

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017

# A Bill

HOUSE BILL 1550

4  
5 By: Representative Davis  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING NONMUNICIPAL  
9 DOMESTIC SEWAGE TREATMENT WORKS; TO INCREASE  
10 CONTRIBUTIONS TO THE NONMUNICIPAL DOMESTIC SEWAGE  
11 TREATMENT WORKS TRUST FUND BY NONMUNICIPAL DOMESTIC  
12 SEWAGE TREATMENT WORKS; TO REQUIRE DOCUMENTATION  
13 CONCERNING FUTURE OPERATIONS FROM NONMUNICIPAL  
14 DOMESTIC SEWAGE TREATMENT WORKS; TO PROHIBIT NEW  
15 WATER CONNECTIONS TO NONCOMPLIANT NONMUNICIPAL  
16 DOMESTIC WASTEWATER TREATMENT SYSTEMS; AND FOR OTHER  
17 PURPOSES.  
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## Subtitle

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21 TO AMEND THE LAW CONCERNING NONMUNICIPAL  
22 DOMESTIC SEWAGE TREATMENT WORKS AND THE  
23 NONMUNICIPAL DOMESTIC SEWAGE TREATMENT  
24 WORKS TRUST FUND.  
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26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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29 SECTION 1. Arkansas Code § 8-4-203(b)(1), concerning permits generally  
30 for nonmunicipal domestic sewage treatment works, is amended to read as  
31 follows:

32 (b)(1)(A) The department shall not issue, modify, renew, or transfer a  
33 National Pollutant Discharge Elimination System permit or state permit for a  
34 nonmunicipal domestic sewage treatment works without the permit applicant  
35 first:

36 (i) ~~paying~~ Paying the trust fund contribution fee



1 required under subdivision ~~(b)(2)~~(b)(4) of this section; and

2 (ii) Submitting the assessment required by  
 3 subdivision (b)(1)(D) of this section.

4 (B) As used in this section, “nonmunicipal domestic sewage  
 5 treatment works” means a device or system operated by an entity other than a  
 6 city, town, county, or ~~sewer~~ an improvement district that treats, in whole or  
 7 in part, waste or wastewater from humans or household operations and must  
 8 continuously operate to protect human health and the environment despite a  
 9 permittee’s failure to maintain or operate the device or system.

10 (C) The following are specifically exempted from the  
 11 requirements of this section:

- 12 (i) State or federal facilities;
- 13 (ii) Schools;
- 14 (iii) Universities and colleges; and
- 15 (iv) Entities that continuously operate due to a  
 16 connection with a city, town, county, or ~~sewer~~ an improvement district.

17 (D) Each application for the initial permit and any  
 18 subsequent permit renewal, modification, or transfer for a nonmunicipal  
 19 domestic sewage treatment works submitted under this section shall be  
 20 accompanied by an assessment developed by a professional engineer licensed by  
 21 the state that includes:

- 22 (i) A cost estimate for a third party to operate and  
 23 maintain the nonmunicipal domestic sewage treatment works for five (5) years;
- 24 (ii) A list of all necessary capital expenditures,  
 25 system upgrades, or significant repairs and a milestone schedule for  
 26 completion within five (5) years; and
- 27 (iii) A financial plan that demonstrates to the  
 28 department’s satisfaction the permittee’s financial ability to operate and  
 29 maintain the nonmunicipal domestic sewage treatment works each year for five  
 30 (5) years.

31 (E)(i) Except as provided under subdivision (b)(1)(E)(ii)  
 32 of this section, the department shall not issue, renew, or transfer permit  
 33 coverage for nonmunicipal domestic sewage treatment works to property owners’  
 34 associations or homeowner associations after January 1, 2018.

35 (ii) A property owners’ association or homeowner  
 36 association with permit coverage on December 31, 2017, may retain permit

1 coverage if the property owners' association or homeowner association  
2 complies with this section.

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4 SECTION 2. Arkansas Code § 8-4-203(b)(4)(B), concerning trust fund  
5 contributions for nonmunicipal domestic sewage treatment works, is amended to  
6 read as follows:

7 (B)(i) The department shall determine the required initial  
8 and annual trust fund contribution fees for each nonmunicipal domestic sewage  
9 treatment works based on each nonmunicipal domestic sewage treatment works'  
10 actual flow and existing and projected number of residential end users.

11 (ii)(a) The department shall require an initial  
12 trust fund contribution fee for each construction permit for a new  
13 nonmunicipal domestic sewage treatment works or any modification to an  
14 existing nonmunicipal domestic sewage treatment works resulting in an  
15 increase in design treatment capacity.

16 (b) The initial trust fund contribution fee  
17 required by the department for a new nonmunicipal domestic sewage treatment  
18 works is the combined total of two dollars (\$2.00) per gallon per day of  
19 design treatment capacity plus fifty percent (50%) of the five-year operation  
20 and maintenance cost estimate required under subdivision (b)(1)(D)(i) of this  
21 section.

22 ~~(ii)(iii)~~ However, the The annual trust fund  
23 contribution fee required by the department shall not exceed ~~two hundred~~  
24 dollars ~~(\$200)~~ one thousand dollars (\$1,000) per year for no-discharge  
25 permits or ~~one thousand dollars (\$1,000)~~ five thousand dollars (\$5,000) per  
26 year for discharge permits.

27  
28 (iv)(a) Except as otherwise provided in subsection  
29 (b) of this section a nonmunicipal domestic sewage treatment works may apply  
30 for reimbursement for a maximum of fifty percent (50%) of the costs for  
31 capital expenditures necessary to maintain permit compliance made to the  
32 nonmunicipal domestic sewage treatment facility in the previous five (5)  
33 years if:

34 (1) Funding is available and  
35 appropriated; and

36 (2) The department has issued that

1 nonmunicipal domestic sewage treatment facility's third permit renewal  
2 following its initial trust fund contribution.

3 (b) Applications for reimbursement under this  
4 subdivision (b)(4)(B) shall include a statement certified by a professional  
5 engineer licensed by the State of Arkansas identifying the necessary capital  
6 costs expended.

7 (v) Reimbursements from the Nonmunicipal Domestic  
8 Sewage Treatment Works Trust Fund are subject to the following restrictions:

9 (a) Over the lifetime of a nonmunicipal  
10 domestic sewage treatment facility, the reimbursement to a nonmunicipal  
11 domestic sewage treatment works shall not exceed seventy-five percent (75%)  
12 of that nonmunicipal domestic sewage treatment facility's initial trust fund  
13 contribution fee.

14 (b) If the Director of the Arkansas Department  
15 of Environmental Quality determines that a nonmunicipal domestic sewage  
16 treatment works is in a state of chronic noncompliance, that nonmunicipal  
17 domestic sewage treatment works shall not receive reimbursement from the  
18 Nonmunicipal Domestic Sewage Treatment Works Trust Fund.

19 (c) The department shall reimburse a  
20 nonmunicipal domestic sewage treatment works based on a pro-rata share of  
21 each submitted request compared to the total remaining funding available if  
22 there are insufficient moneys available in a fiscal year to make  
23 reimbursements for all submitted requests under this subsection after:

24 (1) Deducting the moneys required to  
25 make payments to third-party contractors hired by the department from the  
26 Nonmunicipal Domestic Sewage Treatment Works Trust Fund;

27 (2) Calculating the total remaining  
28 funding available; and

29 (3) Allocating the moneys available for  
30 reimbursement to each applicant for reimbursement.

31 (vi) The Arkansas Pollution Control and Ecology  
32 Commission may promulgate regulations to implement this subsection (b).

33 (c) The initial trust fund contribution fee required by the  
34 department for modifications to existing domestic sewage treatment works is  
35 the combined total of two dollars (\$2.00) per gallon per day of net increase  
36 in design treatment capacity plus fifty percent (50%) of the five-year

1 operation and maintenance cost estimate required under subdivision  
2 (b)(1)(D)(i) of this section.

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4 SECTION 3. Arkansas Code § 8-4-203(b), concerning permits for  
5 nonmunicipal domestic sewage treatment works, is amended to add an additional  
6 subdivision to read as follows:

7 (9) If a nonmunicipal domestic sewage treatment works receives  
8 wastewater from water users connected to a water service provider, the water  
9 service provider shall not establish a new connection or initiate service to  
10 existing connections for water service if the water service provider receives  
11 a signed statement from the Director of the Arkansas Department of  
12 Environmental Quality or the director's designated representative certifying  
13 that the nonmunicipal domestic sewage treatment works:

14 (A) Is the subject of an enforcement action by the  
15 department;

16 (B) Has not complied with the requirements of this  
17 section, including payment of the nonmunicipal domestic sewage treatment  
18 works trust fund contribution; or

19 (C) Otherwise failed to comply with its permit.

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21 SECTION 4. Arkansas Code § 19-5-1142(c), concerning the Nonmunicipal  
22 Domestic Sewage Treatment Works Trust Fund, is amended to add an additional  
23 subdivision to read as follows:

24 (3) The fund may be used by the department to provide  
25 reimbursement to a nonmunicipal domestic sewage treatment works under § 8-4-  
26 203(b).