



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

# Arkansas Drinking Water Update/Arkansas Department of Health: Mark Bennett (Natural Resources Division) Addresses Retail Water Providers Legislation

08/05/2021

Mr. Mark Bennett authored an article in the Summer 2021 edition of the Arkansas Department of Health's publication *Arkansas Drinking Water Update* titled:

*Act 605 of 2021 Requirements ("Article")*

Mr. Bennett serves as Chief of the Water Development section of the Arkansas Department of Agriculture's Natural Resources Division.

Act 605 amended Arkansas Code Title 14, Chapter 234, to add a subchapter titled:

*Subchapter 8 – Oversight of Retail Water Providers*

As Mr. Bennett notes in his *Article*:

... The legislation tasked retail water providers, except those regulated by the Arkansas Public Service Commission, with additional responsibilities in managing and operating their water systems.

The legislation is stated to have been the result of an Arkansas interim study (2019-085).

Mr. Bennett identifies a number of responsibilities outlined for retail water providers ("Providers") in Act 605 which include:

- Preparation of a rate study every year
- Determined rates must be implemented within one year of completion of the study
- Rate increases of 50% or more will allow the water system two years to implement
- Rate studies must be filed with the Arkansas Legislative Audit
- Costs to be included in a study are identified
- Arkansas Natural Resources Commission ("ANRC") may provide guidance on content of a study
- Establishment of a non-voting advisory committee is required when a municipal water system has 20% or more of its customer base outside municipal boundaries
- All members of a retail water provider governing board must complete eight hours of training
- ANRC may designate a retail water provider as being under fiscal distress if:
  - Provider fails to obtain a rate study
  - Provider fails to implement the rates contained in the study

- Board members fail to obtain required training
- Provider fails to have adequate funds to operate/maintain system
- ANRC will annually notify a provider regarding fiscal distress and list them on its website
- Upon being designated as being in fiscal distress provider has 90 days to develop an improvement plan
- Providers under fiscal distress must obtain ANRC approval to:
  - Incur additional debt
  - Transfer assets to another provider
  - Accept assistance for refurbishment/replacement of facilities with certain specified exceptions

A copy of the *Article* can be downloaded [here](#) and Act 605 [here](#).

(ACT)