

1 H BILL NO. 238 *William*  
 2 INTRODUCED BY *Rabinov - Hurnitz* *Bingston* *Scott*  
 3 *MULAR Conway* *Billya* *Dawson* *Berkeley*  
 4 *Day* *Barnett* *Juan* *Scully*  
 A BILL FOR AN ACT ENTITLED: *A* AN ACT ESTABLISHING PROCEDURES

5 FOR FIXING AND REVIEWING RATES CHARGED BY MUNICIPALITIES FOR  
 6 SERVICE FROM MUNICIPALLY OWNED WATER AND SEWER SYSTEMS AND  
 7 AMENDING SECTION 70-113, R.C.M. 1947, WITH RESPECT TO THE  
 8 POWERS OF THE PUBLIC SERVICE COMMISSION."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Establishment of rates for water and sewer  
 12 service. (1) Rates for water and sewer service for systems  
 13 owned and operated by any municipality in this state may be  
 14 established and revised by ordinance only after published  
 15 notice and public hearing. The notice must be published on  
 16 at least one occasion not less than 2 weeks before the  
 17 public hearing in a newspaper of general circulation in the  
 18 county in which the municipality is located or, lacking such  
 19 a newspaper, in a newspaper considered by the governing body  
 20 most likely to give notice in the municipality.

21 (2) After adoption or revision of rates, 15% of the  
 22 electors of the municipality may file with the district  
 23 court of the county where the municipality is located a  
 24 petition for a writ of review, alleging that the effect of  
 25 the rates is unreasonable or that they are unjustly

1 discriminatory. The district court shall, after a hearing,  
 2 file its findings and determinations. If the findings and  
 3 determinations conclude that the rates are unreasonable or  
 4 unjustly discriminatory, the local government shall amend  
 5 the rates so as to remove any unreasonable or unjustly  
 6 discriminatory features found by the court.

7 (3) Except as provided in this section, local  
 8 government is subject to the jurisdiction of the public  
 9 service commission as established by chapter 1 of Title 70.

10 Section 2. Section 70-113, R.C.M. 1947, is amended to  
 11 read as follows:

12 "70-113. Schedules of rates, tolls, and charges. (1)  
 13 Every public utility shall file with the commission, within  
 14 a time fixed by the commission, schedules which shall be  
 15 open to public inspection, showing all rates, tolls, and  
 16 charges which it has established, and which are in force at  
 17 the time, for any service performed by it within the state,  
 18 or for any service in connection therewith, or performed by  
 19 any public utility controlled or operated by it. The rates,  
 20 tolls, and charges shown on such schedules shall not exceed  
 21 the rates, tolls, and charges in force at the time of  
 22 passage of this act. Every public utility shall file with,  
 23 and as a part of such schedule, all rules and regulations  
 24 that in any manner affect the rates charged or to be charged  
 25 for any service. A copy of so much of said schedule as the

1 commission shall deem necessary for the use of the public  
 2 shall be printed in plain type, and kept on file in every  
 3 station or office of such public utility, where payments are  
 4 made by the consumers or users, open to the public, in such  
 5 form and place as to be readily accessible to the public,  
 6 and as can be conveniently inspected.

7 (2) When a schedule of joint rates or charges is or  
 8 may be in force between two or more public utilities, such  
 9 schedule shall in like manner be printed and filed with the  
 10 commission, and so much thereof as the commission shall deem  
 11 necessary for the use of the public shall be filed in every  
 12 such station or office as prescribed in the first paragraph  
 13 of this section.

14 (3) No change shall thereafter be made in any  
 15 schedule, including schedules of joint rates, except as  
 16 approved by the commission. Before it may approve any  
 17 change increasing the rate or rates for utility service in a  
 18 schedule generally affecting consumers in a utility's  
 19 service area, the commission shall publish a notice of the  
 20 proposed change, conforming to the requirements of ~~section~~  
 21 82-4209(2), in one or more newspapers published and of  
 22 general circulation within the area affected by the proposed  
 23 change. This notice shall announce a hearing on the  
 24 proposed change and shall inform interested persons how they  
 25 may petition the commission to become parties to the

1 hearing. The commission shall proceed to conduct the  
 2 hearing under the Administrative Procedure Act. The  
 3 consumer counsel may in his discretion petition to become a  
 4 party to the hearing.

5 (4) Notwithstanding any provision of this title to the  
 6 contrary, the final decision of the commission in any matter  
 7 decided after a hearing conducted pursuant to this section  
 8 shall conform to the requirements of a decision in a  
 9 contested case under the Administrative Procedure Act. The  
 10 commission may temporarily approve an increase pending a  
 11 hearing and final decision. If the final decision is to  
 12 disapprove the increase, the commission shall order a rebate  
 13 to all consumers for the amount collected retroactive to the  
 14 date of the temporary approval.

15 (5) Rates for water and sewer supply and distribution  
 16 services provided by municipalities shall be established as  
 17 provided by [section 1 of this act] and are not subject to  
 18 this section."

-End-

Approved by Committee  
on Business and Industry

HOUSE BILL NO. 238

INTRODUCED BY ROBEINS, HURWITZ, SOUTH,  
BENGSTON, WILLIAMS, MULAR, CONROY, GILLIGAN,  
DASSINGER, BERTELSEN, SCULLY, DAY, FARRETT, GERKE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING PROCEDURES  
FOR FIXING AND REVIEWING RATES CHARGED BY MUNICIPALITIES FOR  
SERVICE FROM MUNICIPALLY OWNED WATER AND SEWER SYSTEMS AND  
AMENDING SECTION 70-113, R.C.M. 1947, WITH RESPECT TO THE  
POWERS OF THE PUBLIC SERVICE COMMISSION."

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

Section 1. Establishment of rates for water and sewer  
service. (1) Rates for water and sewer service for systems  
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established and revised by ordinance only after published  
notice and public hearing. The notice must be published on  
at least one occasion not less than 2 weeks before the  
public hearing in a newspaper of general circulation in the  
county in which the municipality is located or, lacking such  
a newspaper, in a newspaper considered by the governing body  
most likely to give notice in the municipality.

(2) After adoption or revision of rates, ~~45%~~ 5% of the  
electors of the municipality may file with the ~~district~~  
~~court of the county where the municipality is located~~ PUBLIC

SERVICE COMMISSION a petition for a writ of review, alleging  
that the effect of the rates is unreasonable or that they  
are unjustly discriminatory. The ~~district court~~ PUBLIC  
SERVICE COMMISSION shall, after a hearing HELD IN THE  
MUNICIPALITY AFFECTED, file its findings and determinations.  
If the findings and determinations conclude that the rates  
are unreasonable or unjustly discriminatory, the local  
government shall amend the rates so as to remove any  
unreasonable or unjustly discriminatory features found by  
the ~~court~~ PUBLIC SERVICE COMMISSION.

(3) Except as provided in this section, local  
government is subject to the jurisdiction of the public  
service commission as established by chapter 1 of Title 70.

Section 2. Section 70-113, R.C.M. 1947, is amended to  
read as follows:

"70-113. Schedules of rates, tolls, and charges. (1)  
Every public utility shall file with the commission, within  
a time fixed by the commission, schedules which shall be  
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any public utility controlled or operated by it. The rates,  
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1 passage of this act. Every public utility shall file with,  
 2 and as a part of such schedule, all rules and regulations  
 3 that in any manner affect the rates charged or to be charged  
 4 for any service. A copy of so much of said schedule as the  
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 7 station or office of such public utility, where payments are  
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 9 form and place as to be readily accessible to the public,  
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11 (2) When a schedule of joint rates or charges is or  
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 13 schedule shall in like manner be printed and filed with the  
 14 commission, and so much thereof as the commission shall deem  
 15 necessary for the use of the public shall be filed in every  
 16 such station or office as prescribed in the first paragraph  
 17 of this section.

18 (3) No change shall thereafter be made in any  
 19 schedule, including schedules of joint rates, except as  
 20 approved by the commission. Before it may approve any  
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 22 schedule generally affecting consumers in a utility's  
 23 service area, the commission shall publish a notice of the  
 24 proposed change, conforming to the requirements of ~~section~~  
 25 82-4209(2), in one or more newspapers published and of

1 general circulation within the area affected by the proposed  
 2 change. This notice shall announce a hearing on the  
 3 proposed change and shall inform interested persons how they  
 4 may petition the commission to become parties to the  
 5 hearing. The commission shall proceed to conduct the  
 6 hearing under the Administrative Procedure Act. The  
 7 consumer counsel may in his discretion petition to become a  
 8 party to the hearing.

9 (4) Notwithstanding any provision of this title to the  
 10 contrary, the final decision of the commission in any matter  
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 12 shall conform to the requirements of a decision in a  
 13 contested case under the Administrative Procedure Act. The  
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 15 hearing and final decision. If the final decision is to  
 16 disapprove the increase, the commission shall order a rebate  
 17 to all consumers for the amount collected retroactive to the  
 18 date of the temporary approval.

19 (5) Rates for water and sewer supply and distribution  
 20 services provided by municipalities shall be established as  
 21 provided by [section 1 of this act] and are not subject to  
 22 this section.\*

-End-

## 1 HOUSE BILL NO. 238

2 INTRODUCED BY ROBBINS, HURWITZ, SOUTH,

3 BENGSTON, WILLIAMS, MULAR, CONROY, GILLIGAN,

4 DASSINGER, BERTELSEN, SCULLY, DAY, BARRETT, GERKE

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1 SERVICE COMMISSION a petition for a ~~writ of~~ review, alleging  
2 that the effect of the rates is unreasonable or that they  
3 are unjustly discriminatory. The ~~district court~~ PUBLIC  
4 SERVICE COMMISSION shall, after a hearing HELD IN THE  
5 MUNICIPALITY AFFECTED, file its findings and determinations.  
6 If the findings and determinations conclude that the rates  
7 are unreasonable or unjustly discriminatory, the local  
8 government shall amend the rates so as to remove any  
9 unreasonable or unjustly discriminatory features found by  
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 9 form and place as to be readily accessible to the public,  
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11 (2) When a schedule of joint rates or charges is or  
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18 (3) No change shall thereafter be made in any  
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 22 schedule generally affecting consumers in a utility's  
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 24 proposed change, conforming to the requirements of section  
 25 82-4209(2), in one or more newspapers published and of

1 general circulation within the area affected by the proposed  
 2 change. This notice shall announce a hearing on the  
 3 proposed change and shall inform interested persons how they  
 4 may petition the commission to become parties to the  
 5 hearing. The commission shall proceed to conduct the  
 6 hearing under the Administrative Procedure Act. The  
 7 consumer counsel may in his discretion petition to become a  
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9 (4) Notwithstanding any provision of this title to the  
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 11 decided after a hearing conducted pursuant to this section  
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 13 contested case under the Administrative Procedure Act. The  
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 16 disapprove the increase, the commission shall order a rebate  
 17 to all consumers for the amount collected retroactive to the  
 18 date of the temporary approval.

19 (5) Rates for water and sewer supply and distribution  
 20 services provided by municipalities shall be established as  
 21 provided by [section 1 of this act] and are not subject to  
 22 this section."

-End-

HOUSE BILL NO. 238

INTRODUCED BY ROBBINS, HURWITZ, SOUTH,

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING PROCEDURES FOR FIXING AND REVIEWING RATES CHARGED BY MUNICIPALITIES FOR SERVICE FROM MUNICIPALLY OWNED WATER AND OR SEWER SYSTEMS AND AMENDING SECTION 70-113, R.C.M. 1947, WITH RESPECT TO THE POWERS OF THE PUBLIC SERVICE COMMISSION; AMENDING SECTION 70-119, R.C.M. 1947."

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

Section 1. Establishment of rates for water and OR sewer service. (1) Rates for water and OR sewer service for systems owned and operated by any municipality in this state may be established and revised by ordinance only after published notice and public hearing. The notice must be published on at least one occasion not less than 2 weeks before the public hearing in a newspaper of general circulation in the county in which the municipality is located or, lacking such a newspaper, in a newspaper considered by the governing body most likely to give notice in the municipality.

(2) ~~After adoption or revision of rates, 15% 5% of the~~

~~electors of the municipality may file with the district court of the county where the municipality is located PUBLIC SERVICE COMMISSION a petition for a writ of review, alleging that the effect of the rates is unreasonable or that they are unjustly discriminatory. The district court PUBLIC SERVICE COMMISSION shall after a hearing HELD IN THE MUNICIPALITY AFFECTED, file its findings and determinations. If the findings and determinations conclude that the rates are unreasonable or unjustly discriminatory, the local government shall amend the rates so as to remove any unreasonable or unjustly discriminatory features found by the court PUBLIC SERVICE COMMISSION. ANY PERSON PROVIDED WATER OR SEWER SERVICE BY A MUNICIPALITY MAY FILE A COMPLAINT WITH THE PUBLIC SERVICE COMMISSION AS PROVIDED IN 70-119.~~

(3) Except as provided in this section, local government is subject to the jurisdiction of the public service commission as established by chapter 1 of title 70.

Section 2. Section 70-113, R.C.M. 1947, is amended to read as follows:

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THIRD READING  
*Second Printing*

1 the time, for any service performed by it within the state,  
 2 or for any service in connection therewith, or performed by  
 3 any public utility controlled or operated by it. The rates,  
 4 tolls, and charges shown on such schedules shall not exceed  
 5 the rates, tolls, and charges in force at the time of  
 6 passage of this act. Every public utility shall file with  
 7 and as a part of such schedule, all rules and regulations  
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 10 commission shall deem necessary for the use of the public  
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 12 station or office of such public utility, where payments are  
 13 made by the consumers or users, open to the public, in such  
 14 form and place as to be readily accessible to the public,  
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 18 schedule shall in like manner be printed and filed with the  
 19 commission, and so much thereof as the commission shall deem  
 20 necessary for the use of the public shall be filed in every  
 21 such station or office as prescribed in the first paragraph  
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23 (3) No change shall thereafter be made in any  
 24 schedule, including schedules of joint rates, except as  
 25 approved by the commission. Before it may approve any

1 change increasing the rate or rates for utility service in a  
 2 schedule generally affecting consumers in a utility's  
 3 service area, the commission shall publish a notice of the  
 4 proposed change, conforming to the requirements of section  
 5 82-4209(2), in one or more newspapers published and of  
 6 general circulation within the area affected by the proposed  
 7 change. This notice shall announce a hearing on the  
 8 proposed change and shall inform interested persons how they  
 9 may petition the commission to become parties to the  
 10 hearing. The commission shall proceed to conduct the  
 11 hearing under the Administrative Procedure Act. The  
 12 consumer counsel may in his discretion petition to become a  
 13 party to the hearing.

14 (4) Notwithstanding any provision of this title to the  
 15 contrary, the final decision of the commission in any matter  
 16 decided after a hearing conducted pursuant to this section  
 17 shall conform to the requirements of a decision in a  
 18 contested case under the Administrative Procedure Act. The  
 19 commission may temporarily approve an increase pending a  
 20 hearing and final decision. If the final decision is to  
 21 disapprove the increase, the commission shall order a rebate  
 22 to all consumers for the amount collected retroactive to the  
 23 date of the temporary approval.

24 (5) Rates for water and of sewer supply and of  
 25 distribution services provided by municipalities shall be



1 established as provided by [section 1 of this act] and are  
 2 not subject to this section."

3 SECTION 3. SECTION 70-119, R.C.M., 1947, IS AMENDED TO  
 4 READ AS FOLLOWS:

5 "70-119. Complaints against public utility or  
 6 municipality -- hearing. Upon a complaint made against any  
 7 public utility or municipality providing water or sewer  
 8 service by any mercantile, agricultural, or manufacturing  
 9 society or club, or by any body politic or municipal  
 10 organization, or association or associations, the same being  
 11 interested, or by any person or persons, firm or firms,  
 12 corporation or corporations, provided such persons, firms,  
 13 or corporations are directly affected thereby that any of  
 14 the rates, tolls, charges, or schedule, or any joint rate or  
 15 rates, are in any way unreasonable or unjustly  
 16 discriminatory, or that any regulations, measurements,  
 17 practices, or act whatsoever affecting or relating to the  
 18 production, transmission, or delivery or furnishing of heat,  
 19 light, water, or power, or any service in connection  
 20 therewith, or the conveyance of any telegraph or telephone  
 21 message, or any service in connection therewith, is in any  
 22 respect unreasonable, insufficient, or unjustly  
 23 discriminatory, or that any service is inadequate, the  
 24 commission shall proceed, with or without notice, to make  
 25 such investigation as it may deem necessary. But no order

1 affecting such rates, tolls, charges, schedules,  
 2 regulations, measurements, practice or act complained of,  
 3 shall be entered without a formal hearing, except the  
 4 commission may issue an order to provide service to a  
 5 residential consumer pending a hearing on a complaint by  
 6 such consumer or by the consumer counsel on behalf of such  
 7 consumer against a public utility or municipality, providing  
 8 that the hearing is held within twenty (20) days unless  
 9 further delayed by consent of all parties.

10 The commission shall give the public utility or the  
 11 municipality and the complainant or complainants at least  
 12 ten days' notice of the time when and the place where such  
 13 hearing will be held, at which hearing both the complainant  
 14 and the public utility or municipality shall have the right  
 15 to appear by counsel or otherwise, and be fully heard.  
 16 Either party shall be entitled to an order by the commission  
 17 for the appearance of witnesses or the production of books,  
 18 papers, and documents containing material testimony.  
 19 Witnesses appearing upon the order of the commission shall  
 20 be entitled to the same fees and mileage as witnesses in  
 21 civil cases in the courts of the state, and the same shall  
 22 be paid out of the state treasury in the same manner as  
 23 other claims against the state are paid; but no fees or  
 24 mileage shall be allowed, unless the chairman of the  
 25 commission shall certify to the correctness of the claim."