



# Ohio Legislative Service Commission

## Bill Analysis

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### **S.B. 228**

128th General Assembly  
(As Introduced)

**Sens.** Goodman and Hughes, D. Miller

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## **BILL SUMMARY**

- Prohibits (1) water-works companies that serve 15,000 or more customers in Ohio, (2) sewage disposal system companies that serve 15,000 or more customers in Ohio, and (3) water-works companies that are also sewage disposal system companies that serve a total of 15,000 or more customers in Ohio from recovering more than half of rate-case expenses incurred in a standard ratemaking proceeding.
- Prohibits those same companies from recovering any rate-case expenses in an emergency rate proceeding, certain ratemaking proceedings specific to water and sewage utilities, and any ratemaking mechanism established after the bill's effective date.

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## **CONTENT AND OPERATION**

### **Ratemaking mechanisms under current law**

#### **Standard ratemaking proceeding**

Current law directs public utilities<sup>1</sup> desiring to "establish any rate, joint rate, toll, classification, charge, or rental, or to modify, amend, change, increase, or reduce any

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<sup>1</sup> R.C. 4905.02 and 4905.03 define what is a public utility. With respect to water and sewage disposal service, a "public utility" includes every corporation, company, copartnership, person, or association, their lessees, trustees, or receivers that is (1) a "water-works company," which is defined in current law as any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, when engaged in the business of supplying water through pipes or tubing, or in a similar manner, to consumers within Ohio and (2) a "sewage disposal system company," which is defined in current law as any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, when engaged in the business of sewage disposal services through pipes or tubing, and treatment works, or in a similar manner, within

existing rate, joint rate, toll, classification, charge, or rental, or any regulation or practice affecting the same," to apply to the Public Utilities Commission of Ohio (PUCO). The application is to contain (1) a schedule of the existing rate, joint rate, toll, classification, charge, or rental, or regulation or practice, (2) a schedule of the change, increase, or reduction sought, and (3) a statement of the facts and grounds of the application.<sup>2</sup>

If the application is for an increase in a rate, joint rate, toll, classification, charge, or rental, it is to include the following exhibits: (1) a report of the utility's property used and useful in rendering the service referred to in the application, (2) a complete operating statement of the utility's last fiscal year, showing in detail all its receipts, revenues, and incomes from all sources, all of its operating costs and other expenditures, and any analysis that the utility deems applicable, (3) a statement of the income and expense anticipated under the application, (4) a statement of financial condition summarizing assets, liabilities, and net worth, and (5) a proposed notice for newspaper publication fully disclosing the substance of the application. The notice is to include the average percentage increase in rate that a representative industrial, commercial, and residential customer will bear if the increase is granted. The PUCO may require that the utility include additional exhibits. Applications that are not for increases in rates, joint rates, tolls, classifications, charges, or rentals are to include other information relevant to the applications.<sup>3</sup>

### **Emergency rate changes**

Current law permits the PUCO, if necessary to prevent injury to the business or interests of the public or of any Ohio public utility in case of any emergency to be judged by the PUCO to temporarily change or, with the utility's consent, suspend any existing rate, schedule, or order relating to a public utility.<sup>4</sup> Administrative Code rules outline filing requirements for a proceeding under this law, referred to in those rules as an "emergency rate proceeding."<sup>5</sup>

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Ohio. "Public utility" includes a not-for-profit utility. "Public utility" does not include a water-works or sewage disposal system company that is owned and operated exclusively by and solely for the company's customers. Additionally, "public utility" does not include a utility owned or operated by a municipal corporation.

<sup>2</sup> R.C. 4909.18.

<sup>3</sup> R.C. 4909.18.

<sup>4</sup> R.C. 4909.16.

<sup>5</sup> See, e.g., O.A.C. 4901-1.

## Rate change proceedings specific to water utilities

Under current law, a water-works company or a sewage disposal system company may apply to the PUCO for an increase or decrease in rates if the rate change is based solely on a change in the cost to the company of the water or sewage treatment. To qualify for the rate change, the water or sewage treatment must be provided to the company seeking the rate change by either (1) a municipal corporation or other local governmental unit whose rates are not subject to regulation by the PUCO or (2) a public utility whose rates have been approved by the PUCO under an application filed in a standard ratemaking proceeding. An application filed under this law is to include evidence of the new rates and charges that the company filing the application is being charged.<sup>6</sup>

Current law also permits a water-works company or a sewage disposal system company that is a public utility to apply to the PUCO for approval to collect an infrastructure improvement surcharge from customers located in the company's affected service areas.<sup>7</sup>

## Recovery of rate-case expenses under the bill

The bill limits recovery of rate-case expenses for water-works companies and sewage disposal system companies of certain sizes in each of the rate cases described above (see "**Ratemaking mechanisms under current law**") or any other ratemaking mechanism established after the bill's effective date. Specifically, the bill prohibits water-works companies that serve 15,000 or more customers in Ohio, sewage disposal system companies that serve 15,000 or more customers in Ohio, and water-works companies that are also sewage disposal system companies that serve a total of 15,000 or more customers in Ohio from recovering from customers more than 50% of the total amount of rate-case expenses incurred for an application filed under the standard ratemaking proceeding. The bill defines "rate-case expenses" as any of the following incurred in relation to an application under any of the ratemaking mechanisms described in this analysis: (1) fees, wages, or other compensation for labor paid to attorneys, consultants, witnesses, or employees, (2) expenses for attorneys, consultants, witnesses, or employees, (3) costs for preparing studies, including lead-lag studies, cost-of-service studies, depreciation studies, and other studies, or (4) any other expenses incurred in relation to a ratemaking application.

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<sup>6</sup> R.C. 4909.171.

<sup>7</sup> R.C. 4909.172.

The bill prohibits the same companies from recovering any rate-case expenses incurred in (1) an emergency rate proceeding, (2) either of the ratemaking mechanisms specific to water utilities discussed above, and (3) any other ratemaking mechanism established after the bill's effective date.

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## HISTORY

ACTION	DATE
Introduced	02-17-10

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