

SENATE BILL NO. 301

INTRODUCED BY C. SMITH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING NOTICE PROCEDURES AND OVERSIGHT OF
5 MUNICIPAL UTILITY RATES; PROVIDING FOR THE REGULATION OF MUNICIPAL UTILITY RATES BY THE
6 PUBLIC SERVICE COMMISSION; ESTABLISHING MAXIMUM INCREASES ALLOWED IN RATES; REQUIRING
7 APPLICATION TO THE PUBLIC SERVICE COMMISSION FOR CERTAIN INCREASES IN RATES; REQUIRING
8 CERTAIN INFORMATION BE PROVIDED WITH NOTICES ABOUT MUNICIPAL UTILITY RATES; REVISING
9 DEADLINES FOR NOTICE; AMENDING SECTIONS 7-13-4304, 7-13-4307, 7-13-4308, 69-7-101, AND 69-7-111,
10 MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 **NEW SECTION. Section 1. Rate increase over maximum -- limitation.** (1) Except as provided in
15 subsection (2), a municipal utility shall apply to the commission for increases or changes in rates or classifications
16 that:

- 17 (a) yield an increase in total revenues greater than 4.5% in any 1 year;
- 18 (b) are in excess of an amount necessary to meet the requirements of bond indentures or loan
19 agreements required to finance a local government's share of mandated federal or state capital improvements;
- 20 (c) are proposed to encourage the conservation of water by users; or
- 21 (d) assess users punitively based on lot size.

22 (2) A municipal utility is not required to apply to the commission for an increase or change if the rates,
23 fees, change, or charges imposed by a municipality are the result of the establishment of or a change in rates,
24 fees, or charges imposed by a regional authority of which the municipality is a customer.

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26 **Section 2.** Section 7-13-4304, MCA, is amended to read:

27 **"7-13-4304. Authority to charge for services.** (1) ~~The~~ In accordance with Title 69, chapter 7, when
28 applicable, the governing body of a municipality operating a municipal water or sewer system shall fix and
29 establish, by ordinance or resolution, and collect rates, rentals, and charges for the services, facilities, and
30 benefits directly or indirectly afforded by the system, taking into account services provided and benefits received.

1 (2) Sewer charges may take into consideration the quantity of sewage produced and its concentration
 2 and water pollution qualities in general and the cost of disposal of sewage and storm waters. The charges may
 3 be fixed on the basis of water consumption or any other equitable basis the governing body considers
 4 appropriate. The rates for charges may be fixed in advance or otherwise and shall be uniform for like services
 5 in all parts of the municipality. If the governing body determines that the sewage treatment or storm water disposal
 6 prevents pollution of sources of water supply, the sewer charges may be established as a surcharge on the water
 7 bills of water consumers or on any other equitable basis of measuring the use and benefits of the facilities and
 8 services.

9 (3) An original charge for the connecting sewerline between the lot line and the sewer main may be
 10 assessed when the connecting sewerline is installed.

11 (4) The water and sewer rates, charges, or rentals shall be as nearly as possible equitable in proportion
 12 to the services and benefits rendered."
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14 **Section 3.** Section 7-13-4307, MCA, is amended to read:

15 **"7-13-4307. Establishment of amount of charges.** The In accordance with Title 69, chapter 7, when
 16 applicable, the rates and charges established for the services and facilities afforded by this system must be
 17 sufficient in each year to provide income and revenue adequate for the:

- 18 (1) payment of the reasonable expense of operation and maintenance;
 19 (2) payment of the sums required to be paid into the sinking fund;
 20 (3) accumulation of reserves;
 21 (4) payment of rates, fees, and charges levied by a regional authority established pursuant to Title 75,
 22 chapter 6, part 3; and

23 (5) payment of expenditures for depreciation and replacement of the system as determined necessary
 24 by the governing body or as covenanted in the ordinances and resolutions authorizing the outstanding bonds."
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26 **Section 4.** Section 7-13-4308, MCA, is amended to read:

27 **"7-13-4308. Change and readjustment of charges.** The In accordance with Title 69, chapter 7, when
 28 applicable, the governing body ~~shall have the right to~~ may change and readjust from time to time ~~the~~ rates and
 29 charges ~~so fixed and established,~~ provided the aggregate of ~~such~~ the rates and charges ~~shall always be~~ is
 30 sufficient to meet the requirements ~~mentioned~~ in 7-13-4307."

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2 **Section 5.** Section 69-7-101, MCA, is amended to read:

3 **"69-7-101. Municipal utilities -- regulation by municipality.** (1) ~~A~~ Except as provided in subsection
4 (3), a municipality has the power and authority to regulate, establish, and change, as it considers proper, rates,
5 charges, and classifications imposed for utility services to its inhabitants and other persons served by municipal
6 utility systems.

7 (2) (a) Rates, charges, and classifications must be reasonable and just, and except as provided in
8 [section 1] and subsection (2)(b) of this section, rates may not be increased or changed to yield an increase in
9 total revenue greater than 4.5% in any 1 year.

10 (b) In the case of mandated federal or state capital improvements, the increase may not exceed amounts
11 necessary to meet the requirements of bond indentures or loan agreements required to finance the local
12 government's share of the mandated improvements.

13 (3) A municipality may not include a variance of more than 3 days in consecutive billing periods for utility
14 service."

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16 **Section 6.** Section 69-7-111, MCA, is amended to read:

17 **"69-7-111. Municipal rate hearing required -- notice.** (1) Except as provided in 75-5-516, 75-6-108,
18 and subsection (6), if the governing body of a municipality considers it advisable to regulate, establish, or change
19 rates, charges, or classifications imposed on its customers, it shall order a hearing to be held before it at a time
20 and place specified.

21 (2) Notice of the hearing must be published in a newspaper as provided in 7-1-4127.

22 (3) (a) The notice must be published three times with at least 6 days separating each publication. The
23 first publication may be no more than ~~28 days~~ 60 days prior to the hearing, and the last publication may be no
24 less than ~~3 days~~ 7 days prior to the hearing.

25 (b) The notice must also be mailed at least ~~7 days and not more than 30 days~~ 120 days prior to the
26 hearing to persons served by the utility and to the consumer counsel in accordance with subsection (5). ~~The~~
27 ~~notice must be mailed within the prescribed time period.~~ This notice must contain an estimate of the amount the
28 customer's average bill will increase.

29 (4) The published notice must contain:

30 (a) the date, time, and place of the hearing;

- 1 (b) a brief statement of the proposed action; ~~and~~
- 2 (c) the address and telephone number of a person who may be contacted for further information
- 3 regarding the hearing; and
- 4 (d) the address and phone number of the Montana consumer counsel and notice that the consumer
- 5 counsel may be contacted to assist and represent the interests of the consuming public.

6 (5) Notice of all hearings ~~shall~~ must be mailed first class, postage prepaid, to the Montana consumer
7 counsel.

8 (6) (a) If the proposed increase in the rates, fees, or charges imposed by the municipality is the result
9 of the establishment of or change in rates, fees, or charges imposed by a regional authority of which the
10 municipality is a customer and the authority is required to hold a public hearing pursuant to 75-6-326, the
11 governing body of the municipality shall:

12 (i) mail notice of the public hearing to be held by the authority to all persons served by the municipality
13 at least 15 days before the public hearing; and

14 (ii) provide notification to all persons served by the municipality at least 10 days prior to the enactment
15 of the ordinance or adoption of the resolution implementing the increase.

16 (b) The municipality is not required to hold a public hearing in connection with the increase.

17 (7) If a regional authority is not required to hold a public hearing as provided in 75-6-326(9), the
18 municipality is subject to the hearing requirements of this section."

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20 NEW SECTION. Section 7. Codification instruction. [Section 1] is intended to be codified as an
21 integral part of Title 69, chapter 7, part 1, and the provisions of Title 69, chapter 7, part 1, apply to [section 1].
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23 NEW SECTION. Section 8. Saving clause. [This act] does not affect rights and duties that matured,
24 penalties that were incurred, or proceedings that were begun before [the effective date of this act].
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26 NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable
27 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
28 remains in effect in all valid applications that are severable from the invalid applications.
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30 NEW SECTION. Section 10. Effective date. [This act] is effective July 1, 2015.

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2 NEW SECTION. **Section 11. Applicability.** [This act] applies to changes in rates, charges, and
3 classifications on or after [the effective date of this act].

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