

Regular Session, 2014

SENATE BILL NO. 341

BY SENATOR DONAHUE

SANITARY CODE. Provides for certain limitations relative to actions or rules requiring modification of certain existing community water systems. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 40:4.13, relative to water systems; to provide for water system
3 regulations; to provide for the promulgation of rules and regulations; and to provide
4 for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 40:4.13 is hereby amended and reenacted to read as follows:

7 §4.13. Water systems; National Primary Drinking Water Regulations; sanitary
8 survey; use of Ten State Standards

9 A. Neither the state health officer nor the office of public health of the
10 Department of Health and Hospitals shall promulgate a rule or take action requiring
11 the modification of an existing community water system in operation before August
12 1, 2013, unless the state health officer or the office of public health of the
13 Department of Health and Hospitals demonstrates that such public water system,
14 with proper operation and maintenance, is incapable of attaining compliance with the
15 National Primary Drinking Water Regulations without the modification. For the
16 purposes of this Section, "National Primary Drinking Water Regulations" means
17 ~~those~~ **such** requirements defined in 40 CFR 141 and 40 CFR 142.16(b).

1 B.(1) A sanitary survey of a public water system shall be conducted only to
2 ensure compliance with ~~the~~ National Primary Drinking Water Regulations and the
3 state Sanitary Code requirements.

4 (2) The state health officer or the office of public health of the Department
5 of Health and Hospitals shall classify as a significant deficiency only a defect in
6 design, operation, or maintenance, or a failure or malfunction of the sources,
7 treatment, storage, or distribution system that is causing, or may reasonably be
8 expected to cause, the introduction of contamination into the water delivered to
9 consumers.

10 C.(1) The state health officer and the office of public health of the
11 Department of Health and Hospitals shall use the *Recommended Standards for Water*
12 *Works*, the "Ten State Standards", promulgated by the Great Lakes and Upper
13 Mississippi Board of State Sanitary Engineers only as a guide in the review of plans
14 and specifications submitted in connection with an application for a permit for a new
15 public water supply system or in connection with ~~the~~ modification of an existing
16 public water system.

17 (2) A permit for a public water supply system that complies with the National
18 Primary Drinking Water Regulations shall be issued, whether or not such design
19 adheres to the Ten State Standards.

20 D.(1) The Louisiana Standards for Water Works Construction, Operation, and
21 Maintenance Committee, hereinafter referred to as the "committee", shall be created
22 within the Department of Health and Hospitals to develop standards to be placed in
23 the state Sanitary Code for water works construction, operation, and maintenance.

24 (2) ~~No later than August 1, 2014, the~~ **The** office of public health of the
25 Department of Health and Hospitals shall promulgate rules and regulations pursuant
26 to the Administrative Procedure Act implementing the standards developed by the
27 committee.

28 (3) The committee shall be appointed as follows:

29 (a) Two members appointed by the office of public health of the Department

1 of Health and Hospitals.

2 (b) Two members appointed by the Louisiana Municipal Association.

3 (c) Two members appointed by the Louisiana Rural Water Association.

4 (d) Two members appointed by the Police Jury Association of Louisiana.

5 (e) Two members appointed by the Louisiana Engineering Society.

6 (f) Two members appointed by the Louisiana public water suppliers, the
7 Southwest Section of the American Water Works Association.

8 (g) Two members appointed by the Louisiana public water suppliers, the
9 National Association of Water Companies.

10 (h) Two members appointed by the Louisiana Section of the American
11 Society of Civil Engineers.

12 (i) One member appointed by the Louisiana Environmental Action Network.

13 (4) The assistant secretary of the office of public health of the Department of
14 Health and Hospitals shall appoint one of its two appointees to the committee to
15 serve as chairman of the committee. The chairman shall call the first meeting no later
16 than September 1, 2013. The committee shall meet monthly until the requirements
17 of Paragraph (D)(9) of this Section are complete. Thereafter, the committee shall
18 meet quarterly. Additional meetings may be called by the chairman. The chairman
19 shall call additional meetings if requested in writing by at least nine committee
20 members.

21 (5) Nine members of the committee physically present shall constitute a
22 quorum and the presence of a quorum shall be required to transact the business of the
23 committee.

24 (6) The meetings of the committee shall be subject to the Louisiana Open
25 Meetings Law.

26 (7) The meetings of the committee shall be held at the Department of Health
27 and Hospitals headquarters in Baton Rouge.

28 (8) The office of public health of the Department of Health and Hospitals
29 shall provide administrative assistance to and serve as staff for the committee.

1 (9) The rules and regulations for the Louisiana Standards for Water Works
 2 Construction, Operation, and Maintenance shall not be promulgated until the
 3 proposed rules and regulations or changes thereto are approved by the Department
 4 of Health and Hospitals and approved by a majority vote of the committee.

5 E. No provision of this Section shall prohibit the Department of Health and
 6 Hospitals from promulgating rules **and regulations** pursuant to the Administrative
 7 Procedure Act to secure or maintain from the United States Environmental
 8 Protection Agency primacy in drinking water regulation provided such rules shall be
 9 limited to only those rules required to secure or maintain such primacy.

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

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Christopher D. Adams.

DIGEST

Donahue (SB 341)

Present law provides that neither the state health officer nor the office of public health of the Department of Health and Hospitals (DHH) shall promulgate a rule or take action requiring the modification of an existing community water system in operation before August 1, 2013, unless the state health officer or the office of public health demonstrates that such public water system, with proper operation and maintenance, is incapable of attaining compliance with the National Primary Drinking Water Regulations without the modification. For the purposes of present law, "National Primary Drinking Water Regulations" means those requirements defined in 40 CFR 141 and 40 CFR 142.16(b).

Present law further provides the prerequisite for conducting a sanitary survey of a public water system shall be conducted, and provides that the state health officer or the office of public health shall classify as a significant deficiency only a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that is causing, or may reasonably be expected to cause, the introduction of contamination into the water delivered to consumers.

Present law requires the state health officer and the office of public health to use the *Recommended Standards for Water Works*, the "Ten State Standards", promulgated by the Great Lakes and Upper Mississippi Board of State Sanitary Engineers only as a guide in the review of plans and specifications submitted in connection with an application for a permit for a new public water supply system or in connection with the modification of an existing public water system. Further provides that a permit for a public water supply system that complies with the National Primary Drinking Water Regulations shall be issued, whether or

not such design adheres to the Ten State Standards.

Present law provides for the creation of the Louisiana Standards for Water Works Construction, Operation, and Maintenance Committee within DHH to develop standards to be placed in the state Sanitary Code for water works construction, operation, and maintenance. Further provides that no later than August 1, 2014, the office of public health shall promulgate rules and regulations pursuant to the Administrative Procedure Act implementing the standards developed by the committee. Further provides for the membership of the committee, and provides for the calling of the first meeting and for quorum requirements. Further provides for compliance with the Open Meetings Law and for location of meetings of the committee. Further provides for administrative support.

Present law provides that no provision shall prohibit DHH from promulgating rules pursuant to the Administrative Procedure Act to secure or maintain from the United States Environmental Protection Agency primacy in drinking water regulation provided such rules shall be limited to only those rules required to secure or maintain such primacy.

Proposed law makes technical changes to present law.

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

(Amends R.S. 40:4.13)