



1995 ASSEMBLY BILL 728

December 12, 1995 – Introduced by Representatives DUFF, OTT, MUSSER, GROTHMAN and JENSEN, cosponsored by Senator FITZGERALD. Referred to Committee on Environment and Utilities.

1 **AN ACT to amend** 196.20 (2m); and **to create** 196.193 and 227.01 (13) (zs) of the
2 statutes; **relating to:** water and sewer rate increases by certain municipally
3 owned utilities, providing an exemption from rule-making procedures and
4 granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, a utility may not make a change to its rate schedules that constitutes an increase in rates to consumers, except by order of the public service commission (PSC) after an investigation and opportunity for hearing. This bill creates an exception under which the PSC may grant a rate increase to a municipally owned water public utility or a municipally owned combined water and sewer public utility without a hearing, if certain conditions are met. The revenue increase must be calculated by multiplying the utility's prior year's revenues from sales of utility service by the rate increase factor, which must be equal to the U.S. consumer price index for all urban consumers, U.S. city average, for the previous year; however, the factor must not be less than 3% nor more than 10%. In addition, the revenue increase, when combined with the prior year's net operating income, must either result in an overall rate of return that does not exceed a maximum rate of return determined by the PSC or must result in an amount that does not exceed 6% of the utility's prior year's total operation and maintenance expenses. The maximum overall rate of return determined by the PSC must equal the simple average, rounded to the nearest tenth of 1%, of a specified state and local bond index published by the federal reserve board, plus 2%.

In addition, in order to qualify for a rate increase without a hearing, the utility must increase its rates for general service, wholesale service and public fire protection uniformly for all utility customers by the rate increase factor, unless the PSC determines that the utility has good cause for not meeting this requirement. The effective date of the rate increase may not be not less than 12 months from the

effective date of an increase previously authorized without a hearing nor less than 45 days from the date on which the application was filed. If the utility's rates in effect prior to the rate increase were authorized using the hearing process, the rates must have been in effect for a calendar year. If the utility has 4,000 or more customers, the effective date of the rate increase is not more than 5 years from the effective date of an increase authorized using the hearing process. If the utility has less than 4,000 customers, the total of all prior rate increases granted without a hearing since the last rate increase authorized by a hearing process must not result in rates that are more than 40% higher than the base rates previously authorized by a hearing. The PSC retains the authority to reject an application for a rate increase without a hearing, for good cause.

Finally, in order to qualify for a rate increase without a hearing, the utility seeking an increase in rates must notify all of its customers of the rate increase, upon a form approved by the PSC, by newspaper publication or by mail. The notice must include the anticipated date of filing of the rate increase application and the anticipated effective date of the rate increase, the impact on customer bills resulting from the rate increase calculated for at least 5 different usage levels, a statement that no hearing is required and any other information required by the PSC.

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.** 196.193 of the statutes is created to read:

2 **196.193 Water and sewer rate increases without hearings.** (1) WHEN
3 PERMITTED. The commission may grant a rate increase to a municipally owned water
4 or a municipally owned combined water and sewer public utility without a hearing
5 if all of the following conditions are met:

6 (a) The revenue increase is calculated by multiplying the utility's prior year's
7 revenues from sales of utility service by the rate increase factor under sub. (2).

8 (b) The revenue increase under par. (a), combined with the prior year's net
9 operating income, either results in an overall rate of return that does not exceed the
10 rate of return determined by the commission under sub. (3) or results in an amount

1 that does not exceed 6% of the utility's prior year's total operation and maintenance
2 expenses.

3 (c) The utility will increase its rates for general service, wholesale service and
4 public fire protection uniformly for all utility customers by the rate increase factor
5 determined by the commission under sub. (2), unless the commission determines
6 that the utility has good cause for not meeting the condition under this paragraph.

7 (d) The effective date of the rate increase is not less than 12 months from the
8 effective date of an increase previously filed under this section nor less than 45 days
9 from the date on which the application was filed.

10 (e) If the utility's rates in effect prior to the rate increase under this section
11 were authorized pursuant to a hearing under s. 196.20, the rates have been in effect
12 for a calendar year.

13 (f) The commission has not rejected the application for good cause.

14 (g) If the utility has 4,000 or more customers, the effective date of the rate
15 increase is not more than 5 years from the effective date of an increase authorized
16 pursuant to a hearing under s. 196.20.

17 (h) If the utility has less than 4,000 customers, the total of all prior rate
18 increases granted under this section since the last hearing under s. 196.20 does not
19 result in rates that are more than 40% higher than the base rates previously
20 authorized by a hearing under s. 196.20.

21 **(2) DETERMINATION OF THE RATE INCREASE FACTOR.** Not later than March 1
22 annually, the commission shall set an increase factor to apply to rates of municipally
23 owned water public utilities or municipally owned combined water and sewer public
24 utilities. The factor shall be equal to the U.S. consumer price index for all urban

1 consumers, U.S. city average, for the previous year; however, the factor may not be
2 less than 3% nor more than 10%. The rate increase factor need not be defined by rule.

3 **(3) DETERMINATION OF AN OVERALL RATE OF RETURN.** Not later than March 1
4 annually, the commission shall set the overall rate of return to be applicable to
5 municipally owned water public utilities or municipally owned combined water and
6 sewer public utilities for rate increases under this section. The overall rate of return
7 shall be equal to the simple average, rounded to the nearest tenth of 1%, of the
8 interest rates listed for state and local bonds in the Federal Reserve Statistical
9 Release H.15 (519) published by the federal reserve board, for the last quarter of the
10 prior year, plus 2%. The overall rate of return need not be defined by rule.

11 **(4) NOTICE REQUIREMENTS.** A utility seeking an increase in rates under this
12 section shall notify all customers, upon a form approved by the commission, by
13 newspaper publication or by mail. The utility shall include a copy of the issued notice
14 in its filing of an application under this section. The notice shall include all of the
15 following:

16 (a) The anticipated date of filing of the rate increase application and the
17 anticipated effective date of the rate increase.

18 (b) The impact on customer bills resulting from the rate increase calculated for
19 at least 5 different usage levels, including an average residential usage level.

20 (c) A statement that the increase is being proposed under this section and that
21 no hearing is required.

22 (d) Other information required by the commission to be included in a notice
23 under this subsection.

24 **SECTION 2.** 196.20 (2m) of the statutes is amended to read:

