



Legislative Fiscal Bureau

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January 20, 1998

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Substitute Amendment 1 to Senate Bill 147: Regulation of Water and Sewer Service to Occupants of Mobile Home Parks

Senate Bill 147 was introduced on April 2, 1997. Senate Substitute Amendment 1 (SSA 1) to Senate Bill 147 was introduced by the Senate Committee on Utility Regulation. During its consideration of SSA 1, the Committee also adopted Senate Amendment 1 to the substitute amendment. SSA 1, as amended, was recommended by the Committee for passage on a vote of 6-1.

SUMMARY OF THE SUBSTITUTE AMENDMENT

Senate Substitute Amendment 1 to Senate Bill 147 would make the following modifications to current law mobile home water and sewer utility regulatory oversight:

Transfer of Mobile Home Water and Sewer Utility Regulation. SSA 1 would newly vest in the Public Service Commission (PSC) regulatory authority over the provision of water and sewer service to occupants of a mobile home park. Currently, the Department of Agriculture, Trade and Consumer Protection (DATCP), under its general authority to prohibit unfair trade practices, has promulgated administrative rules [ATCP 125] establishing standards governing the amount that an operator of a mobile home park may charge for utility services provided to occupants of a mobile home park.

Under SSA 1, DATCP would be prohibited from issuing or enforcing any order or promulgating any administrative rule regulating the provision of water and sewer service to a mobile home park operator [a person who owns or manages a mobile home park] or to a mobile

home park contractor [a person who provides water or sewer service under contract to a mobile home park operator and its occupants].

Regulation of Water and Sewer Service to Mobile Home Parks. SSA 1 would require the PSC to promulgate administrative rules that establish standards for water and sewer service to occupants of a mobile home park by a park operator or a contractor for the provision of water and sewer service to a park.

These PSC administrative rules would have to include requirements for metering, billing, deposits, deferred payment arrangements, installation of service, refusing or discontinuing service and resolving disputes about service. Further, the rules would have to ensure that any charge for water or sewer service be reasonable and not unjustly discriminatory, that the service be reasonably adequate and that any practice relating to providing the service be just and reasonable.

A session law provision would require the proposed permanent administrative rules to be submitted to the Legislative Council Rules Clearinghouse no later than the first day of the 6th month after publication of the act. Further, the PSC would be directed to promulgate initial emergency rules establishing standards for water and sewer service to occupants of mobile home parks. These emergency rules would apply during the interim period between the general effective date of the act and the effective date of the permanent rules but could not exceed a maximum period of 270 days under current law. The PSC would not have to provide evidence of the necessity of preservation of the public peace, health, safety or welfare in order to promulgate these emergency rules.

Recovery of Certain Permanent Improvement Costs Authorized. SSA 1 would authorize a mobile home park operator to make a reasonable recovery of capital costs through ongoing water and sewer service rates for any permanent improvements related to the provision of such services to mobile home park occupants. Under the current DATCP rule, an operator may not require an occupant to make, or pay a charge for, any permanent improvement to the park or its facilities.

Enforcement Actions. The PSC would be authorized to investigate and hold hearings on matters relating to water or sewer service provided by a mobile home park operator or contractor, if a complaint is filed by the occupants of 25% of the total number of mobile homes in a park or by the occupants of 25 mobile homes in a park, whichever complaint threshold is less. Additionally, the PSC would be authorized to commence an investigation on its own motion.

The PSC could issue an order or bring an action in court to enforce its rules based on a filed complaint or if the PSC proceeded on its own motion. However, no order could be issued by the Commission based on its investigation without first holding a public hearing on the matter.

Either the Department of Justice, after consulting with the PSC, or any district attorney would be authorized to bring an action in court to enforce the PSC administrative rules governing water or sewer utility service to mobile home parks. In general, under current law, the Attorney

General or a district attorney may aid in any public utility investigation, hearing or trial, including enforcement actions, only upon the request of the PSC.

SSA 1 would provide that any person who suffered a monetary loss resulting from a violation of the PSC's rules could sue for damages and recover twice the amount of any pecuniary loss, together with costs and reasonable attorney fees. A forfeiture of between \$25 and \$5,000 per violation would be established and made applicable to any person who violated the PSC rules on mobile home park water or sewer utility service. Each day of violation would constitute a separate offense. If a violation was found to be intentional, SSA 1 would provide that the violator could be fined the forfeitures previously described, or be imprisoned for up to one year, or both.

Recovery of the Costs of Regulation. The PSC would be authorized to collect direct and remainder assessments from mobile home park operators to recover the costs of mobile home park water or sewer utility service regulation. Direct assessments would be made against individual mobile home park operators for the costs of any investigations conducted. The annual total of any remainder assessments (charged proportionately to all mobile home park operators in the state) could not exceed the amounts specifically appropriated in each fiscal year to a new PR-funded, sum certain appropriation account, less the amount of any direct assessments charged to individual mobile home park operators during the prior fiscal year.

The annual remainder assessment would have to be made within 90 days of the commencement of each fiscal year and would be due within 30 days of the date of billing.

Appropriations and Staffing. SSA 1 would establish a new PR-funded, sum certain appropriation account to fund the costs of regulating the provision of water and sewer service by mobile home park operators and contractors. The entire amount of the assessment revenues received by the PSC from mobile home park operators would be credited to this appropriation account. This treatment of assessment receipts would, therefore, differ from PSC assessments for utility, holding company and railroad regulatory activities, where 90% of the total amounts assessed are currently credited to the relevant appropriation account and 10% of the total amounts assessed are deposited to the general fund as GPR-Earned.

SSA 1 would authorize expenditures of \$95,000 PR in 1997-98 and \$75,000 PR in 1998-99 from this new appropriation and would authorize 1.0 PR position (a public utility rate analyst-senior) funded from the new appropriation to provide mobile home park water and sewer utility regulatory oversight, complaint monitoring and rules development support.

Effective Date. All of the provisions of SSA 1 would take effect on the first day of the 12th month following publication of the act with the exception of requirement that the PSC submit proposed permanent rules to the Legislative Council staff no later than the first day of the 6th month after publication of the act. This rules submission requirement would be effective on the day following publication.

SUMMARY OF SENATE AMENDMENT 1

Senate Amendment 1 to SSA 1 would delete the authority of the PSC to make direct assessments associated with the costs of any proceeding involving a specific mobile home park operator or contractor. As a result of this amendment, all of the costs of regulating the provision of water and sewer service by mobile home park operators and contractors would be recouped as an annual remainder assessment apportioned among all mobile home park operators in the state.

FISCAL EFFECT

SSA 1 would provide expenditure authority of \$95,000 PR in 1997-98 and \$75,000 PR in 1998-99 and would authorize 1.0 PR new position under a new PR-funded, sum certain appropriation account for mobile home park water and sewer utility regulation. However, as drafted, the general effective date of SSA 1 would be the first day of the 12th month following publication of the act. Consequently, the funding and the associated position authorization for the new rate analyst position would not be available to the PSC until the fourth quarter of the 1998-99 fiscal year at the earliest.

The funding levels actually included under SSA 1 would support the salary and fringe benefits costs of a new public utility rate analyst-senior position (\$49,200 PR annually) and associated staff support expenses (\$25,800 PR annually) for supplies and services costs, travel associated with complaint investigations and training activities. Additionally, \$20,000 PR of one-time start-up costs in 1997-98 would be appropriated for the purchase and installation of modular furniture (\$12,000 PR) and computer needs (\$8,000 PR) associated with the new position.

The justification for the new public utility rate analyst position is based on a projected need of reviewing 500 routine utility service billing and service inquiries annually, the processing of an unspecified number of complaints annually and assisting PSC legal staff with the development of the permanent administrative rules on mobile home park water and sewer utility services. However, this workload projection is based on complaint and investigation experience with general water utilities and may not reflect the experience that would result with mobile home park operations. For example, DATCP indicated in its fiscal estimate that its total complaint and inquiry volume has averaged 80 cases per year. Further, the involvement by the new position in the rules promulgation process would not actually begin until after existing PSC legal staff had proposed the emergency rules and permanent rules were being developed.

POSSIBLE AMENDMENTS

Because of the bill's delayed effective date for providing funding and position authority for mobile home park water and sewer regulation, the Committee could choose to amend the

substitute amendment to provide funding only for three months in the 1998-99 fiscal year to be consistent with SSA 1, as drafted.

Under such an amendment, a total of \$26,200 PR could be provided in 1998-99 for: (1) 1.0 PR two-year project position (\$12,300 PR); (2) on-going support costs (\$6,400 PR); and (3) one time start-up costs (\$7,500 PR). These lower one-time start-up costs are based on standard funding levels developed by the Executive Budget Office for modular furniture and computer resources for new position authorizations.

Further, until actual complaint and inquiry workload data are developed following enactment, the position could initially be authorized as a project position through June 30, 2001. Any extension of position authority beyond that date could then be evaluated as part of a future PSC budget decision item.

Finally, if the Committee believes it desirable to treat the assessment of the costs of regulation of mobile home park water and sewer services in the same manner as the assessment of the costs of regulation of public utilities, holding companies and railroads, it could also modify the bill to provide that 90% of the total amounts assessed against mobile home park operators would be created to the new PR appropriation and 10% of the total amounts assessed would be deposited to the general fund as GPR-Earned.

Prepared by: Toi

MO# LRBa 1315/3

1 BURKE	Y	N	A
DECKER	Y	N	A
JAUCH	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
SCHULTZ	Y	N	A
ROSENZWEIG	Y	N	A
GARD	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
PORTER	Y	N	A
2 KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
AYE	<u>16</u>	NO <u>0</u>	ABS <u>0</u>

Standing Comm. amendment

MO# LRB (0697) (0194)

1 BURKE	Y	N	A
DECKER	Y	N	A
JAUCH	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
SCHULTZ	Y	N	A
ROSENZWEIG	Y	N	A
2 GARD	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
PORTER	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
AYE	<u>16</u>	NO <u>0</u>	ABS <u>0</u>

approval of

Senate Sub 1

MO# as amended and passage
as amended

1	BURKE	(Y)	N	A
	DECKER	(Y)	N	A
	JAUCH	(Y)	N	A
	SHIBILSKI	(Y)	N	A
	COWLES	(Y)	N	A
	PANZER	(Y)	N	A
	SCHULTZ	(Y)	N	A
	ROSENZWEIG	(Y)	N	A

2	GARD	(Y)	N	A
	OURADA	(Y)	N	A
	HARSDORF	Y	(N)	A
	ALBERS	(Y)	N	A
	PORTER	(Y)	N	A
	KAUFERT	(Y)	N	A
	LINTON	(Y)	N	A
	COGGS	(Y)	N	A

AYE 15 NO 1 ABS 0