

2016 Regular Session

HOUSE BILL NO. 729

BY REPRESENTATIVE MONTOUCET

UTILITIES: Provides relative to nonprofit water utility cooperatives wholly owned by water users

1 AN ACT

2 To enact Chapter 13 of Title 45 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 45:1601 through 1603, relative to nonprofit water utility cooperatives; to
4 provide for definitions; to authorize the Louisiana Rural Water Association to
5 perform water usage rate assessments; to regulate rate change election procedures;
6 to establish time restraints relative to rate change elections; to allow for an
7 emergency exception procedure; to provide for effectiveness; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 13 of Title 45 of the Louisiana Revised Statutes of 1950,
11 comprised of R.S. 45:1601 through 1603, is hereby enacted to read as follows:

12 CHAPTER 13. WATER

13 §1601. Nonprofit water utility cooperative or corporation; initial assessment; rate
14 changes

15 A. (1) For the purposes of this Chapter, "water cooperative" means any
16 nonprofit water utility cooperative or corporation wholly owned by water user
17 members that is not subject to the jurisdiction of the Public Service Commission.

18 (2)(a) A water cooperative shall request an assessment to be performed by the
19 Louisiana Rural Water Association (LRWA) for the purpose of establishing the
20 initial rate at which its members should be charged for water usage.

1 (b)(i) Any assessment performed by the Louisiana Rural Water Association
2 for the purpose of establishing the initial rate at which its members should be
3 charged for water usage shall be conducted during a public meeting.

4 (ii) Written notice of the public meeting described in Subparagraph (b)(i) of
5 this Paragraph shall be sent by certified mail, at a reasonable time prior to the
6 meeting, to all water user members. The written notice shall include, at a minimum,
7 a clear and concise statement regarding the purpose of the meeting, the address
8 where the meeting shall take place, the date, and the time of the meeting.

9 (c) The results of any assessment performed as required by this Section shall
10 be verified by the legislative auditor.

11 B. In the event that the board of directors of a water cooperative requests
12 approval of any rate change for water usage, the board shall conduct an election of
13 the water user members.

14 §1602. Rate change elections; procedures

15 A. (1) The board of directors of a water cooperative shall provide all directors
16 with an opportunity to participate in any meeting that is held for the purpose of
17 considering evidence of the need for a rate change.

18 (2)(a) The board shall conduct an election of the water user members to
19 request approval of any rate change only when the board has agreed by a majority
20 vote that a change in the existing rate is necessary.

21 (b) No rate change shall be implemented without an election conducted
22 subject to the provisions of this Chapter and the approval of the rate change by a
23 majority vote of the water user members.

24 B. (1) Written notice shall be sent by mail to all water user members at least
25 thirty days prior to an election held for the purpose of a rate change.

26 (2) The notice may be included in a billing notice, but it shall be a separate
27 and prominent document and shall include the following:

28 (a) A brief explanation of the reasons that necessitate a rate change.

29 (b) A clear statement of the amount of the requested rate change.

1 (c) A statement informing the water user members of the availability of a
2 complete and written explanation of the reasons for the rate change. The complete
3 and written explanation shall be available for examination by any water user member
4 or his representative at the office of the water cooperative during regular business
5 hours at least thirty days prior to the election.

6 (3) The election shall be conducted neither earlier than thirty days nor later
7 than sixty days from the date of the mailing of notice to the water user members.

8 (C)(1) An election to determine approval of a rate change may be conducted
9 by either of the following:

10 (a) Mailed ballots sent to each water user member.

11 (b) Written ballots provided to each water user member during a public
12 hearing.

13 (2) If the election is conducted by a mailed ballot, the mailed ballot may be
14 included in a billing notice, but it shall be a separate and prominent document and
15 shall include the following:

16 (a) A brief explanation of the reasons that necessitate a rate change.

17 (b) A clear statement of the amount of the requested rate change.

18 (c) A clear statement of both the deadline and the address for ballot return.

19 (d) Any other information the board deems necessary.

20 (e) A clear statement of the date that the ballots shall be collected, counted,
21 and posted at the office of the water cooperative.

22 (3) If the election is conducted by a written ballot provided to each water user
23 member during a public hearing, the written ballots shall be collected, counted, and
24 announced at the public hearing.

25 D. All costs of the election shall be paid by the water cooperative.

26 §1603. Election limitations

27 A. (1) Any rate change approved by an election conducted pursuant to the
28 provisions of this Chapter shall be implemented by the board of directors of the
29 water cooperative within ninety days of the tabulation of the election ballots.

1 (2) In the event that the board of directors of a water cooperative fails to
2 timely implement the rate change pursuant to the provisions of this Subsection:

3 (a) The election is deemed void.

4 (b) A new election subject to the provisions of this Chapter shall be held prior
5 to any rate change.

6 B. (1) Unless the board of directors of a water cooperative declares by a
7 majority vote that an emergency exists and that the emergency specifically
8 necessitates a rate change, a minimum of three years shall intervene before an
9 election may be held for the purpose of requesting any subsequent rate change.

10 (2) In the event that the board of directors declares such an emergency, the
11 board shall conduct an election subject to the provisions of this Chapter.

12 Section 2. This Act shall take effect and become operative if and when the proposed
13 amendment of Article IV, Section 21(C) of the Constitution of Louisiana contained in the
14 Act which originated as House Bill No. 154 of this 2016 Regular Session of the Legislature
15 is adopted at a statewide election and becomes effective.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 729 Original

2016 Regular Session

Montoucet

Abstract: Regulates the initial assessment and subsequent changes in the rates charged by water cooperatives for water usage

Proposed law defines "water cooperatives" for the purposes of proposed law in order to provide for clarification.

Proposed law requires water cooperatives to request the Louisiana Rural Water Assoc. (LRWA) to perform an assessment for the purpose of establishing the initial rate at which the water cooperative may charge its water user members for water usage.

Proposed law requires any assessment performed by the LRWA, for the purpose of establishing the initial rate at which its members should be charged for water usage, shall be conducted during a public meeting. Proposed law requires the results of the assessment to be verified by the legislative auditor.

Proposed law requires written notice of the public meeting described in proposed law and further requires the notice be sent by certified mail, at a reasonable time prior to the meeting, to all water user members. The written notice shall include, at a minimum, a clear and

concise statement regarding the purpose of the meeting, the address where the meeting shall take place, the date, and the time of the meeting.

Proposed law requires the board of directors of a water cooperative to conduct an election of the water user members for approval of any rate change for water usage.

Proposed law requires the board to provide all directors an opportunity to attend any meeting that is held for the purpose of considering evidence of the need for a rate change. Proposed law requires that the board may elect to conduct a rate change election only when the board has agreed by a majority vote of the board that a change in the existing rate is necessary. Proposed law further establishes election procedures and requires a majority vote of the water user members to approve any rate change.

Proposed law requires written notice be sent by mail to all water user members at least 30 days prior to a rate change election. Proposed law allows the notice to be included in a billing notice; however, proposed law requires the notice to be a separate and prominent document that must include an explanation of the reasons for a rate change, a statement of the amount of the rate change, and a statement informing the water user members of the availability of a complete and written explanation of the reasons for rate change at the office of the water cooperative. Proposed law requires the water cooperative to post that complete explanation at least 30 days prior to the election and make it available for all water user members or their representative during regular business hours.

Proposed law requires the election to be conducted neither earlier than 30 days nor later than 60 days from the date of the mailing of the notice to the water user members.

Proposed law allows the election to be conducted either by mailed ballots or by written ballots provided to each water user member during a public hearing.

Proposed law allows a mailed ballot to be included in a billing notice; however, proposed law requires the mailed ballot to be a separate and prominent document that shall also include:

- (1) A brief explanation of the reasons that necessitate a rate change.
- (2) A clear statement of the amount of the requested rate change.
- (3) A clear statement of both the deadline and the address for ballot return.
- (4) Any other information the board deems necessary.
- (5) A clear statement of the date that the ballots shall be collected, counted, and posted at the office of the water cooperative.

Proposed law requires that, when the election is conducted by written ballots, the written ballots shall be collected, counted, and announced at the public hearing.

Proposed law requires all costs of any rate change election shall be paid by the water cooperative.

Proposed law requires that, when a rate change is approved by an election conducted pursuant to proposed law, the rate change shall be implemented by the board within 90 days of the tabulation of the election ballots. When the board fails to implement the rate change within 90 days, the election is deemed void, and a new election subject to the provisions of proposed law shall be held prior to any rate change.

Proposed law requires 3 years to intervene between rate change elections. Proposed law provides for an exception to that time restriction by allowing the board to declare, by

majority vote, that an emergency exists that necessitates a rate change before those 3 years have passed since the previous election. Proposed law requires that any emergency rate change election shall be conducted subject to the provisions of proposed law.

Effective if and when the proposed amendment of Article IV, Section 21(C) of the Constitution of Louisiana contained in the Act which originated as House Bill No. 154 of this 2016 Regular Session of the Legislature is adopted at a statewide election and becomes effective.

(Adds R.S. 45:1601-1603)