



State of Wisconsin
1997 - 1998 LEGISLATURE

LRBs0194/1
MDK:mfd:arm

**SENATE SUBSTITUTE AMENDMENT 1,
TO 1997 SENATE BILL 147**

October 22, 1997 - Offered by COMMITTEE ON UTILITY REGULATION.

1 **AN ACT to renumber** 100.20 (2) and 196.01 (3r); **to amend** 20.155 (1) (g), 100.208
2 (2) (a), 196.26 (1), 196.26 (1m), 196.26 (2) (a), 196.26 (2) (b), 196.28 (1), 196.28
3 (3), 196.85 (title), 196.85 (1), 196.85 (3), 196.85 (4) (a) and 196.85 (5); and **to**
4 **create** 20.155 (1) (i), 100.20 (2) (b), 196.01 (3m), (3n), (3p), (3q), (3s) and (3t),
5 196.498 and 196.85 (2g) of the statutes; **relating to:** regulating water or sewer
6 service provided to occupants of mobile home parks, providing an exemption
7 form emergency rule procedures, granting rule-making authority, making an
8 appropriation and providing a penalty.

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

9 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
10 the following amounts for the purposes indicated:

	1997-98	1998-99
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20.155 Public service commission

(1) REGULATION OF PUBLIC UTILITIES

(i) Mobile home park regulation	PR	A	95,000	75,000
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SECTION 2. 20.155 (1) (g) of the statutes is amended to read:

20.155 (1) (g) *Utility regulation.* The amounts in the schedule for the regulation of utilities. Ninety percent of all moneys received by the commission under s. 184.10 (3), 196.85 or 196.855, except moneys received from mobile home park operators under s. 196.85, shall be credited to this appropriation. Ninety percent of all receipts from the sale of miscellaneous printed reports and other copied material, the cost of which was originally paid under this paragraph, shall be credited to this appropriation.

SECTION 3. 20.155 (1) (i) of the statutes is created to read:

20.155 (1) (i) *Mobile home park regulation.* The amounts in the schedule for regulating the provision of water or sewer service by mobile home park operators and mobile home park contractors. All moneys received by the commission from mobile home park operators under s. 196.85 shall be credited to this appropriation.

SECTION 4. 100.20 (2) of the statutes is renumbered 100.20 (2) (a).

SECTION 5. 100.20 (2) (b) of the statutes is created to read:

100.20 (2) (b) Notwithstanding par. (a), the department may not issue any order or promulgate any rule that regulates the provision of water or sewer service by a mobile home park operator, as defined in s. 196.01 (3t), or mobile home park contractor, as defined in s. 196.01 (3q), or enforce any rule to the extent that the rule regulates the provision of such water or sewer service.

1 **SECTION 6.** 100.208 (2) (a) of the statutes is amended to read:

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

5 **SECTION 7.** 196.01 (3m), (3n), (3p), (3q), (3s) and (3t) of the statutes are created
6 to read:

7 196.01 **(3m)** “Manufactured home” has the meaning given in s. 101.91 (2).

8 **(3n)** “Mobile home” has the meaning given in s. 101.91 (1).

9 **(3p)** “Mobile home park” means any tract of land containing 2 or more
10 individual plots of land that are rented or offered for rent for the accommodation of
11 a mobile home or manufactured home.

12 **(3q)** “Mobile home park contractor” means a person, other than a public utility,
13 who, under a contract with a mobile home park operator, provides water or sewer
14 service to a mobile home park occupant or performs a service related to providing
15 water or sewer service to a mobile home park occupant.

16 **(3s)** “Mobile home park occupant” means a person who rents or owns a mobile
17 home or manufactured home in a mobile home park.

18 **(3t)** “Mobile home park operator” means a person engaged in the business of
19 owning or managing a mobile home park.

20 **SECTION 8.** 196.01 (3r) of the statutes is renumbered 196.01 (3g).

21 **SECTION 9.** 196.26 (1) of the statutes is amended to read:

22 196.26 **(1)** COMPLAINT. In this section “complaint” means a complaint filed with
23 the commission that any rate, toll, charge or schedule, joint rate, regulation,
24 measurement, act or practice relating to the provision of heat, light, water, power or
25 telecommunications service, or to the provision of water or sewer service by a mobile

1 home park operator or mobile home park contractor, is unreasonable, inadequate,
2 unjustly discriminatory or cannot be obtained.

3 **SECTION 10.** 196.26 (1m) of the statutes is amended to read:

4 196.26 **(1m)** COMPLAINT AND INVESTIGATION. If any mercantile, agricultural or
5 manufacturing society, body politic, municipal organization or 25 persons file a
6 complaint against a public utility, the commission, with or without notice, may
7 investigate the complaint as it deems necessary. If the mobile home park occupants
8 of 25% of the total number of manufactured homes or mobile homes in a mobile home
9 park or the mobile home park occupants of 25 manufactured homes or mobile homes
10 in a mobile home park, whichever is less, files a complaint against a mobile home
11 park contractor or mobile home park operator, the commission, with or without
12 notice, may investigate the complaint as it deems necessary. The commission may
13 not issue an order based on ~~the~~ an investigation under this subsection without a
14 public hearing.

15 **SECTION 11.** 196.26 (2) (a) of the statutes is amended to read:

16 196.26 **(2)** (a) Prior to a hearing under this section, the commission shall notify
17 the public utility, mobile home park contractor or mobile home park operator
18 complained of that a complaint has been made, and 10 days after the notice has been
19 given the commission may proceed to set a time and place for a hearing and an
20 investigation.

21 **SECTION 12.** 196.26 (2) (b) of the statutes is amended to read:

22 196.26 **(2)** (b) The commission shall give the public utility, mobile home park
23 contractor or mobile home park operator which is the subject of a complaint filed
24 under sub. ~~(1)~~ (1m) and the complainant 10 days' notice of the time and place of the
25 hearing and the matter to be considered and determined at the hearing. The

1 complainant and the public utility, mobile home park contractor or mobile home park
2 operator may be heard. The commission may subpoena any witness at the request
3 of the public utility, mobile home park contractor, mobile home park operator or
4 complainant.

5 **SECTION 13.** 196.28 (1) of the statutes is amended to read:

6 196.28 (1) If the commission believes that any rate or charge is unreasonable
7 or unjustly discriminatory or that any service is inadequate or cannot be obtained
8 or that an investigation of any matter relating to any public utility or to any provision
9 of water or sewer service by a mobile home park operator or mobile home park
10 contractor should for any reason be made, the commission on its own motion
11 summarily may investigate with or without notice.

12 **SECTION 14.** 196.28 (3) of the statutes is amended to read:

13 196.28 (3) Notice of the time and place for a hearing under sub. (2) shall be
14 given to the public utility, mobile home park contractor or mobile home park
15 operator, and to such other interested persons as the commission deems necessary.
16 After the notice has been given, proceedings shall be had and conducted in reference
17 to the matter investigated as if a complaint had been filed with the commission under
18 s. 196.26 (1) (1m) relative to the matter investigated. The same order or orders may
19 be made in reference to the matter as if the investigation had been made on complaint
20 under s. 196.26.

21 **SECTION 15.** 196.498 of the statutes is created to read:

22 **196.498 Regulation of water and sewer service to mobile home parks.**

23 (2) RULES. The commission shall promulgate rules that establish standards for
24 providing water or sewer service by a mobile home park operator or mobile home
25 park contractor to a mobile home park occupant, including requirements for

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

7 **(3) PERMANENT IMPROVEMENTS.** A mobile home park operator may make a
8 reasonable recovery of capital costs for permanent improvements related to the
9 provision of water or sewer service to mobile home park occupants through ongoing
10 rates for water or sewer service.

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

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

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

22 **(6) PENALTIES.** (a) Any person who violates any rule promulgated under sub.
23 (2) or any order issued under sub. (4) (a) shall forfeit not less than \$25 nor more than
24 \$5,000. Each violation and each day of violation constitutes a separate offense.

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

5 **SECTION 16.** 196.85 (title) of the statutes is amended to read:

6 **196.85 (title) Payment of commission's expenditures by utilities.**

7 **SECTION 17.** 196.85 (1) of the statutes is amended to read:

8 196.85 (1) If the commission in a proceeding upon its own motion, on complaint,
9 or upon an application to it deems it necessary in order to carry out the duties
10 imposed upon it by law to investigate the books, accounts, practices and activities of,
11 or make appraisals of the property of any public utility, power district, mobile home
12 park operator or sewerage system or to render any engineering or accounting
13 services to any public utility, power district, mobile home park operator or sewerage
14 system, the public utility, power district, mobile home park operator or sewerage
15 system shall pay the expenses attributable to the investigation, including the cost
16 of litigation, appraisal or service. The commission shall mail a bill for the expenses
17 to the public utility, power district, mobile home park operator or sewerage system
18 either at the conclusion of the investigation, appraisal or services, or during its
19 progress. The bill constitutes notice of the assessment and demand of payment. The
20 public utility, power district, mobile home park operator or sewerage system shall,
21 within 30 days after the mailing of the bill, pay to the commission the amount of the
22 special expense for which it is billed. Ninety percent of the payment shall be credited
23 to the appropriation account under s. 20.155 (1) (g), except that 100% of all payments
24 received from mobile home park operators shall be credited to the appropriation
25 account under s. 20.155 (1) (i). The total amount in any one calendar year for which

1 any public utility, power district or sewerage system is liable, by reason of costs
2 incurred by the commission within the calendar year, including charges under s.
3 184.10 (3), may not exceed four-fifths of one percent of its gross operating revenues
4 derived from intrastate operations in the last preceding calendar year. Nothing in
5 this subsection shall prevent the commission from rendering bills in one calendar
6 year for costs incurred within a previous year. For the purpose of calculating the
7 costs of investigations, appraisals and other services under this subsection, except
8 with respect to mobile home park operators, 90% of the costs determined shall be
9 costs of the commission and 10% of the costs determined shall be costs of state
10 government operations.

11 **SECTION 18.** 196.85 (2g) of the statutes is created to read:

12 196.85 (2g) The commission shall annually, within 90 days after the
13 commencement of each fiscal year, assess against mobile home park operators the
14 total amount appropriated under s. 20.155 (1) (i), less the total amount paid by
15 mobile home park operators under sub. (1) during the prior fiscal year. The
16 commission shall assess each mobile home park operator an amount in proportion
17 to the total number of mobile homes and manufactured homes in all mobile home
18 parks owned or managed by the mobile home park operator on July 1 of the current
19 fiscal year as a fraction of the total number of mobile homes and manufactured homes
20 in all mobile home parks in this state on July 1 of the current fiscal year. If necessary,
21 the commission shall adjust the amount assessed to correct any incorrect assessment
22 that was made in a prior fiscal year. A mobile home park operator shall pay the
23 assessment within 30 days after the commission mails the bill to the mobile home
24 park operator. The bill constitutes notice of the assessment and demand for

1 payment. Payments shall be credited to the the appropriation account under s.
2 20.155 (1) (i).

3 **SECTION 19.** 196.85 (3) of the statutes is amended to read:

4 196.85 (3) If any public utility, sewerage system, mobile home park operator
5 or power district is billed under sub. (1) ~~or~~, (2) or (2g) and fails to pay the bill within
6 30 days or fails to file objections to the bill with the commission, as provided in this
7 subsection, the commission shall transmit to the state treasurer a certified copy of
8 the bill, together with notice of failure to pay the bill, and on the same day the
9 commission shall mail by registered mail to the public utility, sewerage system,
10 mobile home park operator or power district a copy of the notice which it has
11 transmitted to the state treasurer. Within 10 days after ~~the~~ receipt of the notice and
12 certified copy of the bill, the state treasurer shall levy the amount stated on the bill
13 to be due, with interest, by distress and sale of any property, including stocks,
14 securities, bank accounts, evidences of debt, and accounts receivable belonging to the
15 delinquent public utility, sewerage system, mobile home park operator or power
16 district. The levy by distress and sale shall be governed by s. 74.10, 1985 stats.,
17 except that it shall be made by the state treasurer and that goods and chattels
18 anywhere within the state may be levied upon.

19 **SECTION 20.** 196.85 (4) (a) of the statutes is amended to read:

20 196.85 (4) (a) Within 30 days after the date of the mailing of any bill under ~~subs.~~
21 sub. (1) ~~and~~, (2) or (2g), the public utility, sewerage system, mobile home park
22 operator or power district that has been billed may file with the commission
23 objections setting out in detail the grounds upon which the objector regards the bill
24 to be excessive, erroneous, unlawful or invalid. The commission, after notice to the
25 objector, shall hold a hearing upon the objections, from 5 to 10 days after providing

1 the notice. If after the hearing the commission finds any part of the bill to be
2 excessive, erroneous, unlawful or invalid it shall record its findings upon its minutes
3 and transmit to the objector by registered mail an amended bill, in accordance with
4 the findings. The amended bill shall have the same force and effect under this section
5 as an original bill rendered under ~~subs. sub.~~ (1) ~~and~~, (2) ~~or~~ (2g).

6 **SECTION 21.** 196.85 (5) of the statutes is amended to read:

7 196.85 (5) No suit or proceeding may be maintained in any court to restrain or
8 delay the collection or payment of any bill rendered under ~~subs. sub.~~ (1) ~~and~~, (2) ~~or~~
9 (2g). Every public utility, sewerage system, mobile home park operator or power
10 district that is billed shall pay the amount of the bill, and after payment may in the
11 manner provided under this section, at any time within 2 years from the date the
12 payment was made, sue the state to recover the amount paid plus interest from the
13 date of payment, upon the ground that the assessment was excessive, erroneous,
14 unlawful or invalid in whole or in part. If the court finds that any part of the bill for
15 which payment was made was excessive, erroneous, unlawful or invalid, the state
16 treasurer shall make a refund to the claimant as directed by the court. The refund
17 shall be charged to the appropriations to the commission.

18 **SECTION 22. Nonstatutory provisions.**

19 (1) The public service commission shall submit in proposed form the rules
20 required under section 196.498 (2) of the statutes, as created by this act, to the
21 legislative council staff under section 227.15 (1) of the statutes no later than the first
22 day of the 6th month beginning after the effective date of this subsection.

23 (2) Using the procedure under section 227.24 of the statutes, the public service
24 commission shall promulgate rules required under section 196.498 (2) of the
25 statutes, as created by this act, for the period beginning on the effective date of this

1 subsection and ending on the effective date of the rules submitted under subsection
2 (1), but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the
3 statutes. Notwithstanding section 227.24 (1) (a) and (2) (b) of the statutes, the public
4 service commission need not provide evidence of the necessity of preservation of the
5 public peace, health, safety or welfare in promulgating rules under this subsection.

6 (3) The authorized FTE positions for the public service commission are
7 increased by 1.0 PR position, to be funded from the appropriation under section
8 20.155 (1) (i) of the statutes, as created by this act, for the purpose of regulating the
9 provision of water or sewer service by mobile home park operators and mobile home
10 park contractors.

11 **SECTION 23. Effective dates.** This act takes effect on the first day of the 12th
12 month beginning after publication, except as follows:

13 (1) SECTION 22 (1) of this act takes effect on the day after publication.

14 (END)