

**Unofficial Draft Copy**

As of: July 25, 2018 (4:19pm)

LCSMW2

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

REVISED DRAFT FOR DISCUSSION PURPOSES ONLY (SEPTEMBER VERSION)

A Bill for an Act entitled: "An Act revising the regulation of small sewer or water utilities by the public service commission; providing for standard rate tariffs for small sewer or water utilities by the commission; granting the commission rulemaking authority; providing a transition; amending section 69-3-101, MCA; and providing effective dates."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 69-3-101, MCA, is amended to read:

**"69-3-101. Meaning of term "public utility".** (1) The term "public utility", within the meaning of this chapter, includes every corporation, both public and private, company, individual, association of individuals, and their lessees, trustees, or receivers appointed by any court that own, operate, or control any plant or equipment, any part of a plant or equipment, or any water right within the state for the production, delivery, or furnishing for or to other persons, firms, associations, or corporations, private or municipal:

- (a) heat;
- (b) street-railway service;
- (c) light;
- (d) power in any form or by any agency;

(e) except as provided in chapter 7 and, when applicable,  
in accordance with [sections 2 through 4], water for business,  
manufacturing, household use, or sewerage service, whether within  
the limits of municipalities or towns or elsewhere;

(f) regulated telecommunications service.

(2) The term does not include:

(a) privately owned and operated water, sewer, or water and  
sewer systems that do not serve the public;

(b) county or consolidated city and county water or sewer  
districts as defined in Title 7, chapter 13, parts 22 and 23;

(c) except as provided in chapter 7, municipal sewer or  
water systems and municipal water supply systems established by  
the governing body of a municipality pursuant to Title 7, chapter  
13, parts 42, 43, and 44; or

(d) a person exempted from regulation as a public utility  
as provided in 69-3-111."

{*Internal References to 69-3-101:*

|            |            |            |            |
|------------|------------|------------|------------|
| 15-72-104x | 37-68-102x | 69-3-111x  | 69-3-111x  |
| 69-3-113x  | 69-3-202x  | 69-3-1203x | 69-4-520x  |
| 69-4-520x  | 69-4-520x  | 76-3-103x  | 76-3-622x} |

NEW SECTION. **Section 2. Definitions.** As used in [sections  
2 through 4], unless the context requires otherwise, the  
following definitions apply:

(1) "Customer" means an individual or entity supplied with  
water or sewer service by means of a water or sewer line that  
connects a single building or living unit to a small sewer or  
water utility's water or sewer system. For purposes of [sections

2 through 4, each single building or living unit connected to the utility's system is one customer.

(2) "Small sewer or water utility" means a privately owned sewer or water utility that serves the public and has 500 or fewer customers.

(3) "Standard rate" means a rate determined by the commission using the most recent and publicly available rate study of other similar small water and sewer systems in Montana. The rate may not be less than an average determined by the commission using the rate study.

**NEW SECTION. Section 3. Small sewer or water utility regulation -- standard rate.** (1) (a) Except as provided in subsections (3) and (4)(b), the commission shall grant a small sewer or water utility the standard rate.

(b) The standard rate is:

(i) just and reasonable to a utility's customers; and

(ii) in the public interest.

(c) The commission shall make the analysis used to determine the rate defined in [section 2(3)] available to the public.

(d) If the standard rate will result in increased rates to customers, the small sewer or water utility may request, or the commission may require, the implementation of rates in increments over a reasonable time period not to exceed 3 years.

(2) (a) A small sewer or water utility shall file annual reports in accordance with 69-3-203.

(b) The commission may fine a utility up to \$50 per month

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for each full month the utility fails to file an annual report.

(3) (a) A small sewer or water utility may file a rate application with the commission, and the commission shall proceed with a rate case in accordance with part 3 of this chapter.

(b) If 25% or more of the customers of a small sewer or water utility that is eligible for the standard rate request that the utility file a rate application with the commission, the commission shall proceed with a rate case in accordance with part 3 of this chapter.

(4) (a) [Sections 2 through 4] do not limit the commission's regulatory authority over small sewer or water utilities when service complaints or similar concerns are received.

(b) The commission is not required to grant the standard rate if:

(i) a company habitually fails to file an annual report in accordance with subsection (2);

(ii) the commission receives complaints or concerns pertaining to the utility's service, rates, or both, and the commission determines those complaints and concerns warrant additional review.

(c) If the commission does not issue the standard rate, those alternate rates remain in effect until the commission determines the complaints or concerns are resolved. When the commission determines the issues are resolved, the utility is eligible for the standard rate.

(5) A small sewer or water utility may only adjust its rates on a biannual basis.

NEW SECTION. **Section 4. Small sewer or water utility -- commission rulemaking authority.** The commission may adopt rules necessary to implement [sections 2 and 3]. The rules may include:

- (1) small sewer or water utility notice requirements to customers of small sewer or water utilities requesting the standard rate;
- (2) timelines for acting on requests for the standard rate;
- (3) procedures and timelines for extending the standard rate when requested by a small sewer or water utility;
- (4) establishment of standard rate tariffs;
- (5) petition requirements necessary for compliance with [section 3(3)(b)];
- (6) use of an alternative rate in accordance with [section 3(4)(b)]; and
- (7) other requirements necessary to implement and enforce the requirements of [sections 2 through 5].

NEW SECTION. **Section 5. Grandfather clause -- transition.** A small sewer or water utility operating under tariffs approved by the commission on or before July 1, 2019, may continue to operate under those approved tariffs until their expiration.

NEW SECTION. **Section 6. {standard} Codification instruction.** [Sections 2 through 5] are intended to be codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [sections 2 through 5].

NEW SECTION. **Section 7. {standard} Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 8. {standard} Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 9. {standard} Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2019.

(2) [Section 4] and this section are effective on passage and approval.

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