

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 546
(Senator Conway)
Education, Health, and Environmental Affairs

Environment - Water Service - Shutoff Notice Disclosures and Vulnerable Population Protection

This bill establishes (1) requirements that a water or sewer system service provider must meet prior to shutting off service to a customer; (2) restrictions on shutting off service; and (3) requirements relating to the restoration of service. The bill also establishes annual reporting requirements for providers regarding the number of shutoffs of water and wastewater service that have occurred in the previous calendar year.

Fiscal Summary

State Effect: The bill's changes can be handled within existing budgeted resources.

Local Effect: The bill likely has significant operational and fiscal impacts on some local governments that operate water and sewer systems. Local health departments may be affected depending on the number of individuals who request certification of specified health conditions in writing. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Minimal overall, but any privately owned water systems that are considered small businesses may incur additional costs.

Analysis

Bill Summary:

Temporary Shutoff Authorized

A “provider” may shut off service temporarily for health or safety reasons or in a State or national emergency. Prior to temporary shutoff, the provider must mail a notice to the premises.

“Provider” means any water or sewerage system that provides water or sewerage service in the State in accordance with Title 9 of the Environment Article.

Notice Requirements for Shutting Off Water or Sanitary Wastewater Services for Nonpayment

Before shutting off service for nonpayment of overdue water charges, the provider must mail a delinquency notice to the customer and any occupant between 30 and 45 days before the date of the proposed shutoff. The notice must inform the customer and any occupant of the delinquency. Additionally, at least 10 days before the shutoff, the provider must post a notice of the shutoff on the door of the premises to be shut off. Among other things, the notice must contain:

- specified identifying information;
- the reason for the shutoff, the amount due, and a payment deadline;
- a description of any actions a customer must take to prevent the shutoff;
- contact information for the provider where the customer can inquire, enter into a payment plan, qualify for an exemption, or file a complaint;
- a description of affordability programs, installment plans, or other financial assistance that the provider offers customers; and
- a notice that the provider will postpone the shutoff if the customer or an occupant provides required documentation to the provider within 30 days of receiving the notice.

At the time of the shutoff, a provider must leave a notice at the premises that service has been shut off. Further, the notice must describe the process for service restoration and specified contact information of the provider where the customer may arrange to have service restored.

“Occupant” means a person residing at a premises who utilizes water or sanitary wastewater service and is not the holder of a provider account for the service. “Customer”

is the person who is the holder of a provider account for water or sanitary wastewater service.

Prohibitions to a Provider Shutting Off Water Service for Nonpayment

A provider may not shut off water service for nonpayment of overdue bills if the customer or occupant, or an authorized representative of the customer or occupant, informs the provider that the customer or occupant of the premises meets one or more of the following conditions:

- the customer or an occupant has a significant medical condition as certified in writing by a licensed doctor or local health department stating that the absence of water will aggravate the medical condition;
- the customer or an occupant is at least age 62 and has a household income at or below 200% of the federal poverty guidelines, as demonstrated by documentation;
- an occupant is age 6 or younger;
- the customer or an occupant has specified vision limitations; or
- the customer or occupant has a physical, cognitive, or medical impairment resulting from specified conditions, as certified in writing by a licensed doctor or local health department, that prevents the exercise of normal bodily function, the ability to manage resources, or the ability of the person to protect themselves from neglect or hazardous situations without the assistance of others.

Further, a provider is prohibited from shutting off water service for nonpayment if the affected property is in bankruptcy proceedings or if a specified certificate of sale has been issued.

Other Conditions

A provider may not shut off service because a customer has failed to pay for service received at another location or at a premises occupied by more than one household with a single metering point. After giving a customer notice, a provider may shut off service if (1) the customer supplies a written, notarized statement that the premises are unoccupied or (2) the premises are occupied and the occupant agrees in writing to shut off service.

A provider may not shut off service for nonpayment if (1) a customer claim regarding the overdue charges is under consideration by the provider; (2) the customer produces a record of payment in full of all overdue charges; (3) the customer immediately makes a payment for the full overdue amount; or (4) the customer enters into an installment plan with the provider to pay the overdue charges. However, if payment is due on undisputed charges, the provider is not prohibited from shutting off service.

Restoration of Service

A provider who shuts off service at a premises must restore service on the customer's or occupant's request when the cause of the shutoff has been cured or payment arrangements have been made. When the provider must manually restore service at the customer's meter, a provider must make reasonable efforts to restore service the day a customer or occupant requests restoration. Further, except for reasons beyond the provider's control, service must be restored no later than the first working day after a customer's or occupant's request. If a provider has remote shutoff and restoration capabilities, service must be restored within 24 hours of a customer's or occupant's request, except as specified.

Annual Reporting Requirements

A provider must file a report with the General Assembly by August 1 annually. A provider must also publish the report on the provider's website and make the report available for review, free of charge, in print at the provider's offices. The report must include specified information including (1) the total number of shutoffs of water and wastewater service that occurred overall and by census tract and zip code; (2) the total number of shutoffs of water and wastewater service that occurred for both residential and commercial customers; and (3) the provider's policies and procedures regarding shutoffs of water and wastewater service.

Current Law/Background: Public Service Commission regulations authorize a water company to deny service for the nonpayment of a bill, provided that the company has made a reasonable attempt to collect the amount owed and has provided the customer with written notice that the customer has at least five days, excluding Sundays and holidays, in which to settle the account or have service denied. A water company may only discontinue service without notice under specified circumstances, including hazardous conditions, equipment tampering, and unauthorized use of service.

A sanitary commission may disconnect water or sewer service if a water bill is unpaid for 30 days after being sent and after written notice is left on the premises or mailed to the last known address of the owner. In Allegany, Dorchester, Garrett, and Somerset counties, the sanitary commission may disconnect water service to enforce the collection of an unpaid charge that is at least 60 days overdue.

If a water bill remains unpaid to a political subdivision after 30 days, the political subdivision must notify the owner in writing that the bill is late and service will be discontinued, leave notice on the owner's property or mail the notice to the owner's last known address, and discontinue service until the owner pays the bill and a reconnection

charge. If a bill for sewerage service is unpaid for 45 days, a political subdivision may disconnect water service to the property, after providing notice.

Local Fiscal Effect: The bill likely has a significant operational and fiscal impact on some local jurisdictions that operate water and sewer systems. The Maryland Department of the Environment advises that Maryland has 469 community water systems that serve from 25 to 1.8 million persons each. The largest water systems may experience hundreds of main breaks per day that result in a customer service shutoff to repair the break. Notifying each customer in each case may have a significant impact on utility resources. Further, the bill establishes several exceptions that prevent a provider from shutting off service to a customer. Thus, the bill may result in an increase in payment delinquencies and a decrease in revenues for providers.

The bill also establishes new reporting requirements, which may require utilities to track additional data. Several local governments indicate that current operating systems for tracking and maintaining data related to water and wastewater services must be modified in order to track the information required under the bill. Costs to install or modify computer systems and write annual reports may be significant.

For example, Charles County advises that expenditures increase by approximately \$98,800 annually beginning in fiscal 2018 to hire two new employees to deliver notices and make programming changes to print notices. Currently, the county delivers notices by mail. Attaching a notice to a door, as required by the bill, requires significant additional staff time.

The City of Havre de Grace advises that the bill's requirements likely require the city to hire an additional employee, at a cost of approximately \$80,000 annually beginning in fiscal 2018. Further, the city anticipates incrementally greater reductions in water revenues each year, estimated at \$144,000 in fiscal 2018 and escalating to \$159,000 by fiscal 2022.

The City of Frederick advises that it tracks and bills customers by the property owner. Updating tracking data to include addresses and occupants requires significant additional effort on the city's behalf. Further, posting the required notices significantly increases required resources. In addition, the city expects that the exemptions established under the bill likely result in additional work to confirm qualifying exemptions and track the information. The city estimates that expenditures increase by \$235,358 in fiscal 2018 (which includes costs to replace equipment) and by \$169,954 in fiscal 2022, to hire three additional employees.

Frederick County advises that it maintains 23,000 water accounts. Efforts to make programming changes; collect, review, and maintain personal data on accounts; and identify properties that have both customers and occupants result in an increase in

expenditures of an estimated \$393,453 in fiscal 2018, escalating to \$331,006 in fiscal 2022 to hire four full-time employees.

Baltimore City did not provide a specific cost estimate, but the city advises that the bill has a significant operational impact that could result in increased expenditures and reduced revenues.

In addition to the impacts on local governments as service providers, the bill may also affect local health departments, depending on the number of individuals who request certification of specified health conditions in writing.

Additional Information

Prior Introductions: HB 742 of 2016, a similar bill, received an unfavorable report from the House Environment and Transportation Committee.

Cross File: HB 228 (Delegate M. Washington, *et al.*) - Environment and Transportation.

Information Source(s): cities of Baltimore, Frederick, and Havre de Grace; Charles, Frederick, and Montgomery counties; Maryland Environmental Service; Maryland Department of the Environment; Department of Legislative Services

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Analysis by: Kathleen P. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510