

ARKANSAS ACT 605

Overview and Roadmap



Adopted in 2021, Arkansas' Act 605 creates additional responsibilities for most Arkansas retail water providers, both public and privately owned, in managing and operating their water systems. Like many other states, Arkansas has hundreds of communities where deferred maintenance has gone on so long, those communities are now in a crisis and can't fix their infrastructure. Act 605 is a bold and forward-looking law that aims to fix this problem and increase the sustainability of water systems across the state. It is a noteworthy and model law that requires training for all members of a governing body with oversight of the utility, mandates rate studies, and requires implementation of full-cost pricing to cover the capital and operation and maintenance costs for water services. The development, passage, and ongoing execution of Act 605 in Arkansas can provide a roadmap to other states looking to address local water system challenges through state policy.

Passage of Act 605

Act 605, originally introduced in February 2021, passed the State Senate and House with overwhelming support with final adoption in April 2021¹. The origin of Act 605 began with an intergovernmental dispute in Hot Springs and Garland County, where the Cities were denying unincorporated areas service requests, utility connections, and extensions². This dispute resulted in the creation of the Water Provider Legislative Task Force that considered a range of recommendations. The work of the Task Force largely informed the scope and elements of Act 605. The stated goal of the Task Force was "To provide a better water provider system, to aid in obtaining basic water service for as many Arkansans as possible and enhance economic development statewide."

During the Task Force hearings, additional problems became clear—particularly that many small water systems are unable to recoup their expenses or fund their long-term maintenance. "We have water systems failing across the state, as we warned, and we will have more because we didn't have any measures in places," said Senator Clark, one of the lead proponents of the bill. "Somebody has to regulate to make sure people are doing the right thing. This gave the Arkansas Natural Resources Commission a little bit of teeth. We need to make sure we're not selling water below cost."

The main purpose of Act 605 is to ensure financial and managerial accountability on water and wastewater systems for all communities, many of which have experienced a declining customer base, are struggling with regulatory compliance, are fiscally distressed, or delinquent on repayment of debt. While there was widespread support for accountability during the deliberation of the bill, communities and elected officials naturally pushed back on the Act's aggressive deadlines for completing training, conducting rate studies, and implementing new rate charges to cover the costs of service.

As with any community faced with raising water rates, the political fallout and community concerns were real and heart-felt along with the very real challenges associated with developing and implementing an asset management plan to ensure long-term sustainability. Notwithstanding, given the widespread problems with failing water infrastructure affecting so many communities across Arkansas, the Act offers much needed political cover to elected officials who are faced with an unpopular decision of increasing rates.



¹ The Act amended Arkansas Code Title 14, Chapter 234, to add an eighth subchapter titled "Oversight of Retail Water Providers." The text of Act 605 is available [at this link](#).

² Now, under Act 605, municipal providers that are not able to provide service to nonresident customers can either release the customer to a willing provider or require that property owners to annex into their municipal boundaries to receive service.

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Requirements

Act 605 includes the following responsibilities for Water Service Providers:

- **Preparation of a rate study every five years or before any major development project.** The rate study is based on guidelines from the American Water Works Association and the Water Environment Federation, and proposed changes aim to have each water service provider reach a debt service coverage ratio of 1.1 or higher. The studies must be completed by July 1, 2024, for providers with 500 or fewer customers; July 1, 2025, for providers with 500 to 1,000 customers; and July 1, 2026, for providers with more than 1,000 customers.
- **Implementation of rates within one year of study completion.** This extends to two years if the increases are 50 percent or greater.
- **Establishment of a committee when 20 percent of the customer base is outside municipal boundaries.** This non-voting committee serves to advise on water system matters and represent water users outside the municipality.
- **Completion of eight hours of training.** All members of a retail water provider governing board are required to complete this training within one year of joining the board. Members who have been on the board for at least ten years are exempt. Provider boards must annually submit a form listing which members have completed or are exempt from this training.

Failure by the communities to provide the required training, conduct rate assessments and implement new rates will result in those communities being ineligible for any future state or federal infrastructure funding.

Opportunities

By mandating rate studies and increases based on their results, the Act provides political cover for rate increases that are already necessary for water systems to meet their debt obligations and invest in their infrastructure. Many communities faced with increasing rates will by necessity need to consider a range of other more affordable solutions, including the possibility of consolidation or entering into a shared service agreement with nearby community or considering other regional solutions. Act 605 not only will result in more Arkansans receiving clean, affordable water, but presents a unique opportunity to pursue regional and economic development, wholly dependent on a sustainable water source.

For more on regional approaches to water management, read WFX's [Community Resource on Regional Solutions](#) and our report on [Regional Water and Wastewater Management Solutions](#).

Links to Resources & References

- [SB386 – To Amend the Law Concerning Retail Water Providers and Related Service](#)
- [HB1022 – To Repeal the Law Regarding the Oversight of Retail Water Providers](#)
- [HB1515 – To Amend the Law Concerning Retail Water Providers and Related Service](#)
- [Oversight of Retail Water Providers – Act 605 of 2021](#)
- [94th Arkansas General Assembly/Retail Water Providers: Proposed Legislation Repealing Oversight Provisions](#)
- [Subchapter 8 - Oversight of Retail Water Providers](#)
- [Financial Planning: A Guide for Water and Wastewater Systems](#)