



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #300

Transfer Mobile Home Park Water and Sewer Service Regulation from the Public Service Commission to Commerce (PSC and Commerce -- Building and Environmental Regulation)

[[LFB 2001-03 Budget Summary: Page 196, #12 and Page 573, #7]]

CURRENT LAW

The Public Service Commission (PSC) regulates the provision of water and sewer services by mobile home park operators or contractors to occupants of the mobile home park. The PSC levies an annual assessment on mobile home park operators and contractors to support the costs of regulation (\$59,100 PR in 2000-01), primarily the costs associated with 1.0 FTE two-year project position in the Commission's Division of Water, Compliance and Consumer Affairs. The position is responsible for establishing standards for water and sewer service to occupants of mobile home parks and investigating complaints. The position authorization and associated funding will terminate on June 30, 2001.

Under the PSC's separate authority governing water and sewer public utilities, the Commission also regulates the provision of separately metered water and sewer service to occupants of mobile home parks.

Prior to and after the enactment of 1999 Wisconsin Act 9, the Department of Commerce regulated the manufacture and inspection of manufactured homes. Effective July 1, 2000, Act 9 transferred to Commerce: (1) the regulation and licensing of mobile home parks and mobile home dealers from the Department of Administration (DOA); and (2) the registration and titling of any vehicles that meet the definition of mobile home or manufactured home. Commerce issues permits for manufactured home parks for a two-year period that begins on July 1, of every even-numbered year. The permit fee is established by administrative rule. Commerce deposits the license fees in the Safety and Buildings Division program revenue general program operations appropriation account.

GOVERNOR

On the first day of the seventh month beginning after publication of the biennial budget act, transfer the authority to regulate water and sewer service provided by mobile home park owners or contractors to occupants of mobile home parks from the PSC to Commerce, as follows:

Regulatory Functions Transferred. Commerce, rather than the Commission: (1) would be required to promulgate administrative rules that establish standards for water and sewer service to occupants of a mobile home park (uniformly designated "manufactured homes" under Commerce), including requirements for metering, billing, deposits, deferred payment arrangements, installation of service, refusing or discontinuing service, resolving disputes and ensuring just and reasonable rates and service; (2) would be authorized, on its own motion or upon complaint by a manufactured home park occupant, to issue an order or commence a civil action to enforce its manufactured home park water and sewer regulatory authority; and (3) would be required to levy and enforce the collection of an annual assessment within 90 days of the start of each fiscal year against manufactured home park operators for the costs of regulation.

Current law provisions would also be recodified under Commerce, including: (1) authorizing a manufactured home park operator to make reasonable recovery of capital costs for permanent improvements relating to the provision of water and sewer service; (2) authorizing the Department of Justice or a district attorney to commence enforcement actions in circuit court to enforce regulations governing the provision of water and sewer service in manufactured home parks; and (3) establishing forfeitures of not less than \$25 nor more than \$5,000 per occurrence for violations of such regulations.

The PSC's current authority to regulate metered water and sewer service provided to mobile home park occupants by public utilities would not be affected by any of these proposed changes and would remain at the Commission.

Regulatory Authority Modified Under the Transfer. Delete references to "mobile home" used for purposes of PSC regulation and insert uniform references to "manufactured homes" for the purpose of Commerce regulation. Delete the current law authority of the occupants of 25% of the total number of mobile homes in a park or the occupants of 25 such homes, whichever is less, to file a complaint with the Commission and authorize the Commission to investigate the complaint. In addition, general provisions governing the manner by which the Commission currently investigates complaints, gives notice of hearings and conducts summary investigations would not be recodified under the regulatory provisions created under Commerce.

Transition Provisions. Include a nonstatutory provision directing the transfer from the PSC to Commerce, as determined appropriate by the Secretary of DOA, all assets and liabilities, tangible property, including records, contracts, rules and orders, and any pending matters relating to the regulation of water and sewer service provided by mobile home parks. These transfers would occur on the first day of the seventh month beginning after publication of the biennial budget act.

Provide Commerce with \$61,400 PR and 1.0 PR position annually in a new appropriation funded from the mobile home park water and sewer regulation assessment.

DISCUSSION POINTS

Modifications to Regulatory Authority under the Transfer

1. Under the "mobile home" park definition, currently applicable to PSC regulation of water and sewer service provided by mobile home park operators, coverage extends to any tract containing two or more plots that are rented or offered to accommodate a mobile home. Under the "manufactured home" park definition that would be used under Commerce, regulatory authority would extend under a current law definition of manufactured home parks to any plot of land on which are located three or more manufactured homes occupied for dwelling or sleeping purposes but does not include a farm where the homes are occupied by the father, mother, son, daughter, brother or sister of the farm owner or operator or where the occupants of the manufactured home work on the farm.

2. The PSC is currently able to identify 1,128 mobile home parks with two or more plots for mobile homes. Commerce has identified 1,124 manufactured home parks. Thus, it would appear that there are only four, two-unit mobile home parks that would fall outside the scope of Commerce regulation due to the change of definition. PSC has historic but unverified data that there were once as many as 19 such two-unit parks. The PSC has not been able to identify those parks, if they still exist. The PSC also indicates that it has never received a complaint from any of the two-unit parks that it currently has authority to regulate. Both agencies have stated that they see no significant regulatory impact under the proposed definition change.

3. The bill also does not transfer the authority for occupants of 25% of the total number of mobile home units in a park or the occupants of 25 such homes, whichever is less, to file a complaint with Commerce. When the PSC was given the authority to regulate water and sewer service provided by mobile home park operators, this threshold language was included to parallel similar statutory provisions that govern the number of customers of any PSC regulated utility (25 persons) that may petition the Commission to begin an investigation of the utility. However, Commerce is currently required to inspect a manufactured home park whenever the Department receives a complaint about the park. Consequently, the current law Commerce complaint threshold would make it unnecessary to transfer the PSC complaint threshold language or any of the other PSC complaint and investigation procedures that have applied to mobile home park water and sewer matters.

4. In summary, the identified regulatory authority changes that would occur under the transfer would not appear to result in any material changes to the current law scope of regulation of water and sewer service in manufactured home parks or to the procedures that would be available to Commerce's to investigate and resolve complaints. The Committee may wish to include all of these proposed changes, as recommended by the Governor.

Timing of the Regulatory Transfer

5. The current PSC project position and base level funding of \$57,700 PR annually associated with the agency's current regulatory oversight of mobile home water and sewer service expire on June 30, 2001 and are deleted as part of the Commission's standard budget adjustments. Although the Executive Budget Book states that the position is made permanent and then transferred to Commerce, there is no nonstatutory language in the bill to effect such a position transfer. However, Commerce is provided \$61,400 PR annually and 1.0 PR position to support this new regulatory function.

6. In addition, no position or expenditure authority is available under the PSC during 2001-02 to provide mobile home park water and sewer regulatory oversight during the six-month interim period between the effective date of the biennial budget act and the date of the actual transfer during which time the Commission retains overall program responsibility and assessment authority for the program.

7. Currently, the PSC's project position is vacant. The Commission has indicated that during the 2001-02 interim period, LTE staffing, as required, will be provided and funded from base level resources. Any complaints or investigations relating to mobile home park water and sewer matters will be handled by base level Division of Water, Compliance and Consumer Affairs staff. It is not known whether the Commission would make an assessment for any of these relatively modest regulatory costs incurred during this interim period. Such an assessment must be made within 90 days of the start of each new fiscal year.

8. Also, it does not appear that the PSC would have the authority under the proposed transfer to assess prospectively for any of the costs associated with Commerce's regulatory duties. If the Committee chooses to transfer the mobile home park water and sewer regulatory authority to Commerce on the schedule contained in the bill, it may wish to include a nonstatutory provision authorizing PSC to include in the assessment for 2001-02 only, the manufactured home water and sewer regulatory costs budgeted under Commerce for that fiscal year.

9. Under the program transfer date in the bill, Commerce would staff the program only for approximately four months in 2001-02. However, the bill provides Commerce with a full 12 months of position funding in 2001-02. The Committee could modify the bill to delete \$40,900 PR in 2001-02 under Commerce in order to provide four instead of 12 months of position funding.

10. Based on discussions with both PSC staff and Commerce staff that would be involved in mobile home/manufactured housing regulatory matters, no convincing rationale has been advanced as to why the regulatory transfer should be delayed until six months after the general effective date of the biennial budget act. The relevant Commission and Commerce staff have agreed that the transfer of authority could occur on the act's general effective date.

11. If the bill would be amended to transfer the authority on the effective date of the bill, Commerce would then require \$46,100 PR in 2001-02 for nine months of position funding in 2001-02 instead of the \$61,400 PR in 2001-02 provided in the bill for 12 months of position staffing. A

nonstatutory provision could also be included to authorize Commerce to make the necessary regulatory assessment for 2001-02 only within 90 days of effective date of the transfer.

12. If the Committee chooses instead to retain the regulation of mobile home park water and sewer matters at the PSC, it could delete \$61,400 PR annually and 1.0 PR position provided by the bill under Commerce and provide \$57,700 PR annually and 1.0 PR position under the PSC to provide staff support for this continuing function at the Commission.

Funding the Costs of Manufactured Housing Water and Sewer Regulation at Commerce

13. The bill's transfer to Commerce of the PSC's current statutory assessment mechanism to recover the costs of regulation of water and sewer service means that Commerce would collect two types of fees from manufactured home park interests: the apportioned assessment for water and sewer regulation and the current permit fee for manufactured home parks. An alternative would be to authorize Commerce to incorporate its water and sewer service regulatory costs into the current biennial permit fees for manufactured home parks that will be assessed next in the spring of 2002 for the two-year period July 1, 2002 through June 30, 2004.

14. At its March 14, 2001 meeting, the Governor's Blue Ribbon Manufactured Housing Task Force also recommended that the current assessment mechanism for the regulation of water and sewer service to manufactured home communities be repealed and that the manufactured home biennial licensing fee be adjusted to absorb these costs.

15. If the water and sewer service assessment would be incorporated into the manufactured home park biennial fees, the new position provided under Commerce in a separate appropriation could instead be funded out of the existing safety and buildings PR general program operations appropriation, where the revenues for the manufactured home park permits are deposited. A nonstatutory provision authorizing the assessment of fees for 2001-02 only under the current law assessment provisions would still be required for that year, after which the program would be funded from the permit fee revenues. PSC would make the fee assessment if the program is transferred under the timing of the bill (six months after the effective date) or Commerce would make the fee assessment if the bill is amended to transfer the program on the effective date of the bill.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to: (a) transfer the regulation of mobile home park water and sewer services from the PSC to Commerce on the first day of the seventh month beginning after publication of the biennial budget act; and (b) provide Commerce with \$61,400 PR and 1.0 PR position annually in a new appropriation funded from the mobile home park water and sewer regulation assessment.

Alternative 1	PR
2001-03 FUNDING (Change to Base)	\$122,800
[Change to Bill]	\$0]
2002-03 POSITIONS (Change to Base)	1.00
[Change to Bill]	0.00]

2. Approve Alternative 1. In addition: (a) delete the statutory assessment of fees for regulation of water and sewer service beginning in 2002-03; (b) require that the manufactured home park permit fee cover the cost of regulation of water and sewer service to the parks beginning in 2002-03; (c) delete the creation of a separate Commerce appropriation for receipt of the assessment against manufactured home park owners or operators; and (d) fund the provided Commerce position from the Safety and Buildings Division program revenue general program operations appropriation. *[This alternative shifts the source of funding for the regulation of water and sewer service to manufactured homes at Commerce from annual assessments levied against manufactured home park owners to the biennial manufactured home park permit fee.]*

Alternative 2	PR
2001-03 FUNDING (Change to Base)	\$122,800
[Change to Bill]	\$0]
2002-03 POSITIONS (Change to Base)	1.00
[Change to Bill]	0.00]

3. Adopt either Alternative 1 or 2. In addition: (a) in Commerce, delete \$40,900 PR in 2001-02 to provide \$20,500 PR for four months of position funding instead of \$61,400 PR for 12 months; and (b) authorize PSC to include in the assessment for 2001-02 only, the manufactured home water and sewer regulatory costs budgeted under Commerce for that year. *[This alternative provides the required level of funding for Commerce in 2001-02, based on the Governor's recommendation to delay the regulatory transfer for six months after enactment of the budget. The alternative also authorizes the PSC to assess for the regulatory costs budgeted under Commerce for 2001-02.]*

Alternative 3	PR
2001-03 FUNDING (Change to Base)	\$81,900
[Change to Bill]	- \$40,900]
2002-03 POSITIONS (Change to Base)	1.00
[Change to Bill]	0.00]

4. Adopt Alternative 2 and in addition: (a) require the transfer of mobile home park water and sewer regulation from the Public Service Commission to the Department of Commerce on the effective date of the bill; (b) in Commerce, delete \$15,300 PR in 2001-02 to provide \$46,100 PR for nine months of funding instead of \$61,400 PR for 12 months in 2001-02; and (c) direct Commerce to make the assessment for 2001-02 only, within 90 days of the effective date of the

transfer. *[This alternative moves up the date of the regulatory transfer to the effective date of the biennial budget and provides the correct levels of first year funding.]*

Alternative 4	PR
2001-03 FUNDING (Change to Base)	\$107,500
<i>[Change to Bill]</i>	<i>- \$15,300]</i>
2002-03 POSITIONS (Change to Base)	1.00
<i>[Change to Bill]</i>	<i>0.00]</i>

5. Maintain the current law PSC administration of the mobile home park water and sewer service regulation program and provide PSC with \$57,700 PR annually and 1.0 PR position to administer the program. In addition, delete \$61,400 PR and 1.0 PR position annually in Commerce.

Alternative 5	PR
2001-03 FUNDING (Change to Base)	\$115,400
<i>[Change to Bill]</i>	<i>- \$7,400]</i>
2002-03 POSITIONS (Change to Base)	1.00
<i>[Change to Bill]</i>	<i>0.00]</i>

6. Maintain current law. (PSC would have to reallocate existing resources to administer the mobile home park water and sewer service regulation program.)

Alternative 6	PR
2001-03 FUNDING (Change to Base)	\$0
<i>[Change to Bill]</i>	<i>- \$122,800]</i>
2002-03 POSITIONS (Change to Base)	0.00
<i>[Change to Bill]</i>	<i>- 1.00]</i>

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