

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 ~~Lakes-Upper~~ Mississippi ~~River~~ Board of State ~~Sanitary Engineers~~ **and Provincial**  
14 **Public Health and Environmental Managers** only as a guide in the review of plans  
15 and specifications submitted in connection with an application for a permit for a new  
16 public water supply system or in connection with the modification of an existing  
17 public water system.

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

21 D.(1) The Louisiana Standards for Water Works Construction, Operation, and  
22 Maintenance Committee, hereinafter referred to as the "committee", shall be created  
23 within the Department of Health and Hospitals to develop standards to be placed in  
24 the state Sanitary Code for water works construction, operation, and maintenance  
25 **and approve rules and regulations to repeal and replace LAC 51:XII and to**  
26 **revise such rules and regulations. Such rules and regulations shall include but**  
27 **not be limited to rules and regulations for waterworks construction, operation,**  
28 **and maintenance and the list of significant deficiencies contemplated in**  
29 **Paragraph (B)(2) of this Section.**

1                   (2) ~~No later than August 1, 2014, the~~ **The** office of public health of the  
2 Department of Health and Hospitals shall promulgate rules and regulations pursuant  
3 to the Administrative Procedure Act ~~implementing the standards developed by the~~  
4 ~~committee~~ **repealing and replacing LAC 51:XII.**

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

6                   (a) Two members appointed by the office of public health of the Department  
7 of Health and Hospitals.

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

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

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

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

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

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

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

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

19                  (4) The assistant secretary of the office of public health of the Department of  
20 Health and Hospitals shall appoint one of its two appointees to the committee to  
21 serve as chairman of the committee. The chairman shall call the first meeting no later  
22 than September 1, 2013. The committee shall meet monthly ~~until the requirements~~  
23 ~~of Paragraph (D)(9) of this Section are complete~~ **until the committee approved**  
24 **rules and regulations are promulgated.** Thereafter, the committee shall meet  
25 quarterly. Additional meetings may be called by the chairman. The chairman shall  
26 call additional meetings if requested in writing by at least nine committee members.

27                  (5) Nine members of the committee physically present shall constitute a  
28 quorum and the presence of a quorum shall be required to transact the business of the  
29 committee.

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

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

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

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

11 E. No provision of this Section shall prohibit the Department of Health and  
12 Hospitals from promulgating **committee-approved** rules **and regulations** pursuant  
13 to the Administrative Procedure Act to secure or maintain from the United States  
14 Environmental Protection Agency primacy in drinking water regulation provided  
15 such rules shall be limited to only those rules required to secure or maintain such  
16 primacy.

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

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

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#### DIGEST

Donahue (SB 341)

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.

Proposed law amends present law to provide for the creation of the Louisiana Standards for Water Works Construction, Operation, and Maintenance Committee within DHH to develop and approve rules and regulations to repeal and replace LAC 51:XII and to revise such rules and regulations. Such rules and regulations shall include but not limited to rules and regulations for water works constructions, operation, and maintenance and the list of significant deficiencies contemplated in present law. The office of public health shall promulgate rules and regulations pursuant to the Administrative Procedure Act repealing and replacing LAC 51:XII implementing the standards developed by the committee.

Present law provides the rules and regulations for the Louisiana Standards for Water Works Construction, Operation, and Maintenance shall not be promulgated until the proposed rules and regulations or changes thereto are approved by DHH and approved by a majority vote of the committee. Proposed law deletes this provision.

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)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Removes the deadline date to promulgate the rules and regulations.
2. Removes the requirement that the rules and regulations be promulgated after the Louisiana Standards for Water Works Construction, Operation, and Maintenance Committee and DHH approve such rules and regulations.
3. Requires the promulgation of rules and regulations to repeal and replace LAC 51:XII.