

By: Representative Yancey

To: Conservation and Water Resources

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1068

1 AN ACT TO CREATE THE WATER QUALITY ACCOUNTABILITY ACT; TO
2 DEFINE CERTAIN TERMS RELATING TO WATER AND WASTEWATER UTILITIES;
3 TO PROVIDE THAT A WATER OR WASTEWATER UTILITY IS SUBJECT TO THE
4 JURISDICTION OF THE DEPARTMENT OF HEALTH WITH RESPECT TO RATES,
5 CHARGES, CERTAIN EVIDENCE OF INDEBTEDNESS, RULES AND ANNUAL REPORT
6 FILINGS; TO PROVIDE CERTAIN REQUIREMENTS REGARDING WATER OR
7 WASTEWATER UTILITIES THAT REQUEST A LOAN OR FINANCIAL ASSISTANCE;
8 TO PROVIDE CERTAIN PERMIT AND PERMIT APPLICATION REQUIREMENTS; AND
9 FOR RELATED PURPOSES.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

11 **SECTION 1.** As used in this act, the following words have the
12 meanings as defined in this section, unless the context clearly
13 requires otherwise:

14 (a) "Department" means Department of Health.

15 (b) "Public utility" has the same meaning as the term
16 "public utility" as defined in Section 77-3-3.

17 (c) "Water or wastewater utility" means a public
18 utility that provides water service, wastewater service, or both
19 water service and wastewater service to the public.

20 Notwithstanding any other provisions of law to the contrary, these
21 positions shall not apply to any water or wastewater utility



22 service that does not meet both of the following conditions: (a)
23 has not less than twenty thousand (20,000) service connections;
24 (b) has been under an EPA consent decree within the past fifteen
25 (15) years.

26 **SECTION 2.** (1) A water or wastewater utility that is
27 organized as a legal entity is subject to the jurisdiction of the
28 Department of Health with respect to:

29 (a) Rates and charges;

30 (b) Stocks, bonds, notes, or other evidence of
31 indebtedness;

32 (c) Rules; and

33 (d) The annual report filing requirement;

34 for the period of ten (10) years beginning on the day on which the
35 water or wastewater utility is organized as a legal entity.

36 (2) This section shall not apply to:

37 (a) Any statutes requiring or permitting a water or
38 wastewater utility to petition the department before providing
39 service to the public; or

40 (b) The department's jurisdiction regarding provisions
41 of law and petitions referred to in subsection (2) (a) of this
42 section.

43 **SECTION 3.** (1) If a water or wastewater utility requests a
44 loan or other financial assistance from the department, such
45 request must be accompanied by the following:

46 (a) All papers and opinions required by the department.



47 (b) Unless otherwise provided by the guidelines of the
48 department, the following:

49 (i) An approving opinion of a nationally
50 recognized bond counsel.

51 (ii) A certification and guarantee of signatures.

52 (iii) A certification that, as of the date of the
53 loan or other financial assistance:

54 1. No litigation is pending challenging the
55 validity of or entry into the loan or other financial assistance
56 or any security for the loan or other financial assistance; or

57 2. If litigation is pending, the litigation
58 will not have a material adverse effect on the validity of the
59 loan or other financial assistance or any security for the loan or
60 other financial assistance.

61 (iv) If litigation is pending, as an alternative
62 to the certification as described in subparagraph (iii), an
63 opinion of legal counsel that the litigation will not have a
64 material adverse effect on the validity of the loan or other
65 financial assistance.

66 (v) Documentation demonstrating that the water or
67 wastewater utility has the financial, managerial, technical, and
68 legal capability of operating and maintaining its wastewater
69 collection and treatment system.

70 (2) Each water or wastewater utility to which, or for the
71 benefit of which, a loan would be made or other financial



72 assistance would be provided under this act, must demonstrate that
73 it has developed, or is in the process of developing, an asset
74 management program as set forth by the department.

75 **SECTION 4.** (1) A permit for the operation of a water
76 treatment plant or a wastewater treatment plant that is issued, or
77 amended for the purposes of the inclusion of a newly constructed
78 or newly acquired plant, or the expansion of an existing plant,
79 after the effective date of this act is subject to the
80 requirements set forth in Sections 5 through 9 of this act.

81 (2) This act does not apply to the renewal of a permit for
82 the operation of a water treatment plant or wastewater treatment
83 plant.

84 **SECTION 5.** A permit described in Section 4, subsection (1)
85 of this act may not be issued unless the applicant submits, along
86 with the permit application, a certification that all of the
87 following documents have been prepared and are complete under the
88 requirements of this act:

89 (a) A life cycle cost-benefit analysis, as described in
90 Section 6 of this act.

91 (b) A capital asset management plan, as described in
92 Section 7 of this act.

93 (c) A cybersecurity plan, as described in Section 8 of
94 this act.

95 **SECTION 6.** A water or wastewater utility's life cycle
96 cost-benefit analysis shall include a comparison of:



97 (a) Meeting the water supply or wastewater service
98 needs of the community or area served or proposed to be served
99 through the operation of the water and wastewater treatment plant,
100 as owned and operated, or proposed to be owned and operated
101 according to the terms of the permit application; and

102 (b) Meeting the water supply or wastewater service
103 needs of the community or area served or proposed to be served
104 through one (1) or more other potential means.

105 **SECTION 7.** A water or wastewater utility's capital asset
106 management plan shall include all of the following:

107 (a) A plan to annually review infrastructure needs of
108 the water or wastewater treatment plant.

109 (b) A detailed engineering analysis of asset conditions
110 and useful life, to be used to develop an infrastructure
111 inspection, repair and maintenance plan.

112 (c) An analysis of customer rates necessary to support
113 the capital asset management plan, including emergency repairs.

114 (d) A certification that the water or wastewater
115 treatment plant that has:

116 (i) A certified operator;

117 (ii) A corporate officer or system manager; and

118 (iii) Access to an engineer, either on staff or by
119 contract.

120 (e) A detailed map of the geographic location of each
121 major component of the water or wastewater system, including, but



122 not limited to, each valve and fire hydrant in the system, using a
123 global positioning system based on satellite or other location
124 technology.

125 **SECTION 8.** A water or wastewater utility's cybersecurity
126 plan shall provide for the protection of the water or wastewater
127 treatment plant from unauthorized use, alteration, or destruction
128 of electronic data.

129 **SECTION 9.** (1) The water or wastewater utility's analysis
130 and plans as provided in Sections 6, 7, and 8 of this act shall
131 be:

132 (a) Complete under the requirements of this act at the
133 time an application for a permit, as described in Section 4,
134 subsection (1) of this act, is submitted;

135 (b) Reviewed and revised at least once every five (5)
136 years, for as long as the permit holder operates the water
137 treatment plant or wastewater treatment plant; and

138 (c) Made publicly available.

139 (2) A certification that the analysis and plans as provided
140 in Sections 6, 7, and 8 of this act are complete under the
141 requirements of this act shall be submitted to the department:

142 (a) Under Section 5 of this act at the time an
143 application for a permit described in Section 4, subsection (1) of
144 this act is submitted; and

145 (b) At least once every five (5) years after an
146 application for a permit described in Section 4, subsection (1) of



147 this act is submitted, when the analysis and plans are reviewed
148 and revised under subsection (1)(b) of this Section 9.

149 (3) A certification submitted to the department under this
150 act shall be notarized. Failure to include a notarized
151 certification with an application for a permit as provided in
152 Section 4, subsection (1) of this act constitutes grounds for
153 denial of the permit application.

154 **SECTION 10.** This act shall take effect and be in force from
155 and after July 1, 2023.

