

2023 Regular Session

SENATE BILL NO. 122

BY SENATOR FRED MILLS

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

WATER QUALITY. Creates and provides for the Community Sewerage System Infrastructure Sustainability Act. (1/1/24)

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 report and

5 financial sustainability certification requirements for certain community sewerage

6 systems; to provide for the duties of the Department of Environmental Quality, the

7 Louisiana Department of Health, and the legislative auditor; to provide for prohibited

8 uses of sewerage system funds; to provide for penalties; to provide for rulemaking;

9 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. Any community  
21 sewerage system that seeks approval from the State Bond Commission to incur  
22 any additional debt for anything not directly related to the improvement and  
23 sustainability of the community sewerage system or a related community water  
24 system shall submit with the application to the commission a compliance report  
25 from the Department of Environmental Quality, a compliance report from the  
26 Louisiana Department of Health, and a sewer fiscal responsibility certification  
27 from the legislative auditor in accordance with Subsection F of this Section.

28 (b) Any community sewerage system that is found to have significant  
29 violations or to be out of compliance in either of the compliance reports or the

1 sewer fiscal responsibility certification required by Subparagraph (a) of this  
2 Paragraph shall also submit with the application to the commission all of the  
3 following information:

4 (i) A plan of correction for the deficiencies noted in any of the  
5 compliance reports or the sewer fiscal responsibility certification.

6 (ii) The anticipated timeline for the completion of the plan of correction,  
7 including anticipated dates for completion of the significant steps in the plan of  
8 correction.

9 (iii) The anticipated costs for the completion of the plan of correction  
10 and a list of all sources of funds to be used.

11 (iv) Any report prepared by a licensed engineer relative to the  
12 deficiencies and the plan of correction.

13 (2) After consideration of the information provided pursuant to  
14 Paragraph (1) of this Subsection, the State Bond Commission may prohibit the  
15 community sewerage system from incurring any additional debt for anything  
16 not directly related to the improvement and sustainability of the community  
17 sewerage 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 obtaining funding for the  
20 improvement and sustainability of the community sewerage system or a related  
21 community water system based upon the information provided pursuant to  
22 Paragraph (1) of this Subsection.

23 D.(1)(a) Applications to the capital outlay program. Any community  
24 sewerage system that submits a project for the capital outlay program to the  
25 division of administration for anything not directly related to the improvement  
26 and sustainability of the community sewerage system or a related community  
27 water system shall submit with the application to the division a compliance  
28 report from the Department of Environmental Quality, a compliance report  
29 from the Louisiana Department of Health, and a sewer fiscal responsibility

1 certification from the legislative auditor in accordance with Subsection F of this  
2 Section.

3 (b) Any community sewerage system that is found to have significant  
4 violations or to be out of compliance in either of the compliance reports or the  
5 sewer fiscal responsibility certification required by Subparagraph (a) of this  
6 Paragraph shall also submit with the application to the division all of the  
7 following information:

8 (i) A plan of correction for the deficiencies noted in any of the  
9 compliance reports or the sewer fiscal responsibility certification.

10 (ii) The anticipated timeline for the completion of the plan of correction,  
11 including anticipated dates for completion of the significant steps in the plan of  
12 correction.

13 (iii) The anticipated costs for the completion of the plan of correction  
14 and a list of all sources of funds to be used.

15 (iv) Any report prepared by a licensed engineer relative to the  
16 deficiencies and the plan of correction.

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

22 (3) The provisions of this Subsection notwithstanding, the community  
23 sewerage system shall not be precluded from obtaining funding for the  
24 improvement and sustainability of the community sewerage system or a related  
25 community water system based upon the information provided pursuant to  
26 Paragraph (1) of this Subsection.

27 E.(1)(a) Applications to a rate setting authority. Any community  
28 sewerage system that seeks approval for a rate adjustment from the appropriate  
29 rate setting authority not directly related to the improvement and sustainability

1 of the community sewerage system or a related community water system shall  
2 submit with the application to the rate setting authority a compliance report  
3 from the Department of Environmental Quality, a compliance report from the  
4 Louisiana Department of Health, and a sewer fiscal responsibility certification  
5 from the legislative auditor in accordance with Subsection F of this Section.

6 (b) Any community sewerage system that is found to have significant  
7 violations or to be out of compliance in either of the compliance reports or the  
8 sewer fiscal responsibility certification required by Subparagraph (a) of this  
9 Paragraph shall also submit with the application to the rate setting authority all  
10 of the following information:

11 (i) A plan of correction for the deficiencies noted in any of the  
12 compliance reports or the sewer fiscal responsibility certification.

13 (ii) The anticipated timeline for the completion of the plan of correction,  
14 including anticipated dates for completion of the significant steps in the plan of  
15 correction.

16 (iii) The anticipated costs for the completion of the plan of correction  
17 and a list of all sources of funds to be used.

18 (iv) Any report prepared by a licensed engineer relative to the  
19 deficiencies and the plan of correction.

20 (2) After consideration of the information provided pursuant to  
21 Paragraph (1) of this Subsection, the rate setting authority may prohibit the  
22 community sewerage system from adjusting rates for anything not directly  
23 related to the improvement and sustainability of the community sewerage  
24 system or a related community water system.

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

1                    F.(1) Upon request of a community sewerage system, the Department of  
2                    Environmental Quality shall review the department's records and provide a  
3                    compliance report based upon criteria determined by the department, including  
4                    but not limited the following:

5                    (a) Federal water quality significant violation history.

6                    (b) State violation history.

7                    (2) Upon request of a community sewerage system, the Louisiana  
8                    Department of Health shall review the department's records and provide a  
9                    compliance report based upon criteria determined by the department, including  
10                   but not limited the following:

11                   (a) State violation history.

12                   (b) Operation and maintenance performance history.

13                   (c) Infrastructure violations.

14                   (3) Upon request of a community sewerage system, the legislative  
15                   auditor shall review its records and provide a sewer fiscal responsibility  
16                   certification regarding the community sewerage system's financial sustainability  
17                   based upon criteria determined by the auditor.

18                   (4) Any compliance report or sewer fiscal responsibility certification  
19                   provided pursuant to this Subsection shall clearly indicate in plain language the  
20                   community sewerage system's compliance status and the level of severity of  
21                   violations.

22                   G. Notwithstanding any provision of law to the contrary, a local  
23                   governing authority that operates a community sewerage system shall not  
24                   expend any money raised through payments made by customers for sewerage  
25                   services or from any other sewerage system revenue for any item, debt payment,  
26                   or public purpose other than the improvement and sustainability of the  
27                   community sewerage system. A violation of this Subsection shall be grounds for  
28                   a court to appoint a receiver or fiscal administrator. The provisions of this  
29                   Subsection shall not be construed to prohibit the payment of bonded

1           **indebtedness secured by the sewerage system's revenue prior to August 1, 2023.**

2                   **H. Any community sewerage system that is considered operationally**  
 3           **unacceptable in any of the compliance reports or the sewer fiscal responsibility**  
 4           **certification provided pursuant to this Section may be subject to receivership**  
 5           **in accordance with R.S. 30:2075.3 and R.S. 33:42.**

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

9           Section 3. This Act shall become effective on January 1, 2024.

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

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DIGEST

SB 122 Original

2023 Regular Session

Fred Mills

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 compliance report from the Department of Environmental Quality (DEQ), a compliance report from the La. Department of Health (LDH), and a sewer fiscal responsibility certification 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) Submits to the division of administration a project for the capital outlay program not directly related to the improvement and sustainability of the community sewerage system or a related community water system.
- (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 any community sewerage system found to have significant violations or to be out of compliance in either of the compliance reports or the sewer fiscal responsibility certification shall also submit all of the following information:

- (1) A plan of correction for the deficiencies noted in any of the compliance reports or the sewer fiscal responsibility certification.
- (2) The anticipated timeline for the completion of the plan of correction, including anticipated dates for completion of the significant steps in the plan of correction.
- (3) The anticipated costs for the completion of the plan of correction and a list of all sources of funds to be used.
- (4) Any report prepared by a licensed engineer relative to the deficiencies and the plan of correction.

Proposed law provides that, after consideration of the compliance reports, sewer fiscal responsibility certification, and supplemental material relative to the plan of correction for deficiencies, 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 reports, sewer fiscal responsibility certification, or the supplemental material relative to the plan of correction for deficiencies provided in accordance with proposed law.

Proposed law provides that, upon request of a community sewerage system, DEQ and LDH shall each review its own records and provide a compliance report based upon criteria determined by that department. Proposed law further provides that the legislative auditor shall review its records and provide a sewer fiscal responsibility certification regarding the community sewerage system's financial sustainability based upon criteria determined by the auditor.

Proposed law requires the compliance report and sewer fiscal responsibility certification to clearly indicate in plain language the community sewerage system's compliance status and the level of severity of violations.

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 considered operationally unacceptable in any compliance report or sewer fiscal responsibility certification may be subject to receivership in accordance with present law.

Proposed law provides for rulemaking by DEQ and LDH.

Effective January 1, 2024.

(Adds R.S. 30:2075.4)