

SENATE BILL NO. 129

BY SENATORS FRED MILLS, BARROW AND MIZELL

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

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AN ACT

To amend and reenact R.S. 40:5.9(C)(4) and (5), to enact R.S. 40:5.9(C)(6), 5.9.1, and 5.9.2, and to repeal R.S. 36:259(B)(9) and R.S. 40:4.13, relative to public drinking water; to create and provide for the Community Drinking Water Infrastructure Sustainability Act; to provide for public purpose; to provide for a statewide system of community water system accountability; to provide for rulemaking; to provide for development of a letter grade schedule reflective of community water system quality and performance; to provide for publication of quality and performance scores and letter grades; to provide for requirement of an improvement plan; to provide for penalties; to provide for the use of federal funds; to repeal certain provisions relative to rulemaking; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:5.9(C)(4) and (5) are hereby amended and reenacted and R.S. 40:5.9(C)(6), 5.9.1, and 5.9.2 are hereby enacted to read as follows:

§5.9. Enforcement of drinking water regulations; administrative compliance orders; civil actions; receiverships

\* \* \*

C. \* \* \*

**(4) No later than ninety days after appointment, the receiver shall develop and submit an improvement plan to the Louisiana Department of Health for approval. The improvement plan shall include the ability to increase rates paid by users of the community water system based on a fair assessment of the community water system compared to other comparable water systems, the consolidation of the community water system with a neighboring system or**

1 systems, or other measure which may be proposed by the receiver or the  
 2 Louisiana Department of Health to ensure the sustainability of the system for  
 3 the benefit of the customers who rely on the community water system for their  
 4 drinking water. The receiver shall include in the improvement plan any  
 5 additional measures proposed by the Louisiana Department of Health necessary  
 6 to bring the community water system into technical and operational compliance  
 7 and financial sustainability. The appointing court shall grant authority to the  
 8 receiver necessary to implement the improvement plan as approved by the  
 9 Louisiana Department of Health. Rate adjustments shall be subject to approval  
 10 by the appropriate rate setting authority.

11 ~~(4)(5)~~ The receiver shall carry out the orders specified and directed by the  
 12 court until discharged.

13 ~~(5)(6)~~ The court may dissolve the receivership if the person owning or  
 14 operating the defendant public water system requests that the receivership be  
 15 dissolved and such owner or operator can show good cause for the dissolution of the  
 16 receivership.

17 **§5.9.1. Community water system accountability process; creation of letter**  
 18 **grade schedule; penalties for failing systems**

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

22 **(1) For the development and implementation of a community water**  
 23 **system accountability process which requires and supports drinking water**  
 24 **infrastructure sustainability for the citizens of Louisiana.**

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

28 **(3) Clear standards and expectations for community water systems so**  
 29 **that assessment of their quality, performance, and sustainability will be**  
 30 **understood.**

1                   **(4) Information that will assist community water systems and citizens in**  
2                   **understanding expectations, outcomes, and consequences for failing community**  
3                   **water systems.**

4                   **(5) Consequences and penalties for community water systems that do not**  
5                   **achieve minimum standards.**

6                   **B. "Community water system" has the same meaning as provided for in**  
7                   **R.S. 40:5.8.**

8                   **C. The Louisiana Department of Health, referred to in this Section as the**  
9                   **"department", shall provide for a statewide system of accountability for**  
10                  **community water systems and establish a letter grade schedule reflective of**  
11                  **community water system quality, performance, and sustainability based on, at**  
12                  **a minimum, the following standards:**

13                       **(1) Federal water quality violation history.**

14                       **(2) State violation history.**

15                       **(3) Water system financial sustainability.**

16                       **(4) Operation and maintenance performance history.**

17                       **(5) Infrastructure violations.**

18                       **(6) Customer satisfaction.**

19                       **(7) Level of secondary contaminants.**

20                   **D.(1) The department shall promulgate rules and regulations to establish**  
21                   **and implement the community water system letter grade schedule provided for**  
22                   **in this Section. The rules and regulations shall provide clear and appropriate**  
23                   **point values for each standard set forth in Subsection C of this Section and**  
24                   **other assessed criteria as determined by the department that is used to calculate**  
25                   **the community water system's letter grade. Point values shall be based on**  
26                   **objective criteria so that each community water system is assessed equally and**  
27                   **fairly. Community water systems shall be assigned a letter grade of "A", "B",**  
28                   **"C", "D", or "F".**

29                   **(2) The department shall publish scores and letter grades earned by each**  
30                   **community water system on its website in a frequency and duration established**

1 by rule.

2 E.(1) Any community water system that receives a letter grade of "D"  
3 or "F" shall be considered operationally unacceptable and may be subject to the  
4 following:

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

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

10 (c) Notice being submitted to the State Bond Commission, the Public  
11 Service Commission, and the attorney general to prohibit the community water  
12 system or the local governing authority operating the community water system  
13 from incurring any additional debt for anything not directly related to the  
14 improvement and sustainability of the community drinking water system  
15 pursuant to a plan approved by the department.

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

20 F. Notwithstanding any provision of law to the contrary, no local  
21 governing authority that operates a community water system that receives a  
22 grade of "D" or "F" shall expend any money raised through payments made by  
23 customers for access to water or from any other water system revenue for any  
24 item, debt payment, or public purpose other than the improvement and  
25 sustainability of the community water system. A violation of this Subsection  
26 shall be grounds for a court to appoint a receiver or fiscal administrator or to  
27 order the mandatory safe water purchase from another system determined to  
28 be available by the Louisiana Department of Health. The provisions of this  
29 Subsection shall not be construed to prohibit the payment of bonded  
30 indebtedness secured by the water system's revenue prior to August 1, 2021.

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

3                    **§5.9.2. Community water system accountability; federal funds**

4                    **A community water system or local governing authority operating a**  
5                    **community water system receiving federal funds, including stimulus or relief**  
6                    **payments or grants, for the upgrade, repair, or otherwise replacement of the**  
7                    **water system infrastructure shall submit a detailed plan describing how the**  
8                    **federal funds will be used to the Louisiana Department of Health.**

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

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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: \_\_\_\_\_