local

1 governing authority that operates a community water system that receives a
 2 grade of "D" or "F" shall expend any money raised through payments made by
 3 customers for access to water or from any other water system revenue for any
 4 item, debt payment, or public purpose other than the improvement and
 5 sustainability of the community water system. A violation of this Subsection
 6 shall be grounds for a court to appoint a receiver or fiscal administrator or to
 7 order the mandatory safe water purchase from another system determined to
 8 be available by the Louisiana Department of Health. The provisions of this
 9 Subsection shall not be construed to prohibit the payment of bonded
 10 indebtedness secured by the water system's revenue prior to August 1, 2021.

11 G. The department shall publish the first letter grades issued pursuant
 12 to this Section no later than January 1, 2023.

13 **§5.9.2. Community water system accountability; federal funds**

14 A community water system or local governing authority operating a
 15 community water system receiving federal funds, including stimulus or relief
 16 payments or grants, for the upgrade, repair, or otherwise replacement of the
 17 water system infrastructure shall submit a detailed plan describing how the
 18 federal funds will be used to the Louisiana Department of Health.

19 Section 2. R.S. 36:259(B)(9) and R.S. 40:4.13 are hereby repealed.

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

SB 129 Reengrossed

DIGEST
2021 Regular Session

Fred Mills

Present law provides for the remedies available to the state health officer for the enforcement of public drinking water laws and regulations relative to public water including administrative compliance orders, civil penalties, and civil actions for injunctions and to place a public water system in receivership. Proposed law requires a receiver, within 90 days after appointment, to develop and submit an improvement plan to the La. Dept. of Health (LDH) for approval, and provides for the content of the improvement plan. Proposed law provides that rate adjustments pursued pursuant to the plan are subject to approval by the appropriate rate setting authority.

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 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, oversight of federal or state grant funding by an auditor approved by the legislative auditor, or being placed on notice to the State Bond Commission, the Public Service Commission, and the attorney general 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 payments made by customers for access to water or from any other water system revenue for any item, debt payment, or public purpose other than the improvement and sustainability of the community water system. 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 a community water system with an "F" or "D" grade shall not be denied access to funding to improve or sustain the community water system based solely on the grade.

Proposed law provides that LDH shall publish the first letter grades no later than January 1, 2023.

Proposed law provides that a community water system or local governing authority operating a community water system receiving federal funds, including stimulus or relief payments or grants, for the upgrade, repair, or otherwise replacement of the water system infrastructure shall submit a detailed plan describing how the federal funds will be used to LDH.

Present law provides that LDH shall promulgate a rule or take action requiring the modification of an existing community water system in operation before August 1, 2013, only if LDH demonstrates that the public water system is incapable of attaining compliance with the National Primary Drinking Water Regulations without the modification and provides for permits for a new public water supply system or in connection with the modification of an existing public water system. Present law establishes the Louisiana Standards for Water Works Construction, Operation, and Maintenance Committee and provides for the duties, membership, and meetings of the committee. Proposed law repeals present law.

Effective August 1, 2021.

(Amends R.S. 40:5.9(C)(4) and (5); adds R.S. 40:5.9(C)(6), 5.9.1, and 5.9.2; repeals R.S.

36:259(B)(9) and R.S. 40:4.13)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Make technical changes.
2. Provide that rate adjustments are subject to approval by the appropriate rate setting authority.
3. Provide that a community water system with an "F" or "D" grade shall not be denied access to funding to improve or sustain the community water system based solely on the grade.