

State of Wisconsin



1997 Senate Bill 147

Date of enactment: **April 30, 1998**
Date of publication*: **May 13, 1998**

1997 WISCONSIN ACT 229

(Vetoed in Part)

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

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

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

			1997-98	1998-99
20.155	Public service commission			
(1)	REGULATION OF PUBLIC UTILITIES			
(i)	Mobile home park regulation	PR A	-0-	26,200

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 (2g), 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 (2g) 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

* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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.

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

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

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

196.01 (3m) "Manufactured home" has the meaning given in s. 101.91 (2).

(3n) "Mobile home" has the meaning given in s. 101.91 (1).

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

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

(3s) "Mobile home park occupant" means a person who rents or owns a mobile home or manufactured home in a mobile home park.

(3t) "Mobile home park operator" means a person engaged in the business of owning or managing a mobile home park.

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

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

196.26 (1) COMPLAINT. In this section "complaint" means a complaint filed with the commission that any rate, toll, charge or schedule, joint rate, regulation, measurement, act or practice relating to the provision of heat, light, water, power or telecommunications service, or to the provision of water or sewer service by a mobile home park operator or mobile home park contractor, is unreasonable, inadequate, unjustly discriminatory or cannot be obtained.

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

196.26 (1m) COMPLAINT AND INVESTIGATION. If any mercantile, agricultural or manufacturing society, body politic, municipal organization or 25 persons file a complaint against a public utility, the commission, with or without notice, may investigate the complaint as it deems necessary. If the mobile home park occupants of 25% of the total number of manufactured homes or mobile homes in a mobile home park or the mobile home park occupants of 25 manufactured homes or mobile homes in a mobile home park, whichever is less, files a complaint

against a mobile home park contractor or mobile home park operator, the commission, with or without notice, may investigate the complaint as it deems necessary. The commission may not issue an order based on the an investigation under this subsection without a public hearing.

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

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

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

196.26 (2) (b) The commission shall give the public utility, mobile home park contractor or mobile home park operator which is the subject of a complaint filed under sub. (4) (1m) and the complainant 10 days' notice of the time and place of the hearing and the matter to be considered and determined at the hearing. The complainant and the public utility, mobile home park contractor or mobile home park operator may be heard. The commission may subpoena any witness at the request of the public utility, mobile home park contractor, mobile home park operator or complainant.

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

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

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

196.28 (3) Notice of the time and place for a hearing under sub. (2) shall be given to the public utility, mobile home park contractor or mobile home park operator, and to such other interested persons as the commission deems necessary. After the notice has been given, proceedings shall be had and conducted in reference to the matter investigated as if a complaint had been filed with the commission under s. 196.26 (4) (1m) relative to the matter investigated. The same order or orders may be made in reference to the matter as if the investigation had been made on complaint under s. 196.26.

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

196.498 Regulation of water and sewer service to mobile home parks. (2) RULES. The commission shall promulgate rules that establish standards for providing water or sewer service by a mobile home park operator

or mobile home park contractor to a mobile home park occupant, including requirements for metering, billing, deposits, deferred payment arrangements, installation of service, refusing or discontinuing service and resolving disputes with respect to service. Rules promulgated under this subsection shall ensure that any charge for water or sewer service is reasonable and not unjustly discriminatory, that the water or sewer service is reasonably adequate and that any practice relating to providing the service is just and reasonable.

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

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

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

(5) **PRIVATE CAUSE OF ACTION.** 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 s. 814.04 (1), reasonable attorney fees.

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

(b) Any person who intentionally violates any rule promulgated under sub. (2) or order issued under sub. (4) (a) 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.

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

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

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

196.85 (2g) The commission shall annually, within 90 days after the commencement of each fiscal year, assess against mobile home park operators the total amount appropriated under s. 20.155 (1) (i). The commission shall assess each mobile home park operator an amount in proportion to the total number of mobile homes and manufactured homes in all mobile home parks owned or managed by the mobile home park operator on July 1 of

the current fiscal year as a fraction of the total number of mobile homes and manufactured homes in all mobile home parks in this state on July 1 of the current fiscal year. If necessary, the commission shall adjust the amount assessed to correct any incorrect assessment that was made in a prior fiscal year. A mobile home park operator shall pay the assessment within 30 days after the commission mails the bill to the mobile home park operator. The bill constitutes notice of the assessment and demand for payment. Payments shall be credited to the appropriation account under s. 20.155 (1) (i).

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

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

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

196.85 (4) (a) Within 30 days after the date of the mailing of any bill under ~~subs. sub. (1) and (2) or (2g)~~, the public utility, sewerage system, mobile home park operator or power district that has been billed may file with the commission objections setting out in detail the grounds upon which the objector regards the bill to be excessive, erroneous, unlawful or invalid. The commission, after notice to the objector, shall hold a hearing upon the objections, from 5 to 10 days after providing the notice. If after the hearing the commission finds any part of the bill to be excessive, erroneous, unlawful or invalid it shall record its findings upon its minutes and transmit to the objector by registered mail an amended bill, in accordance with the findings. The amended bill shall have the same force and effect under this section as an original bill rendered under ~~subs. sub. (1) and (2) or (2g)~~.

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

196.85 (5) No suit or proceeding may be maintained in any court to restrain or delay the collection or payment

of any bill rendered under ~~subs. sub. (1) and (2) or (2g)~~. Every public utility, sewerage system, mobile home park operator or power district that is billed shall pay the amount of the bill, and after payment may in the manner provided under this section, at any time within 2 years from the date the payment was made, sue the state to recover the amount paid plus interest from the date of payment, upon the ground that the assessment was excessive, erroneous, unlawful or invalid in whole or in part. If the court finds that any part of the bill for which payment was made was excessive, erroneous, unlawful or invalid, the state treasurer shall make a refund to the claimant as directed by the court. The refund shall be charged to the appropriations to the commission.

SECTION 22. Nonstatutory provisions.

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

(2) Using the procedure under section 227.24 of the statutes, the public service commission shall promulgate rules required under section 196.498 (2) of the statutes, as created by this act, for the period beginning on the effective date of this subsection and ending on the effective date of the rules submitted under subsection (1), but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a) and (2) (b) of the statutes, the public service

commission need not provide evidence of the necessity of preservation of the public peace, health, safety or welfare in promulgating rules under this subsection.

(3) The authorized FTE positions for the public service commission are increased by 1.0 PR project position for the period ending on June 30, 2001, to be funded from the appropriation under section 20.155 (1) (i) of the statutes, as created by this act, for the purpose of regulating the provision of water or sewer service by mobile home park operators and mobile home park contractors.

(4m) The public service commission shall conduct a study on the feasibility and desirability of requiring a mobile home park operator, as defined in section 196.01 (3t) of the statutes, as created by this act, that is a city, village, county or town, or is wholly controlled by a city, village, county or town, and that provides water service to the occupants of a mobile home park, as defined in section 196.01 (3p) of the statutes, as created by this act, to provide individually metered service to such occupants on the same basis that such service is provided to the occupants of a single-family residential development and shall, no later than January 1, 1999, submit a report on the results of the study, including any recommended legislation, to the legislature in the manner provided under section 13.172 (2) of the statutes.

**Vetoed
In Part**

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

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