

State of Arkansas  
76th General Assembly  
Regular Session, 1987  
By: Representative Wilson

HOUSE BILL 1780

"AN ACT TO PROVIDE FOR REGISTRATION AND LIMITED DEREGULATION  
OF PRIVATELY OWNED SEWER AND/OR WATER SYSTEMS LOCATED WITHIN  
TEN MILES OF A CITY OF THE FIRST CLASS."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DEFINITIONS:

As used in this Act,

(a) "Utility" shall mean a privately owned utility diverting, developing, pumping, impounding, distributing, or furnishing water to, or for the public for compensation or maintaining a sewage collection system and/or a sewage treatment plant, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations and other appurtenances necessary or useful for the collection and/or treatment, purification and disposal of the liquid and solid waste, sewage, night soil and industrial waste, which utility provides services to customers within ten miles of the corporate limits of a City of the First Class which has a population in excess of 140,000 persons. Provided, nothing in this paragraph shall be construed to include water or sewerage facilities and equipments of cities and towns or improvement districts in the definition of public utility.

(b) "Commission" shall mean the Arkansas Public Service Commission.

(c) "Health and Environmental Agencies" shall mean the Arkansas Department of Health, the Arkansas Pollution Control Commission, and the United States Environmental Protection Agency.

(d) "Rate" shall mean and include every compensation, charge, fare, toll, rental, and classification or any of them, demands, observed, charged, or collected by any public utility for any service, products, or commodity offered by it as such public utility to the public, and any rules, regulations, practices, or contracts, affecting any such compensation, charge, fare,

toll, rental, or classification.

SECTION 2. UTILITIES AFFECTED:

Notwithstanding any other provisions of the laws of this State regulating public utilities, the provisions of this Act shall govern the registration, accounting, and rates only of a privately owned public utility providing sewer and/or water services to one or more customers at a location within ten (10) miles of the corporate limits of a City of the First Class which has a population in excess of 140,000 persons.

SECTION 3. REGISTRATION:

All utilities as described herein shall register with the Commission within ninety (90) days of the effective date of this Act. The registration shall include the following information:

- (a) Name of owner;
- (b) A description of the territory served;
- (c) Date on which service was first provided by this owner;
- (d) Name of prior owner(s), if known;
- (e) Date on which services were commenced or assumed by prior owner(s) (if known);
- (f) Classes and number of customers within each class of customers served;
- (g) Gross revenues from each type of service provided and from each class of customer served for the preceding calendar year;
- (h) Operating expenses and debt service for the preceding calendar year;
- (i) Balance sheet for the preceding calendar year;
- (j) A rate schedule showing the rates charged for each class of customer and type of service and any late charges, deposits, or other levies or assessments made as of December 31, 1986, and as of the date of filing of the registration.

SECTION 4. RATES:

A utility which: (a) charges a rate not greater than 10% in excess of the rate charged by a sewer and/or water utility owned by or controlled by a City of the First Class within ten miles of the customers served by the utility; and (b) is registered and in compliance with the regulations of the

Health and Environmental Agencies with jurisdiction over the utility; and (c) is registered with the Commission under Section 3 of this Act shall be exempt from regulation of its rates by the Commission, and shall with its registration under Section 3 of this Act and on or before April 30th of each year thereafter file a proof of rate regulation exemption evidencing its qualification for rate regulation exemption under this Act.

SECTION 5. ACCOUNTING BOOKS AND RECORDS:

Utilities qualifying for rate regulation exemption under Section 4 of this Act shall maintain books and records in accordance with generally accepted accounting practices and shall file with the Commission on or before April 30th of each year a balance sheet and income statement reviewed by a certified public accountant; and a copy of all certificates of registration or compliance issued in the preceding year to the utility by Health and Environmental Agencies.

SECTION 6. TRANSFERS OF OWNERSHIP OR INTERESTS IN UTILITIES:

A contract for the purchase, sale, lease, exchange, or transfer of a utility or the assets or stock of a utility or conveying a security interest in the utility or its assets, or conveying the stock of a utility which is exempt from rate regulation under this Act shall be exempt from those provisions of Ark. Stat. Ann. §§73-238 and 73-253 which make such contracts void without the approval of the Commission.

SECTION 7. EXEMPTION FOR PAST ACTS:

Any utility complying with the provisions of Section 4 of this Act on or before 90 days after the effective date of this Act shall be exempt from any law or regulation regarding Commission regulation or approval of the activities of such utility prior to such registration.

SECTION 8. MUNICIPALITIES AND IMPROVEMENT DISTRICTS NOT AFFECTED:

No provision of this Act is intended to affect sewer or water systems owned or controlled by municipalities or improvement districts.

SECTION 9. EMERGENCY. It is hereby found and determined by the General Assembly that for many years a number of privately owned sewer and/or water

utilities have existed in this State which have not registered with the Arkansas Public Service Commission; that the existing laws and regulations of this State discourage such registration; that to the extent such utilities are not charging rates more than 10% in excess of the rates being charged for sewer and/or water services by nearby cities of the First Class, such utilities should be exempted from the burden and expense of traditional rate regulation but should be encouraged to register with the Commission; the lack of rate regulation and registration provisions of the type contained in this Act may jeopardize the safety of the customers and the stability of such utilities. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

