

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 540  
Finance

(Senator Hershey, *et al.*)

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Member-Regulated Cooperatives - Establishment (Rural Broadband for the  
Eastern Shore Act of 2020)

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This bill establishes a process for an electric cooperative to operate as a member-regulated cooperative on the Eastern Shore of the State, subject to specified requirements for transitioning and operation. A member-regulated cooperative may provide broadband Internet access to its members, generally subject to existing laws related to cooperative electric service. The Public Service Commission (PSC) retains limited jurisdiction over a member-regulated cooperative – which does not include rate setting – as specified.

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Fiscal Summary

**State Effect:** The bill does not materially affect State finances or operations, although PSC assessments are reallocated if the Choptank Electric Cooperative votes to become a member-regulated cooperative, as discussed below.

**Local Effect:** Assuming that Choptank votes to become a member-regulated cooperative, local jurisdictions served by the cooperative likely experience additional deployment of broadband facilities, and Choptank would no longer be subject to rate regulation by PSC. The effect on a particular local government’s revenues or expenditures is unknown, but could be significant.

**Small Business Effect:** Meaningful.

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Analysis

**Bill Summary:** An electric cooperative’s board of directors must unanimously pass a binding resolution in order to operate as a member-regulated cooperative, subject to

specified requirements. A member-regulated cooperative may not adopt a new rate or alter its rates or charges for the services it provides without providing notice to its members and an opportunity to comment and observe the board of director's vote to change the rates. A member-regulated cooperative must also:

- make various information available to its members, such as rate schedules, tariffs, financial information, and consumer education programs;
- implement a net metering program consistent with State law;
- adopt procedures to hear, decide, and resolve complaints; and
- establish policies related to termination of service.

A member-regulated cooperative must revert to an electric cooperative, as specified.

If there is a conflict between the provisions of the bill related to member-regulated cooperatives and other provisions of law, the provisions of the bill prevail.

**Current Law:** An electric cooperative has the powers enumerated in law, including the power to:

- generate, manufacture, purchase, acquire, accumulate, and transmit electricity;
- construct, maintain, and operate electric transmission and distribution lines along, on, under, and across publicly owned lands, roadways, and public ways, with the prior consent of the local government of the area in which the lines are proposed to be constructed and under any reasonable regulations and conditions required in the consent;
- exercise the power of condemnation in the same manner as that authorized for corporations that construct or operate electric transmission and distribution lines or systems;
- construct, maintain, or operate or allow others to construct, maintain, or operate conducting or communications facilities that furnish telecommunications, broadband Internet access, or related services in a similar manner and subject to similar conditions as electric transmission and distribution lines; and
- do any other act and exercise any other power that may be necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is organized.

The provisions of the Public Utilities Article that member-regulated cooperatives remain subject to under the bill cover topics such as franchises, standards of service, accident notification, required local consent to construct power lines, collection of an environmental surcharge, certificates of public convenience and necessity, meter inspections, electric industry restructuring and customer choice, the renewable energy portfolio standard

(Choptank is exempt under existing law), and the application of specified criminal penalties.

**Background:** The Choptank Electric Cooperative was formed in 1938 and provides electricity to approximately 54,000 customers across large areas of the Eastern Shore of the State; a map of its service territory can be found on PSC’s [website](#) (See Figure 1). A&N Electric Cooperative also serves a small number of customers on Smith Island in Somerset County. The bill further facilitates the expansion of rural broadband Internet on the Eastern Shore by allowing Choptank, which has a large geographic footprint in rural areas, to directly provide high-speed fiber Internet service to its members. The 2019 [report](#) by the Task Force on Rural Internet, Broadband, Wireless, and Cellular Service discusses the issue of rural broadband in depth.

**State Fiscal Effect:** This analysis assumes Choptank votes to operate as a member-regulated cooperative under the process authorized by the bill. If Choptank chooses not to, then the bill generally has no effect.

Member-regulated cooperatives under the bill are not subject to the annual assessment process that funds PSC and the Office of People’s Counsel; however, PSC is still responsible for overseeing certain member-related cooperative functions. Choptank’s fiscal 2020 assessment was \$310,000; that lost revenue must be absorbed by increasing assessments on other regulated entities. The effect on ratepayers of reallocating that amount is minimal.

**Local Fiscal Effect:** Assuming that Choptank votes to become a member-regulated cooperative, local jurisdictions served by Choptank likely experience additional deployment of broadband infrastructure. The effect on a particular local government’s revenues (permits, property taxes) or expenditures, relative to what they would have been under current law, is unknown, but could be significant. Further, Choptank would no longer be subject to rate regulation by PSC. Historically, electric companies have received only a portion of their requested rate increases during rate cases before PSC; therefore, electric rates may increase beyond what they otherwise would have been.

**Small Business Effect:** Assuming that Choptank votes to become a member-regulated cooperative, small businesses in Choptank’s service territory likely benefit from additional access to broadband Internet; conversely, Choptank’s rates are no longer subject to regulation by PSC, which may increase rates beyond what they otherwise would have been.

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## Additional Information

**Prior Introductions:** None.

**Designated Cross File:** HB 999 (Delegate Sample-Hughes, *et al.*) - Economic Matters.

**Information Source(s):** Public Service Commission; Office of People's Counsel;  
Department of Legislative Services

**Fiscal Note History:** First Reader - February 21, 2020  
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