

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 854

(Senator Klausmeier)

Finance

Economic Matters

Public Utilities – Water and Sewage Disposal Companies – Acquisition

This bill establishes processes and related requirements for the sale and acquisition of water and sewage disposal service providers. The bill applies to any public or private water or sewage disposal service provider with fewer than 400,000 customers.

Fiscal Summary

State Effect: The operational impact on the Public Service Commission (PSC) cannot be determined at this time, as the number of acquisitions subject to the approval process under the bill is unknown. Assuming the bill applies in a limited number of circumstances, PSC can handle the bill's requirements with existing budgeted resources. The bill is not anticipated to otherwise materially affect State finances or operations.

Local Effect: The sale of local utilities for conversion to private ownership is subject to the approval process established by the bill; however, these sales are currently subject to PSC approval, just without the specified process. The effect, if any, on local government finances and operations due to the bill cannot be predicted but is likely minimal.

Small Business Effect: Minimal.

Analysis

Bill Summary: Processes and related requirements are established for valuing a water or sewage disposal provider for the purpose of a voluntary arm's length sale and acquisition of the company. Relevant terms are defined, such as "acquiring entity," "selling utility," and "fair market value."

Subject to the 400,000 customer limit, in addition to private water and sewage disposal companies, the bill also applies to any State, county, municipal, or similar nonprofit water or sewage disposal service provider for the purpose of converting the provider into a private company. PSC may authorize the acquisition of a public or nonprofit provider if it finds that it is consistent with the public convenience and necessity.

Information Required with Application for Approval

When a selling utility is acquired by an acquiring entity and the parties agree to establish the fair market value through the average of appraisals of two utility valuation experts, subject to specified requirements, the acquiring entity must include in its application for PSC approval of the acquisition:

- copies of both appraisals performed by the utility valuation experts;
- the purchase price of the selling utility agreed on by the parties;
- the rate making rate base of the selling utility;
- the transaction and closing costs that will be included in the rate base; and
- a tariff containing a schedule of rates, service charges, and any additional fees to be incurred by the customers of the selling utility at or immediately after the closing date of the acquisition.

PSC Decision and Subsequent Rates

Generally, PSC must issue a final order on the acquisition within 180 days after the filing date but may extend the proceedings by an additional 30 days in certain circumstances. If PSC has not issued a final order in that time, the application must be deemed approved.

If the transaction is approved, PSC's order must include the rate making rate base of the selling utility and any conditions of approval required by PSC. Reasonable transaction and closing costs of the acquiring entity and fees paid to utility valuation experts, subject to specified limits, must be included in the rate base. The tariff contained in the application must remain in place until new rates are approved in a base rate case proceeding.

Current Law/Background: Generally, the acquisition of a public service company requires PSC approval.

There are several hundred community water systems and sewage disposal systems in the State. The majority of such systems are owned by local governments and their supply, infrastructure, and rates are not regulated by PSC.

PSC regulates the infrastructure, rates, management, and billing of 22 water and water/sewage disposal companies in the State. Combined, these companies have approximately 11,000 residential customers. PSC also (1) reviews and authorizes new franchises for water companies, new construction, and the consolidation of water systems and (2) promulgates water conservation and safety policies.

Baltimore City and the Washington Suburban Sanitary Commission each have more than 400,000 customers.

State Fiscal Effect: The operational impact on PSC cannot be determined at this time, as the number of acquisitions subject to the approval process under the bill is unknown. Assuming the bill applies in a limited number of circumstances, PSC can handle the bill's requirements with existing budgeted resources. To the extent that PSC requires additional staff due to a significant number of required approvals, special fund expenditures increase and special fund revenues increase correspondingly from assessments imposed on public service companies.

The Maryland Environmental Service (MES) owns or operates 16 public water systems; however, the bill is not anticipated to materially affect MES.

Local Fiscal Effect: The sale of local utilities for conversion to private ownership is subject to the approval *process* established under the bill. However, PSC advises that these sales are currently subject to PSC approval, since they are for conversions to private water/sewer companies, which PSC regulates. The effect, if any, on local government finances and operations due to this requirement cannot be predicted, but is likely minimal.

Additional Information

Prior Introductions: None.

Cross File: HB 1566 (Delegate W. Miller, *et al.*) - Economic Matters.

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

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