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Senate Bill 687 (as introduced 11-14-13)  
Sponsor: Senator Darwin L. Booher  
Committee: Local Government and Elections

Date Completed: 3-5-14

## **CONTENT**

**The bill would create a new statute to regulate the provision of utility services by certain municipalities to other municipalities. It would do the following:**

- Prohibit a municipality providing utility service to another municipality from terminating the service, or refusing to renew an existing contract for the service, for any reason other than a lack of physical ability to continue providing the service.**
- Specify that the prohibition would not preclude negotiations for providing the service at a reasonable rate, not to exceed the cost of providing the service.**
- Allow an aggrieved municipality to seek declaratory and equitable relief in the circuit court.**

### Termination of Utility Service

In compliance with article IV, Section 52 of the State Constitution, if a municipality furnished a utility service through a regional agreement or contract to one or more municipalities or directly to customers within one or more municipalities, the furnishing municipality could not terminate the service or refuse to renew an existing contract for the service for reasons other than that its facilities lacked the physical ability to continue to provide the service. This provision would apply to utility services such as water, sanitary sewers, wastewater treatment, or electricity, or a combination of those services.

(Article IV, Section 52 of the Constitution states: "The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.")

The proposed act would not preclude the furnishing municipality's ability to negotiate a reasonable rate for service, as long as the rate was not more than the cost of providing the service.

### Civil Remedy

A municipality aggrieved by a violation or threatened violation of the act could maintain an action for declaratory or equitable relief in the circuit court having jurisdiction where the alleged violation occurred or was likely to occur. The court would have jurisdiction to restrain the violation and require compliance with the act. The court could award reasonable attorney fees and costs to the prevailing party.

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bill would have an unknown impact on local government. The impact would depend on the existing terms and structure of utility contracts or regional agreements in place, which may address termination of service, and the decisions by individual municipalities in determining to discontinue utility service or to file court actions regarding potential violations of the proposed act. To the extent that the bill prevented an abrupt or unilateral decision to discontinue utility service to an area, the service provider would continue to incur costs of providing the service and the recipient local unit would avoid the costs of service disruption. The bill also would limit the rates charged by a municipality for utility service provided through a regional agreement or contract to not more than the cost of providing the service.

Fiscal Analyst: Elizabeth Pratt

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