Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Enrolled - 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. For fiscal 2023 only, the Governor must appropriate to the Office of Home Energy Programs (OHEP) in the Department of Human Services (DHS) an amount equal to the unexpended appropriation to OHEP for fiscal 2021 that was included in Supplemental Budget No. 5. 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 mandated appropriation 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. Federal fund expenditures for DHS increase in FY 2023 to the extent that the full $10.0 million in FY 2021 funding included in Supplemental Budget No. 5 is not expended in FY 2021. Costs associated with the workgroup are assumed to be minimal and absorbable within existing budgeted resources. The effect on electricity prices is discussed separately below. **This bill may establish a mandated appropriation for FY 2023.**

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 OHEP 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.

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.

Mandated Appropriation in Fiscal 2023

The fiscal 2022 operating budget, as passed by the General Assembly (specifically, Supplemental Budget No. 5), includes federal funding of $10.0 million in fiscal 2021 and $10.0 million in fiscal 2022 for OHEP to support the utility arrearage and bill assistance provisions of Senate Bill 392/House Bill 606 of 2021 (House Bill 606, at the time the supplemental budget was introduced, required the transfer of certain State funds to a special fund in OHEP to support specified energy assistance). This bill’s mandate applies only to unexpended fiscal 2021 funds in that supplemental budget. Assuming federal funds are retained by the State and available, federal fund expenditures for DHS increase in fiscal 2023 to the extent that the full $10.0 million in fiscal 2021 funding is not expended in fiscal 2021. If unexpended federal funds are otherwise repurposed, general fund expenditures increase instead.

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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