

HOUSE BILL 872

IN THE HOUSE

February 17, 1979

Introduced and referred to  
Committee on Business and  
Industry.

February 20, 1979

Committee recommend bill, do  
not pass.

February 21, 1979

Report adopted.

1 House BILL NO. 872  
2 INTRODUCED BY PyPistoris

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE MUNICIPALLY  
5 OWNED WATER AND/OR SEWER SYSTEMS FROM PUBLIC SERVICE  
6 COMMISSION RATEMAKING PROCEDURE AND PROVIDING A METHOD OF  
7 PRESCRIBING AND APPEALING SUCH RATES; AMENDING SECTIONS  
8 7-13-4311 THROUGH 7-13-4313, AND 69-3-101, MCA."

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

11 Section 1. Section 7-13-4311, MCA, is amended to read:

12 "7-13-4311. Authorization to furnish water and sewer  
13 services to industrial consumers. (1) Subject to the  
14 provisions of subsection (2), the city or town council of  
15 any city or town within Montana that owns and operates a  
16 municipal water system and/or a municipal sewage system to  
17 furnish water and/or sewage services to the inhabitants of  
18 such city or town as a public utility shall, in addition to  
19 all other powers, have power to furnish water from such  
20 water system and sewage services from such sewage system:

21 (a) to any person, factory, or other industry located  
22 within the corporate limits of such city or town; or

23 (b) to any person, factory, or other industry located  
24 outside the corporate limits of such city or town.

25 (2) (a) The services authorized by subsection (1)

1 shall be furnished at reasonable rates. Any changes in  
2 rates shall be filed by the city or town council and  
3 approved by with the public service commission.

4 (b) Delivery of water and delivery of sewage services  
5 by any such city or town to or for the use of any person,  
6 factory, or other industry located outside the corporate  
7 limits of such city or town shall be made within or at the  
8 boundary line of the corporate limits of such city or town  
9 or from any existing waterline or sewerline of such city or  
10 town located outside of the corporate limits of such city or  
11 town, except as hereinafter provided."

12 Section 2. Section 7-13-4312, MCA, is amended to read:

13 "7-13-4312. Authorization to furnish water and sewer  
14 services to persons located outside municipality. The city  
15 council of any city within Montana that owns and operates a  
16 municipal water system and/or a municipal sewer system to  
17 furnish water and sewer services to the inhabitants of such  
18 city ~~as a public utility~~ shall, in addition to all other  
19 powers, have power to furnish water from such water system  
20 and sewage services from such sewer system to the  
21 inhabitants or to any person, factory, industry, or producer  
22 of farm or other products located outside of the corporate  
23 limits of such city at reasonable rates. Any changes in  
24 rates shall be filed by the city or town council and  
25 ~~approved when otherwise required by statute~~ with the

1 public service commission. Such city council is further  
2 empowered to make collections for furnishing water and sewer  
3 services in the same manner as collections are made within  
4 the corporate limits."

5 Section 3. Section 7-13-4313, MCA, is amended to read:  
6 "7-13-4313. Illegal use of water or sewer system. Any  
7 person, firm, or corporation residing either inside or  
8 outside of the corporate limits of a city owning a municipal  
9 water system and/or a municipal sewer system which furnishes  
10 water or sewer services ~~as a public utility~~ who shall  
11 willfully turn on the waterline or sewerline after the same  
12 shall have been shut off by or under the direction of the  
13 city for nonpayment of water charges or sewer charges or who  
14 shall unlawfully take water from such water system or shall  
15 unlawfully make use of such sewer system shall be guilty of  
16 a misdemeanor."

17 Section 4. Section 69-3-101, MCA, is amended to read:  
18 "69-3-101. Meaning of term public utility. The term  
19 "public utility", within the meaning of this chapter, shall  
20 embrace every corporation, both public and private, company,  
21 individual, association of individuals, their lessees,  
22 trustees, or receivers appointed by any court whatsoever,  
23 that now or hereafter may own, operate, or control any plant  
24 or equipment or any part of a plant or equipment within the  
25 state for the production, delivery, or furnishing for or to

1 other persons, firms, associations, or corporations, private  
2 or municipal:

- 3 (1) heat;
- 4 (2) street-railway service;
- 5 (3) light;
- 6 (4) power in any form or by any agency;
- 7 (5) water for business, manufacturing, household use,  
8 or sewerage service except as provided for in [section 5],  
9 whether within the limits of municipalities, towns, and  
10 villages or elsewhere;
- 11 (6) telegraph or telephone service."

12 NEW SECTION. Section 5. Municipally owned water  
13 and/or sewer systems not subject to ratemaking procedures.  
14 Municipally owned water and/or sewer systems are not subject  
15 to the ratemaking procedures provided for in Title 69,  
16 chapter 3, part 3.

17 NEW SECTION. Section 6. Rate increase procedure. (1)  
18 The city or town council may increase the rates for sewer  
19 and/or water services. If the rate increase is not appealed  
20 pursuant to [section 7], it becomes effective 30 days after  
21 notice of the increase is published.

22 (2) The city or town council shall publish in at least  
23 one newspaper of general circulation in the affected  
24 municipality, notice of the rate increase. The notice shall  
25 include an explanation of the procedure for challenging the

1 rates and the number of signatures necessary to initiate the  
2 appeal procedure provided for in [section 7].

3 NEW SECTION. Section 7. Procedure for appealing  
4 rates. (1) Rates set by a municipally owned water and/or  
5 sewer system may be appealed by petition to the public  
6 service commission. The number of signatures of customers  
7 required on the petition before the public service  
8 commission may act on the petition is as follows:

9 (a) for a municipality with a population of 0 - 2,499,  
10 5;

11 (b) for a municipality with a population of 2,500 -  
12 4,900, 10;

13 (c) for a municipality with a population of 5,000 -  
14 9,999, 15;

15 (d) for a municipality with a population of 10,000 -  
16 24,999, 25;

17 (e) for a municipality with a population of 25,000 -  
18 49,999, 50;

19 (f) for a municipality with a population of 50,000 -  
20 74,999, 75;

21 (g) for a municipality with a population of 75,000 -  
22 99,999, 100;

23 (h) for a municipality with a population of 100,000  
24 and above, 150.

25 (2) The petition shall state that the rates collected

1 for the services, facilities, and benefits *afforded* by a  
2 municipally owned water and/or sewer system are unreasonable  
3 or unjustly discriminatory. Copies of the petition must be  
4 filed with the city or town council, the public service  
5 commission and the consumer counsel within 30 days after  
6 notice of the increase is posted.

7 (3) The public service commission shall, upon public  
8 hearing thereon, file its findings and determination,  
9 stating therein in what respect, if any, the rates are  
10 unreasonable or unjustly discriminatory. The affected  
11 municipality shall immediately readjust its rates so as to  
12 remove any unreasonable or unjustly discriminatory features  
13 found by the public service commission.

14 NEW SECTION. Section 8. Annual report to public  
15 service commission. The accounts of a municipally owned  
16 water and/or sewer system shall be closed annually on either  
17 June 30 or December 31 and a balance sheet taken promptly  
18 therefrom. A full annual report of the business of the  
19 system shall be made to the public service commission not  
20 later than the 15th day of the following September when the  
21 account is closed on June 30, and not later than March 15 of  
22 the following year when the account is closed on December  
23 31. The report shall be in the form prescribed by the  
24 commission and shall contain all information considered  
25 necessary by the commission for the proper performance of

1 its duties. The commission may, at any time, call for  
2 information omitted from the report or not provided for  
3 therein whenever, in the judgment of the commission, the  
4 information is necessary.

5 NEW SECTION. Section 9. Information necessary for  
6 rate appeal hearing -- commission's right to examine books,  
7 records, and other memoranda. Whenever under [section 7],  
8 sufficient customers request that a public hearing be held  
9 before the public service commission, the municipally owned  
10 sewer and/or water system shall submit to the commission any  
11 information the commission may, by rule or data request,  
12 require. Any commissioner or any person authorized by the  
13 commission has the right, to examine the books, accounts,  
14 records, and papers of the system to determine their  
15 correctness and whether they are being kept in accordance  
16 with the commission's rules.

-End-

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