Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 606 (Delegate D.E. Davis)
Economic Matters Finance

Electricity and Gas - Limited-Income Mechanisms and Assistance

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This emergency bill generally requires utilities to adopt limited-income mechanisms, subject to the approval of the Public Service Commission (PSC) and other specified requirements. The bill also expands eligibility under the electric universal service program (EUSP), as specified. In both fiscal 2021 and 2022, $10.0 million of the revenue that would otherwise be deposited in the Strategic Energy Investment Fund (SEIF) from the Regional Greenhouse Gas Initiative (RGGI) *may* instead be deposited into a special fund in the Department of Human Services (DHS) and used to provide bill assistance and arrearage retirement, as specified. The bill also establishes the Workgroup on Low-Income Utility Assistance, staffed by DHS, with a report due by January 1, 2022. **Provisions related to the use of transferred RGGI funds terminate June 30, 2023.**

Fiscal Summary

State Effect: Special fund expenditures for PSC increase by up to $300,000 in total in FY 2021 and 2022; special fund revenues increase correspondingly from assessments imposed on public service companies. Special fund revenues and expenditures for DHS increase by $10.0 million annually in FY 2021 and 2022, under the assumptions discussed below; special fund revenues for SEIF decrease correspondingly, and those revenues are no longer available for distribution and expenditure through SEIF. Costs associated with the workgroup are assumed to be minimal and absorbable within existing budgeted resources. DHS can handle the bill's requirements with existing budgeted resources. The effect on electricity prices is discussed separately below.

Local Effect: The bill likely does not materially affect local government finances or operations.

Small Business Effect: Potential meaningful, as discussed below under the Additional Comments section of this fiscal and policy note.

Analysis

Bill Summary:

Limited-Income Mechanism

"Utility company" means an electric company, a gas and electric company, or a gas company. It does not include a small rural electric cooperative. An "eligible limited-income customer" means a residential customer of a utility company with an annual income that (1) generally, is at or below 175% of the federal poverty level (FPL); (2) for a customer age 67 or older, at or below 200% of FPL; or (3) meets a broader designation approved by PSC.

A proposal for a limited-income mechanism must be submitted either in a rate case or as a separate application and must include (1) a detailed description of the proposed mechanism; (2) the proposed method for allocating the mechanism's costs across customer classes; (3) the rationale supporting the proposal; (4) a timeframe and process for PSC to review the effectiveness of the mechanism after implementation; and (5) any other information PSC considers necessary or useful in evaluating the proposal. A municipal electric utility may adopt a limited-income mechanism, subject to PSC approval, in the same manner as a utility company.

The mechanism may take the form of a program, tariff provision, credit, rate, rider, or other means to assist an eligible limited-income customer to afford utility service. If an approved mechanism requires that the Office of Home Energy Programs (OHEP) in DHS must certify an eligible limited-income customer's qualifications to participate in the mechanism, OHEP must do so before the customer may participate. The bill makes a related conforming change to the general prohibition against a public service company charging different rates in substantially similar circumstances and specifies related findings of the General Assembly.

An eligible limited-income customer who participates in a mechanism offered under the bill may also be eligible for other assistance programs offered in the State.

Workgroup on Low-Income Utility Assistance,

The Workgroup on Low-Income Utility Assistance is established to examine the forms of federal, State, local, and private assistance available to low-income residential electric and natural gas customers. DHS must staff the workgroup, which must study:

- the different systems and forms of financial assistance available to low-income electric and natural gas customers in the State from federal, State, local, and private sources, especially EUSP and the Maryland Energy Assistance Program (MEAP);
- inefficiencies and gaps in the availability, qualification, and processing of applications for and delivery of financial assistance to low-income electric and natural gas customers;
- the feasibility of establishing a new natural gas universal service program or the expansion of existing programs to cover low-income natural gas customers, including the characteristics of any new or expanded program;
- coordination of benefits under existing financial assistance programs for low-income electric and natural gas customers and means to improve coordination so as to extend and enhance the effectiveness of these programs;
- anticipated short-term and long-term demand for financial assistance for low-income electric and natural gas customers in the wake of the COVID-19 pandemic and systemic economic inequities, particularly in disadvantaged communities;
- the feasibility of establishing one or more financial assistance programs for small businesses in low-income communities; and
- any other matter the workgroup considers relevant and helpful to addressing the needs of low-income utility customers.

By January 1, 2022, the workgroup must submit a report of the study, findings, and recommendations, including recommended legislation and regulatory changes, to the Senate Finance Committee and the House Economic Matters Committee.

Current Law:

Rate Discrimination Generally Prohibited

Except in limited specified circumstances, for any service rendered or commodity furnished, a public service company may not directly or indirectly, by any means, including special rates, rebates, drawbacks, or refunds:

- charge, demand, or receive from a person compensation that is greater or less than from any other person under substantially similar circumstances;
- extend a privilege or facility to a person, except those privileges and facilities that are extended uniformly to all persons under substantially similar circumstances;
- discriminate against a person, locality, or particular class of service; or
- give undue or unreasonable preference to or cause undue or unreasonable prejudice to a person, locality, or particular class of service.

For example, an exemption applies to service rendered or commodities furnished to indigent, destitute, and homeless individuals, or to provide relief in cases of general epidemic, pestilence, flood, or other similar calamity.

Energy Assistance

OHEP within DHS administers a variety of energy assistance programs and services for residential customers using local administering agencies, including local departments of social services, in each county and Baltimore City. These programs include EUSP, MEAP bill payment assistance (heating source), and gas and electric arrearage assistance programs. The income eligibility for each of these programs is 175% of FPL.

Chapter 39 of 2021 ("the RELIEF Act") restricts/authorizes $83.0 million for utility arrearage assistance in fiscal 2021. Specifically, the Act restricts the use of $53.0 million of certain SEIF funds and authorizes an additional $30.0 million in expenditures through the Recovery Now Fund for such purposes. (The Recovery Now Fund is a special fund created by the Act and funded with Revenue Stabilization Account (Rainy Day Fund) balance). PSC must use the funds to provide grants to electric and natural gas utilities, including cooperatives and municipal utilities, to eliminate customer arrearages, as specified.

Strategic Energy Investment Fund

Chapters 127 and 128 of 2008 established SEIF primarily to contain revenue generated from the sale of carbon dioxide emission allowances under RGGI. The allocation of revenue has been altered several times in budget reconciliation legislation. The current allocation requires (1) at least 50% for energy assistance; (2) at least 20% for energy efficiency and conservation (at least one-half for low- and moderate-income programs); (3) at least 20% for renewable and clean energy, energy-related education and outreach, resiliency, and climate change programs; and (4) up to 10% but no more than $5.0 million for administrative expenses.

State Fiscal Effect:

Limited-Income Mechanisms

The bill leads to increased PSC proceedings involving applications for approval of limited-income mechanisms. Additionally, the issues in base rate cases are often many and diverse, and the time for consideration of the issues is limited by statute. Consideration of a low-income mechanism, in the context of a base rate proceeding, coupled with the negative impacts of the COVID-19 pandemic and hiring freeze on agency resources, requires PSC to use consultants to complete the necessary analysis within statutorily defined time limits. Therefore, special fund expenditures for PSC increase by up to $300,000 in total in fiscal 2021 and 2022 for consultant services. Special fund revenues increase correspondingly from assessments imposed on public service companies.

SEIF Redirection of Revenues for Bill Assistance and Arrearage Retirement

This estimate assumes that RGGI funds are redirected from SEIF to DHS in fiscal 2021 and 2022, as authorized by the bill. Accordingly, special fund revenues and expenditures for DHS increase by $10.0 million annually in fiscal 2021 and 2022 as DHS receives and uses the funds to provide bill assistance and arrearage retirement through EUSP and MEAP. Special fund revenues for SEIF decrease correspondingly and are no longer available to be distributed (and then expended) under the established formula for allocating SEIF revenues from RGGI proceeds for energy assistance, energy efficiency, clean and renewable energy programs, and administrative expenses.

The Department of Legislative Services notes that, while RGGI funds are usually allocated in each year's budget using a mix of forecasted revenue and fund balance, statute requires that at least 50% of RGGI funds be used for energy assistance. Therefore, over time, the bill only potentially increases funds available to DHS by up to $10.0 million – although the funding is available more quickly.

DHS Administrative Expenditures

DHS indicates that it incurs expenditures to update the OHEP data management system and outreach materials, but those costs can be absorbed within existing budgeted resources. DHS can also staff the Workgroup on Low-Income Utility Assistance with existing budgeted resources.

Local Fiscal Effect: Local governments that own and operate municipal electric utilities are affected to the extent that they choose to propose limited-income mechanisms and those mechanisms are approved. The overall effect on a particular local government is likely minimal.

Additional Comments (Electricity Prices): The bill may lead to a reallocation of customer costs under approved limited-income mechanisms; such costs must instead be recovered from other customers, which may include the State and local governments, as utility customers, and small businesses. The magnitude of the potential effect depends on the amount of any cost reallocation and the extent to which those costs are applied to commercial customers. The amount, if any, cannot be reliably estimated at this time, but, particularly for energy-intensive small businesses, could be meaningful.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 392 (Senator Augustine) - Finance.

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

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