



**House
Legislative
Analysis
Section**

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FLEXIBLE WATER UTILITY REGULATION

**House Bills 5653-5654 as introduced
First Analysis (11-14-90)**

**Sponsor: Rep. Alma Stallworth
Committee: Public Utilities**

THE APPARENT PROBLEM:

The Michigan Public Service Commission says that it currently regulates 19 private water companies that in total serve only 11,000 households in Michigan, mostly in the less populated regions of the state. (The smallest company serves 75 customers and the largest 4,000, according to the PSC.) These companies must file a schedule of rates and charges and rules with the PSC, and then must obtain the approval of the PSC for any change. Whenever one of these small companies wants a rate increase, it must use the same process required of the large electric and natural gas utilities regulated by the PSC. This is considered overly burdensome for the water utilities, which may lack the in-house expertise to prepare for a complicated rate hearing and be hard-pressed to hire consultants. The PSC has recommended an alternative form of rate regulation that would involve a generic hearing before the commission at which statewide or regional rates could be established. Water companies could then accept these rates or go through the more cumbersome contested case proceeding. The generic rates could also be used as a benchmark for rates charged by mobile home parks and others who supply water to residential communities but are unregulated.

THE CONTENT OF THE BILLS:

House Bill 5653 would amend Public Act 19 of 1967, which regulates private water companies, to put in place an alternative rate regulation process. Under the bill, the PSC could establish by rule or order maximum statewide or regional rates and charges for water service. Changes in a water company's rates or charges could be approved without a hearing if they did not exceed the maximum. As is the case now, a water company would have to notify its customers and any affected governmental entity of a change in rates or charges. A company that obtains its certificate of public convenience and necessity after the bill's effective date would get automatic approval of the rates and charges it filed if they were equal to or less than the statewide or regional maximum. In other rate change cases, the PSC would have to conduct a hearing in the same manner as a hearing for an increase in gas, telephone, or electric utility rates. The PSC could also adopt uniform rules of service, and changes in a water company's rules that were consistent with the uniform rules would be approved in the same manner as rate changes. (The bill specifies that the uniform schedules adopted by the PSC for rates, charges, and rules could not be received into evidence in a contested case proceeding to support or oppose the establishments of new rates for a water company.)

Public Act 19 currently exempts certain mobile home parks. The bill would expand the exemption to include any person or entity that sells water only incidental to a package of services provided as a result of the formation of a residential home ownership association or as part of a contract for the rental of a unit at an apartment complex, shopping mall, campground, office building, marina, mobile home park, or other rental property,

whether or not the charge for water is included within a residential home ownership association assessment or a rental charge, or is separately billed at a fixed or metered rate.

Currently, a water company must obtain a certificate from the Public Service Commission (PSC) to build a new facility or begin operations in a new area (and to discontinue operations). Under the bill, a water company that had not been issued a certificate of public convenience and necessity but that had paid the most recent public utility assessment would be considered to have been issued a certificate commensurate with its operations as of the day its assessment was paid. The bill would also allow the PSC to issue certificates without holding a hearing and to establish by rule or order procedures for the filing of applications and the issuance of certificates. (The provision basically would automatically grant a certificate to a regulated company that should already have one but for some reason does not.)

House Bill 5654 would amend the Mobile Home Commission Act to make it an unfair or deceptive practice to charge a fee for water usage that exceeds the higher of: (1) the amounts charged by the local municipality for the commodity cost and administrative cost of single family residential water use, or (2) the maximum statewide or regional rate established by the Public Service Commission. The bill would strike current language requiring the Mobile Home Commission to send a written report to the Public Service Commission if it suspects a mobile home park owner of violating water utility tariffs or of qualifying for regulation as a water company.

MCL 486.551 (House Bill 5653) and 125.2328 (House Bill 5654)

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

The bills provide an alternative method of regulating rates for small water companies. The Public Service Commission would establish statewide or regional rates at a generic hearing and regulated water utilities could agree to stay within those or could use the current, more involved, rate hearing process. These rates would also be used by the Mobile Home Commission in evaluating the reasonableness of water rates charged by mobile home parks. The legislation would also extend the same exemption from PSC regulation enjoyed by mobile home parks to other residential and office facilities, such as apartment complexes, shopping malls, and office buildings, where water is provided as part of a larger package of services. In such cases, one fee may be charged for all the services, and it will be difficult to regulate one portion of the package alone. The PSC says that regulating one part of a package of services without monitoring the entire package will not assure that one portion of the package does not subsidize another. The exemption will mean a reduction in the number of water companies regulated.

OVER

POSITIONS:

The Department of Commerce and the Michigan Public Service
Commission support the bills. (9-13-90)