



# ARKANSAS DRINKING WATER UPDATE

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## Act 605 of 2021 Requirements

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On April 5, 2021 Governor Asa Hutchinson approved Act 605 of 2021. The Act was Senate Bill 386 sponsored by Senator Alan Clark and Representative Fredrick Love. This legislation was the result of the work of the committee created by Interim Study 2019-085. Below are some highlights of the legislation.

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. These responsibilities include preparation of a rate study every 5 years. The rates determined from the study will have to be implemented within one year of the completion of the study. If the increase will be 50 percent or more of the current rate, then the system will have 2 years to implement the total increase. Rates studies must be filed with the Arkansas Legislative Audit. Proposed major development projects may require a rate study before the end of the five-year period.

The legislation outlines costs to be included in the study and allows the Arkansas Natural Resources Commission (ANRC) to provide guidance on content of the study. ANRC must consider the guidelines of American Water Works Association and the Water Environment Federation in developing ANRC guidelines.

When a municipal water system has 20 percent or more of its customer base outside the municipal boundaries, the municipality must establish a non-voting advisory committee to advise the municipality in water system matters. This committee must represent the water users outside the municipal boundaries.

Under the legislation, all members of a retail water provider governing board must complete 8 hours of training. The training must be completed

within one year of becoming a board member. A member with 10 years or more service on the governing board is exempt from training. The Act provides that ANRC will utilize an advisory board of water professionals to develop the curricula for the training sessions.

ANRC may designate a retail water provider as being under fiscal distress when a provider fails to obtain a rate study, fails to implement the rates contained in the study, board members fail to obtain required training, or fails to have adequate funds to operate and maintain the water provider's system. ANRC will annually notify a provider that the provider is under fiscal distress and publish a list of providers under fiscal distress on its website. Within 90 days of being designated as being in fiscal distress, a provider must develop an improvement plan with specific actions to correct financial, technical, and managerial deficiencies of the provider.

When under fiscal distress, a retail water provider must obtain ANRC approval to incur additional debt, transfer assets of the provider to another provider, accept assistance for refurbishment or replacement of facilities or new facilities unless these projects are part of a provider improvement plan. er provisions in the law provide that: (1) Five percent of gross revenues must be set aside in a dedicated refurbishment and replacement reserve; (2) Creation of a new retail water provider will require at least 300 water users unless, ANRC determines that public health or environmental protection so require and there is no viable alternative to creation of the new provider. If ANRC determines that the condition exists, additional statutory requirements must be met for the creation of the new retail water provider.

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