

SB147 11

**STATEMENT TO ASSEMBLY ENVIRONMENT COMMITTEE**  
**Public Hearing on Senate Bill 147 (Water metering in Mobile Home Parks)**  
**Submitted by Ross Kinzler, Executive Director**  
**Wisconsin Manufactured Housing Association**  
**March 3, 1998**

Thank you for the opportunity to submit a statement regarding Senate Bill 147, which is intended to address a problem relating to metering of water utility services in mobile home parks.

It is important to first explain why a controversy exists with this bill. By way of background, normally if a municipal utility provides water, it is also metered by the utility. But for some reason, for some mobile home parks, the water is being provided by the utility, but not metered. Approximately 130 parks have chosen to install individual meters themselves. Others have chosen to project those utility costs and include them ahead of time in the overall household rent.

For those 10 percent of mobile home parks in Wisconsin that have installed meters independent of the municipal utility, the result has been that they have been able to reduce water consumption by about 30%, thereby preserving our precious water supply.

Approximately 10% of mobile home parks have independently installed meters. It appears that some complaints have been filed with DATCP about this process. No one seems to know how many complaints, but it appears from Department data that just over 100 complaints in total have been filed regarding any and all issues involving mobile home parks. There are over 50,000 families living in parks in the state, so the number of complaints regarding just water service must be small. At the same time, in attempting to bring a solution to complaints by some residents in an undetermined number of locations, this bill unfairly subjects all mobile home parks in the state to the cost of Public Service Commission (PSC) oversight.

In addition, should the PSC investigate a complaint in an independently metered park, those costs will be charged back to the park owner, and ultimately to the park resident in the form of higher rent. Independently metered park operators may be forced to stop metering to avoid the possibility of incurring potentially significant investigative costs.

Other options, if considered, have not been discussed among interested parties, including tenants, park operators, regulators, and lawmakers. Should they be asked for a solution, for example, mobile home park operators might instead suggest the establishment of a requirement that municipal water utilities meter mobile home parks.

Given the need for further discussion and review of this issue, one which includes all interested parties, we would ask to be given the opportunity for a more thorough airing of the issues and options relating to municipal water service in mobile home parks. We intend to begin meeting soon with the Department of Agriculture, Trade and Consumer Protection as part of a planned review of ATCP 125. This administrative rule governs the landlord/tenant relationship in mobile home parks and already includes the major provisions of SB 147 relating to the charging of fair and reasonable utility rates in mobile home parks. The issue of utility services is in fact included as part of the scope statement approving review of ATCP 125 by the Department (see attached).

In summary, (1) the Wisconsin Manufactured Housing Association recognizes the intent to ensure fair market rates to park tenants for water and sewer service. We support that goal. (2) More parties need to come to the table to discuss water service in mobile home parks. This includes residents and municipal water utilities. (3) There is a process about to begin under the auspices of DATCP to organize that input. Rather than create additional cost and an even more encumbering mobile home park regulatory climate, we believe that identified problems should and can be resolved through the consumer protection mechanism which already exists in the provisions of ATCP 125.

Thank you for your consideration of our concerns and our request for postponement of SB 147.

## Questions Regarding SB 147

Does SB 147 provide more consumer protections than current law?

*Not necessarily, the bulk of SB 147 is contained in current ATCP 125, Wis. Admin. Code. In fact, under the bill, it takes 25% of the occupants of a mobile home park to trigger a PSC investigation. Current law allows even a single person to begin an investigation by DATCP.*

Isn't the PSC better able to handle water meter issues in mobile home parks?

*Water meter issues in mobile home parks are generally a part of the lease for the home site. To resolve these disputes, the PSC will have to also deal with landlord-tenant issues. Current law requires that the rates charged be competitive with those charged by public utilities. That is a factual issue, the balance is contract interpretation. WMHA believes that the PSC is not equipped for that task. In fact, the PSC is requesting an FTE plus fees to gear up for the duties imposed by the bill.*

Doesn't this bill complicate the regulation of mobile home parks?

*Yes, currently parks are licensed by the Wisconsin Division of Housing (DOA) which also handles some complaints. DATCP has adopted ATCP 125 which sets standards for the landlord-tenant relationship. It is unusual that the agency licensing an activity is not the primary location for consumer complaints. SB 147 will add another agency to the mix.*

Who pays for the regulations imposed by SB 147?

*The bill imposes two costs. First, annually, the PSC will bill all park operators a proportionate share of the amount set in s. 20.155(1)(i). [\$95,000 in 1997-98]. In addition, the cost of investigating any complaint will be billed back to the park operator that is the subject of the complaint. Presumably, these costs will be passed on the residents through their rent.*

Does that mean that all mobile home park residents will pay for this regulation even though only a few have metered water service?

*Yes.*

Does the bill include protections that public utilities enjoy to limit the size of these PSC charges?

*No, current law limits the PSC charges to four-fifths of one percent of revenues of the utility. SB 147 does not include a similar limit, so an investigation costing \$4,000 charged back to a mobile home park of 20 sites would cost each homeowner \$200. [About 40% of mobile home parks in the state have 25 or fewer sites.]*



# Public Service Commission of Wisconsin

Cheryl L. Parrino, Chairman  
Daniel J. Eastman, Commissioner  
Joseph P. Mettner, Commissioner

610 North Whitney Way  
P.O. Box 7854  
Madison, WI 53707-7854

## 1997 Senate Bill 147

Testimony of the Public Service Commission  
presented before the Assembly Committee on the Environment

-by-

Jason T. Kratochwill

March 3, 1998

The Commission appears for informational purposes.

Senate Bill 147, as amended, addresses to the satisfaction of the Commission the concerns which were noted in a similar bill, 1997 Assembly Bill 368, which was considered by this committee last year. We appreciate the efforts of Senator Weeden and Representative Robson to address the administrative concerns we raised.

The bill now provides for the Commission to recover the cost of this regulation from the benefiting Mobile Home Park industry by an annual assessment. Secondly, the bill provides for one full-time employe project position for the Public Service Commission in recognition of the additional workload resulting from this regulation.




# Wisconsin Manufactured Housing Association

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February 26, 1998

To: Members of the Assembly Environment Committee

Fr: Ross Kinzler, Executive Director 

Re: Request to Postpone Action on Senate Bill 147; Authorizing PSC Oversight of Mobile Home Parks

On behalf of the Wisconsin Manufactured Housing Association (WMHA), I write to respectfully urge that you postpone action on Senate Bill 147, relating to establishing Public Service Commission (PSC) oversight of mobile home parks.

The WMHA recognizes the intent to ensure fair market rates to park tenants for water and sewer service. We support that goal. However, if park tenants residing in parks which have been submetered by the park owner believe they are being overcharged, the Department of Agriculture, Trade and Consumer Protection (DATCP) is currently authorized to investigate and act on such complaints. In fact, the Department has a rule that is right on point prohibiting rates above those being charged in the general marketplace. Rather than approve SB 147 and thereby establish unnecessary, unwarranted and costly additional state oversight of mobile home parks, we suggest the focus instead be on improving and/or educating consumers about the regulatory mechanism which currently exists at DATCP?

The association estimates that less than 10% of mobile home parks are submetered by the park owner, or about 130 total. We would be happy to work with DATCP in educating and informing these and other park tenants about their rights and recourse with respect to water and sewer charges. It is also our goal to begin working soon with DATCP on possible revisions to ATCP 125 (Mobile Home Parks). Clarification and/or revisions relating to water and sewer charges could be taken up and addressed at that time.

Again, on behalf of Wisconsin park operators and tenants, I urge that you postpone action on SB 147. Let's determine if and why the present consumer protection mechanism is not working, before we go out and create additional cost and an even more encumbering regulatory climate. Thank you and please do not hesitate to contact me if you have any questions, or need additional information.

Attachments:

## PSC Oversight of Mobile Home Parks Duplicates Current Law

**COSTLY AND UNWARRANTED ADDITIONAL STATE OVERSIGHT:** The answer to the problem of bad actors in the "submetering" of water should not be the establishment of an additional level of costly, unwarranted, and unnecessary state oversight of mobile home parks.

- In the majority of mobile home parks, water is either metered directly by the municipal utility or is included as part of the site rent.
- In a very few instances where the municipal utility distributes water, but refuses to submeter, park owners have found it necessary to install their own sub-meters, a practice which should be encouraged, not discouraged. Metering is proven to reduce water consumption by 30%, thereby preserving our precious water supply. Perhaps the question should be asked, why is municipally metered water service always available to residents of stick-built homes, but not to mobile home park tenants?
- Under this legislation, a quality park operator will be assessed by the Public Service Commission (PSC) for the cost of policing the bad actor, while the presumed bad actor will be assessed again for the cost to investigate a complaint made against him. Park owners unable to absorb these potentially extraordinary costs will be forced to pass them along in the form of higher rents. Quality park operators and residents are being stung by the minority of park operators who abuse the situation.
- There are no new consumer protections in this bill. Under current law any tenant can bring a complaint regarding water or sewer service to the Department of Agriculture, Trade and Consumer Protection and have that claim investigated, or bring the action in Small Claims Court and receive double damages and attorney fees. Adding another layer simply makes no sense!

**LET'S KEEP AND, IF NECESSARY, IMPROVE UPON WHAT WE HAVE:** Clear provisions already exist for addressing complaints and concerns about service and rates on water and sewer in mobile home parks.

- ATCP 125.04 (3) (d) requires the rates to be "competitive with retail prices charged for the same or equivalent services by public utilities or other local sources."
- If a mobile home park resident feels their rates are not competitive, he or a Consumer Protection investigator, simply must compare the submetered rate to that of the nearest utility. If the rate is not competitive, the consumer has an arsenal of plaintiffs attorneys or state investigators already available to vigorously pursue the complaint (see attached Comparison of Current Law v. SB 147/AB 368).

AB 368 v. Current Law

**Current Law**

Complaint Trigger:

Any person; the Department of Agriculture, Trade and Consumer Protection; the Department of Justice after consulting with DATCP or any district attorney. (100.20 & 100.26)

Permanent Improvements:

"No operator shall:  
Require any tenant to make permanent improvements to the mobile home park or any of its facilities, or assess any separate charge therefor." ATCP 125.09(3)

Private Cause of Action:

"Any person suffering pecuniary loss because of a violation by any other person of any order issued under this section may sue for damages therefor in any court of competent jurisdiction and shall recover twice the amount of the pecuniary loss, together with costs, including a reasonable attorney's fee." 100.20 (5)

Penalties:

"Any person who...intentionally refuses, neglects or fails to obey any regulation or order ...shall be fined not less than \$25 nor more than \$5,000, or imprisonment in the county jail for not more than one year or both." 100.26(3)

"The department, the Department of Justice, after consulting with the department, or any district attorney may commence action in the name of the state to recover a civil forfeiture of not less than \$100 nor more than \$10,000 for each violation of an order issued under 100.20."

**SB 147**

Occupants of 25% of the total number of manufactured homes/mobile homes in the park or the occupants of 25 homes whichever is less; the Public Service Commission on its own motion.

"An operator may not require an occupant to make, or pay a charge for, any permanent improvement to a mobile home park, or any of its facilities, that is related to the provision of water or sewer service."

"Any person suffering pecuniary loss because of a violation of any rule promulgated under sub. (2) or order issued under sub (4)(a) may sue for damages and shall recover twice the amount of any pecuniary loss, together with costs, and notwithstanding s814.04(1), reasonable attorney fees.

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

Any person who violates any rule promulgated under ...(the bill)... shall forfeit not less than \$25 nor more than \$5,000. Each violation and each day of violation constitutes a separate offense.



**TIM WEEDEN**  
**WISCONSIN STATE SENATOR**

June 19, 1997

Ross Kinzler  
Executive Director  
Wisconsin Manufactured Housing Association  
202 State Street, Suite 200  
Madison, WI 53703-2215

Dear Ross:

Since AB 368 is a companion bill to my Senate Bill 147, I am taking the liberty of addressing your remarks at the recent Assembly Environment Committee hearing on June 4, 1997.

The intent of my bill, Senate Bill 147 and its companion AB 368, is to improve the enforcement of the laws governing water and sewer rates. The Department of Agriculture, Trade and Consumer Protection is frustrated in its attempts to regulate water and sewer rates charged residents by mobile home park owners/operators. The PSC, on the other hand, is well versed in the area of utility issues and the general public logically associates the PSC with the regulation of these services.

While my intent is to help residents who are consistently being billed excessively high rates, in some cases \$200 per month for water usage even under the metering system, I recognize that there are some well-run mobile home parks in Wisconsin with satisfied residents. I do not want to change what is a good arrangement for these people. By giving the PSC authority through the administrative rule process rather than statutory language, the high satisfaction rate of those parks can be maintained.

My bill allows individuals [under section 196.498(4)], large parks, and very small parks to file complaints with the PSC. Alternatively, the PSC is free to initiate an investigation and action

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MEMBER: JOINT FINANCE COMMITTEE

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of its own. The Department of Justice or a district attorney is also given the ability to commence an action in circuit court to enforce the law. The main emphasis of this proposal is fair and reasonable rates and enforcement power.

The assessment fee requested by the PSC seems reasonable. This fee is based on the size of the park and the work involved in regulating these services. I think park residents would be willing to pay a small yearly fee if they were assured that their water and sewer rates would be reasonable and that an enforcement process was in place to ensure this.

I have reviewed the Spring Brook Village rate chart you provided the Assembly Committee. I notice that approximately half of the time U.S. Energy billed residents more than WP&L billed the park for water on a monthly basis. Since 1995 this has been a prevalent practice. It appears as though U.S. Energy is attempting to recover WP&L charges that spiked for a three month period in 1992. In fact, virtually the entire difference between WP&L charges and resident billings since 1989 can be explained by this four month period in 1992.

A substitute amendment to Senate Bill 147 has been drafted and will soon be introduced by the Senate Committee on Utility Regulation. A copy of that substitute amendment is enclosed. Please feel free to contact me with any questions you might have.

I understand that the Manufactured Housing Association wants a one-stop manufactured housing regulatory department at some point in the future, but Mobile Home Park residents need to have their individual water and sewer rate problems addressed now.

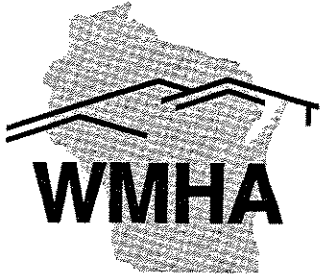
Sincerely,



TIM WEEDEN  
15<sup>th</sup> Senate District

dlr

cc: Members, Assembly Committee on Environment



# Wisconsin Manufactured Housing Association

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June 20, 1997

Sen. Tim Weeden  
Wisconsin State Senate  
PO Box 7882  
Madison, WI 53707

VIA FAX

Dear Sen. Weeden:

Thank you for providing a copy of the substitute to SB 147. First, as to the billings in Springbrook Village, your analysis regarding the years 1995, 1996 and 1997 appears correct that Springbrook billed residents more than WPL billed. However, Springbrook still had the costs of reading the meters, sending bills and the cost of receivables. We will certainly expect that since the PSC allows public utilities to recover these costs that our members will also be allowed to recover them. Further, over time, Springbrook has still not recovered what it was billed by WPL.

If the residents of Springbrook believe that the rates they are paying are not competitive with retail prices charged in the marketplace, then they already have a cause of action under current law (100.20, stats.). They can recover double damages and attorney fees under that statute.

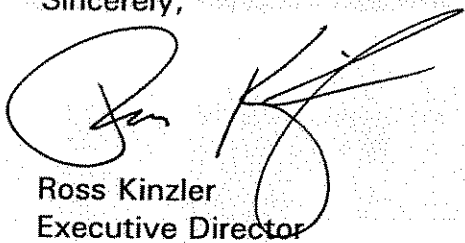
We wouldn't even have this debate if public utilities stopped treating residents in mobile home parks like second class citizens. As evidence, I'm including a copy of from the Village of Crivitz. The Village will no longer provide individually metered service to the mobile home parks in that city. We just receive a similiar letter from the City of Brillion. As long as the PSC permits these reductions in service, we'll see growing use of submetering by private parties. SB 147 and AB 368 treat the result of a municipal war on mobile home park residents. These residents pay the same tax rate as any other citizen on their home, yet don't receive equivalent public services.

I continue to believe we are on the same side in this debate, we just have a different solution. Our solution is two fold. One, create a one stop shop for mobile home resident complaints and two, guarantee residents of mobile home parks the same level of government services as provided other single family households.

As to the substitute, I am somewhat confused by the PSC fee language. My understanding is that the PSC would bill a mobile home park for the costs of resolving complaints related to that park. If the cumulative amount of those fees was insufficient to pay the cost of the 1.0 FTE, the balance would be charged to other regulated parks.

There are 1158 parks in the state, of which well over 400 have less than 20 home sites. We estimate that there are less than 30 parks in the state submetering, then the \$95,000 will be spread first to those parks with complaints and then to the balance of the 30 parks. Does that mean that if a park with 20 sites has a dispute and is charged \$2,000 for resolving that dispute that a homeowner will see a cost of \$100 if the park owner recovers that cost from the 20 homeowners through future rent. Further, the remaining \$93,000 cost would then be spread over the total of the regulated parks. (If 1158 parks represent approximately 51,000 sites then 30 parks might represent 1321 sites. That would result in a \$70 charge per homeowner per year. So homeowners in the one complaining park would pay \$170 and the others would pay \$70. If I have this wrong, please let me know because the draft is not very specific on this matter.

Sincerely,



Ross Kinzler  
Executive Director

C Members, Assembly Committee on Environment