



1997 ASSEMBLY BILL 368

May 20, 1997 - Introduced by Representatives ROBSON, DUFF, MUSSEY and MURAT, cosponsored by Senator WEEDEN. Referred to Committee on Environment.

1 **AN ACT to renumber** 100.20 (2); **to renumber and amend** 196.26 (1); **to amend**
2 100.208 (2) (a), 196.26 (1m), 196.26 (2) (a), 196.26 (2) (b), 196.28 (1) and 196.28
3 (3); and **to create** 100.20 (2) (b), 196.26 (1) (b) to (g) and 196.498 of the statutes;
4 **relating to:** regulating water or sewer service provided to occupants of mobile
5 home parks, providing an exemption from emergency rule procedures, granting
6 rule-making authority and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the department of agriculture, trade and consumer protection (DATCP) may prohibit trade practices that it determines are unfair. Under this authority, DATCP has promulgated rules that establish standards with respect to the amount that the operator of a mobile home park may charge for utility services that are provided to occupants of the park. The rules also prohibit an operator of a mobile home park from requiring an occupant of the park to make, or pay a charge for, any permanent improvement to the park or its facilities.

This bill transfers regulatory authority over the provision of water or sewer service to occupants of a mobile home park from DATCP to the public service commission (PSC). The bill requires the PSC to promulgate rules that establish standards for water or sewer service that is provided to occupants of a mobile home park by the operator of the park (operator) or by another person under a contract with the operator (contractor). The rules must include requirements for metering, billing,

ASSEMBLY BILL 368

deposits, deferred payment arrangements, installation of service, refusing or discontinuing service and resolving disputes about service. The rules must also ensure that any charge for water or sewer service is reasonable and not unjustly discriminatory, that the service is reasonably adequate and that any practice relating to providing the service is just and reasonable. In addition, the bill prohibits an operator of a mobile home park from requiring an occupant of the park to make, or pay a charge for, any permanent improvement to the park or its facilities that is related to the provision of water or sewer service.

The bill allows the PSC to investigate and hold a hearing about water or sewer service provided by an operator or contractor if a complaint is filed by the occupants of 25% of the total number of mobile homes in a mobile home park or by the occupants of 25 mobile homes in a park, whichever is less, or if the PSC determines to do so on its own. In addition, the PSC may issue an order or bring an action in court to enforce any rule promulgated under the bill if an occupant of a mobile home park files a complaint or if the PSC determines to do so on its own. The department of justice, after consulting with the PSC, or any district attorney may also bring an action in court to enforce the rules. Also, any person who suffers a monetary loss resulting from a violation of the rules may sue for damages and recover twice the amount of the loss, costs and reasonable attorney fees.

Finally, any person who violates any rule promulgated under the bill is subject to a forfeiture of between \$25 and \$5,000 for each violation and for each day that the violation continues. If the violation is intentional, the person may be fined the same amount, imprisoned for up to one year, or both.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 100.20 (2) of the statutes is renumbered 100.20 (2) (a).

2 **SECTION 2.** 100.20 (2) (b) of the statutes is created to read:

3 100.20 (2) (b) Notwithstanding par. (a), the department may not issue any
4 order or promulgate any rule that regulates the provision of water or sewer service
5 by an operator, as defined in s. 196.498 (1) (f), or contractor, as defined in s. 196.498
6 (1) (a), or enforce any rule to the extent that the rule regulates the provision of such
7 water or sewer service.

8 **SECTION 3.** 100.208 (2) (a) of the statutes is amended to read:

ASSEMBLY BILL 368

1 100.208 (2) (a) A telecommunications provider has been found by a court to
2 have violated any provision of this chapter or of a rule promulgated under s. 100.20
3 (2) (a).

4 **SECTION 4.** 196.26 (1) of the statutes is renumbered 196.26 (1) (intro.) and
5 amended to read:

6 196.26 (1) (title) ~~COMPLAINT~~ DEFINITIONS. (intro.) In this section “~~complaint~~”:

7 (a) “Complaint” means a complaint filed with the commission that any rate,
8 toll, charge or schedule, joint rate, regulation, measurement, act or practice relating
9 to the provision of water or sewer service by an operator or contractor or to the
10 provision of heat, light, water, power or telecommunications service is unreasonable,
11 inadequate, unjustly discriminatory or cannot be obtained.

12 **SECTION 5.** 196.26 (1) (b) to (g) of the statutes are created to read:

13 196.26 (1) (b) “Contractor” has the meaning given in s. 196.498 (1) (a).

14 (c) “Manufactured home” has the meaning given in s. 101.91 (2).

15 (d) “Mobile home” has the meaning given in s. 101.91 (1).

16 (e) “Mobile home park” has the meaning given in s. 196.498 (1) (d).

17 (f) “Occupant” has the meaning given in s. 196.498 (1) (e).

18 (g) “Operator” has the meaning given in s. 196.498 (1) (f).

19 **SECTION 6.** 196.26 (1m) of the statutes is amended to read:

20 196.26 (1m) **COMPLAINT AND INVESTIGATION.** If any mercantile, agricultural or
21 manufacturing society, body politic, municipal organization or 25 persons file a
22 complaint against a public utility, the commission, with or without notice, may
23 investigate the complaint as it deems necessary. If the occupants of 25% of the total
24 number of manufactured homes or mobile homes in a mobile home park or the
25 occupants of 25 manufactured homes or mobile homes in a mobile home park,

ASSEMBLY BILL 368**SECTION 6**

1 whichever is less, files a complaint against a contractor or operator, the commission,
2 with or without notice, may investigate the complaint as it deems necessary. The
3 commission may not issue an order based on ~~the~~ an investigation under this
4 subsection without a public hearing.

5 **SECTION 7.** 196.26 (2) (a) of the statutes is amended to read:

6 196.26 (2) (a) Prior to a hearing under this section, the commission shall notify
7 the public utility, contractor or operator complained of that a complaint has been
8 made, and 10 days after the notice has been given the commission may proceed to
9 set a time and place for a hearing and an investigation.

10 **SECTION 8.** 196.26 (2) (b) of the statutes is amended to read:

11 196.26 (2) (b) The commission shall give the public utility, contractor or
12 operator which is the subject of a complaint filed under sub. ~~(1)~~ (1m) and the
13 complainant 10 days' notice of the time and place of the hearing and the matter to
14 be considered and determined at the hearing. The complainant and the public utility,
15 contractor or operator may be heard. The commission may subpoena any witness at
16 the request of the public utility, contractor, operator or complainant.

17 **SECTION 9.** 196.28 (1) of the statutes is amended to read:

18 196.28 (1) If the commission believes that any rate or charge is unreasonable
19 or unjustly discriminatory or that any service is inadequate or cannot be obtained
20 or that an investigation of any matter relating to any public utility or to any provision
21 of water or sewer service by an operator, as defined in s. 196.498 (1) (f), or contractor,
22 as defined in s. 196.498 (1) (a), should for any reason be made, the commission on its
23 own motion summarily may investigate with or without notice.

24 **SECTION 10.** 196.28 (3) of the statutes is amended to read:

ASSEMBLY BILL 368

1 196.28 (3) Notice of the time and place for a hearing under sub. (2) shall be
2 given to the public utility, contractor or operator, and to such other interested persons
3 as the commission deems necessary. After the notice has been given, proceedings
4 shall be had and conducted in reference to the matter investigated as if a complaint
5 had been filed with the commission under s. 196.26 (1) (1m) relative to the matter
6 investigated. The same order or orders may be made in reference to the matter as
7 if the investigation had been made on complaint under s. 196.26.

8 **SECTION 11.** 196.498 of the statutes is created to read:

9 **196.498 Regulation of water and sewer service to mobile home parks.**

10 (1) DEFINITIONS. In this section:

11 (a) “Contractor” means a person, other than a public utility, who, under a
12 contract with an operator, provides water or sewer service to an occupant or performs
13 a service related to providing water or sewer service to an occupant.

14 (b) “Manufactured home” has the meaning given in s. 101.91 (2).

15 (c) “Mobile home” has the meaning given in s. 101.91 (1).

16 (d) “Mobile home park” means any tract of land containing 2 or more individual
17 plots of land that are rented or offered for rent for the accommodation of a mobile
18 home or manufactured home.

19 (e) “Occupant” means a person who rents or owns a mobile home or
20 manufactured home in a mobile home park.

21 (f) “Operator” means a person engaged in the business of owning or managing
22 a mobile home park.

23 (2) RULES. The commission shall promulgate rules that establish standards for
24 providing water or sewer service by an operator or contractor to an occupant,
25 including requirements for metering, billing, deposits, deferred payment

ASSEMBLY BILL 368**SECTION 11**

1 arrangements, installation of service, refusing or discontinuing service and
2 resolving disputes with respect to service. Rules promulgated under this subsection
3 shall ensure that any charge for water or sewer service is reasonable and not unjustly
4 discriminatory, that the water or sewer service is reasonably adequate and that any
5 practice relating to providing the service is just and reasonable.

6 **(3) PERMANENT IMPROVEMENTS.** An operator may not require an occupant to
7 make, or pay a charge for, any permanent improvement to a mobile home park, or
8 any of its facilities, that is related to the provision of water or sewer service.

9 **(4) ENFORCEMENT.** (a) Notwithstanding s. 196.44, on its own motion or upon
10 a complaint filed by an occupant, the commission may issue an order or commence
11 a civil action against an operator or contractor to enforce this section, any rule
12 promulgated under sub. (2) or any order issued under this paragraph.

13 (b) The department of justice, after consulting with the commission, or any
14 district attorney may commence an action in circuit court to enforce this section.

15 **(5) PRIVATE CAUSE OF ACTION.** Any person suffering pecuniary loss because of
16 a violation of any rule promulgated under sub. (2) or order issued under sub. (4) (a)
17 may sue for damages and shall recover twice the amount of any pecuniary loss,
18 together with costs, and, notwithstanding s. 814.04 (1), reasonable attorney fees.

19 **(6) PENALTIES.** (a) Any person who violates any rule promulgated under sub.
20 (2) or any order issued under sub. (4) (a) shall forfeit not less than \$25 nor more than
21 \$5,000. Each violation and each day of violation constitutes a separate offense.

22 (b) Any person who intentionally violates any rule promulgated under sub. (2)
23 or order issued under sub. (4) (a) shall be fined not less than \$25 nor more than \$5,000
24 or imprisoned not more than one year in the county jail or both. Each violation and
25 each day of violation constitutes a separate offense.

