

Legislative Analysis



LOW-INCOME ENERGY ASSISTANCE PROGRAM

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Senate Bill 284 (H-1 Substitute)

Sponsor: Sen. Mike Nofs

(Enacted as Public Act 95 of 2013)

House Committee: Energy and Technology

Senate Committee: Energy and Technology

Complete to 6-11-13

A SUMMARY OF SENATE BILL 284 AS REPORTED BY COMMITTEE 6-11-13

Briefly, Senate Bill 284 (H-1) would do the following:

- Create the Low-Income Energy Assistance Fund.
- Charge DHS with expending money from the Fund as provided in the Michigan Energy Assistance Act.
- Allow the MPSC to annually approve a low-income energy assistance funding factor (as a surcharge on an electric customer's bill) no greater than \$1 per month, and to cap the amount that could be collected each year.
- Allow an electric utility to opt out of the program, but then prohibit it from shutting off service to a residential customer from November 1 to April 15.
- Specify that the bill would not grant the MPSC power to regulate a municipally owned electric utility.

Senate Bill 284 would add Section 9t to Public Act 3 of 1939, which created the Michigan Public Service Commission (MPSC) and authorizes it to regulate public utilities (except municipally-owned utilities). The bill would create a long-term program to replace the now-defunct Low Income and Energy Efficiency Fund (LIEEF). In short, the bill would allow electric utilities to place a small surcharge (no more than \$1) on an electric customer's bill to generate funds to provide heating assistance to low-income individuals. (The bill would specify that nothing in PA 3 would give the MPSC the power to regulate a municipally owned electric utility.)

Low-Income Energy Assistance Fund

The Fund would be created in the state treasury, investments directed by the state treasurer, and money in the fund at the close of a fiscal year would remain and not lapse to the General Fund. The Department of Licensing and Regulatory Affairs would be the administrator of the fund for auditing purposes.

Subject to limitations imposed by the bill, the Department of Human Services (DHS) would expend money from the fund, upon appropriation, as provided in the Michigan Energy Assistance Act (Public Act 615 of 2012). DHS, in consultation with the MPSC, would have to ensure that all money collected for the fund from a geographic area be returned, to the extent possible, to that geographic area.

Low-Income Energy Assistance Funding Factor

After an opportunity to comment, the MPSC could annually approve a low-income energy assistance funding factor no later than July 31 of each year for the subsequent fiscal year. The term would be defined as a non-bypassable surcharge on each retail billing meter payable monthly by every customer receiving a retail distribution service from an electric utility, municipally owned electric utility, or cooperative electric utility that does not opt out under provisions of the bill, regardless of the identity of the customer's electric generation supplier. (In this sense, "retail" generally refers to an end user and thus includes both residential and commercial electric customers.) The LIEA funding factor could not be charged on more than one residential meter per residential site (for example, if a residential customer had a separate meter in a large garage or pole barn, only one LIEA funding factor would be attached to the monthly electric bill).

The LIEA funding factor would have to be the same across all customer classes and could not exceed \$1 per month. The amount used by the MPSC to calculate a LIEA funding factor during each fiscal year could not exceed \$50 million minus both the amount appropriated from the General Fund in that fiscal year for home energy assistance and the amount remaining in the fund from the prior fiscal year.

Electric Utilities Collections & Opt Out

The bill would allow an electric utility, municipally owned electric utility, or cooperative electric utility to collect money under the above provisions. Any of these utilities could also choose to opt out of collecting the LIEA funding factor. To opt out, the utility would have to annually file a notice with the MPSC by July 1. If a utility opted out, it could not shut off service to any residential customer from November 1 to April 15 for nonpayment of a delinquent account (generally speaking, shut-off for nonpayment is prohibited only for certain categories of customers, such as low-income, seniors, and persons with a disability).

If a utility collects the LIEA funding factor, the money must be remitted to the state treasurer on a monthly basis no later than 30 days after the last day in each calendar month. The utility would have to list the LIEA funding factor as a separate line item on each customer's bill. In addition, the utility, or an association representing a municipally owned electric utility or cooperative electric utility, would have to provide to the MPSC by July 1 the number of retail billing meters it serves in the state that are subject to the LIEA funding factor.

FISCAL IMPACT:

Senate Bill 284 would have a minimal fiscal impact on the Department of Human Services (DHS). The FY 2013-14 DHS budget appropriates \$60.0 million in low-income energy assistance funds for the new Michigan Energy Assistance Program (2012 PA 615), and this bill would provide the funding mechanism for up to \$50.0 million in low-income energy assistance funding¹. The Governor did request, and the Legislature

¹ Revenues drive the amount of funding available to appropriate, so the FY 2013-14 DHS budget would be overstating how much low-income energy assistance funding is available.

provided, 1.0 additional FTE funded with low-income energy assistance funds to administer the Michigan Energy Assistance Program.

Senate Bill 284 (H-1) would have a fiscal impact on the Michigan Public Service Commission (PSC) to the extent that the PSC would have to utilize staff to approve and oversee the collection of the Low-Income Energy Assistance (LIEA) Funding Factor and ensure, to the extent possible, that the revenue generated by the LIEA Funding Factor is expended for low-income energy assistance within the geographical area from which it was collected.² SB 284 (H-1) does not include a separate appropriation for the PSC to administer the LIEA program.³

SB 284 (H-1) would also have a nominal, yet indeterminate, fiscal impact on municipally-owned electric utilities to the extent that such utilities would either have to: 1) collect and remit revenue generated by the LIEA Funding Factor to the PSC on a monthly basis, or 2) annually file a notice with the PSC to opt out of the LIEA program and thus forfeit its ability to shut-off service to any residential customer during the heating season.

The PSC estimates that there are approximately 5.0 million electric customers in Michigan, with a roughly similar number of meters for the purposes of estimating a LIEA Funding Factor, and that the number of residential (i.e. single-family detached home) customers with more than one meter is negligible. Dividing the total annual amount, stipulated by SB 284 (H-1), that may be generated by the LIEA Funding Factor (\$50.0 million) by the estimated number of electric meters (5.0 million) in the state, results in a per customer LIEA Funding Factor of \$10 per year, or \$0.83 per month, assuming that no electric utilities opt out of collecting the LIEA Funding Factor.

BRIEF DISCUSSION OF THE BILL:

For a detailed discussion of the history of the Low-Income and Energy Efficiency Fund (LIEEF) and the Michigan Court of Appeals decision that ended the program, see the Senate Fiscal Analysis on SB 284 dated 5-9-13.

The House substitute makes a few significant changes from the Senate-passed version. For instance, the H-1 provides an opt-out option for a utility (but would prohibit those

² It is not entirely clear by what means or with what statutory authority the PSC would be able to "ensure" that revenue generated by the LIEA Funding Factor was expended in area from which it was collected, since SB 284 (H-1) appropriates the LIEA Funding Factor revenue to the Department of Human Services (DHS) pursuant to 2012 PA 615. 2012 PA 615 does stipulate that, if DHS contracts with public or private entities to provide energy assistance, it shall do so in consultation with the PSC.

³ Under the now defunct Low-Income Energy Efficiency Fund program (LIEEF), administrative costs of the PSC were not supported with the LIEEF funds but rather with public utility assessments levied on utilities by the PSC under the Costs of Regulating Public Utilities act of 1972. The PSC did not separately account for the administrative costs of the LIEEF program which was administered by PSC staff who were also engaged in administering unrelated responsibilities. As of the date this analysis was prepared, the PSC has not provided an estimate of the costs to administer the LIEA program if SB 284 (H-1) is enacted.

utilities from shutting off service to delinquent accounts between November 1 to April 15); requires the surcharge collected in a geographic area be returned to that area, as feasible; caps the monthly surcharge billed to customers at \$1 and also caps the amount available to the program at \$50 million; eliminates the requirement for the MPSC to hold an annual hearing regarding the LIEA funding factor and replaces it with a comment period; and for residential customers having more than one meter, attaches the surcharge on only one of the meters.

The substitute is expected to work well with the Michigan Energy Assistance Program created by Public Act 615 of 2012. It should be noted that the program is focused on *assisting* residential customers having difficulty paying their heating bills and providing support that leads to a greater self-sufficiency. Reportedly, pilot projects are showing encouraging results, with one area that previously had about 20,000 shut offs in a year decreasing that to 4,000 under the program.

Some utilities have already invested in developing and implementing energy assistance programs for their low-income customers since the LIEEF program was disbanded a few years ago. Therefore, providing utilities with the choice whether to participate in the program or take advantage of the opt-out option would give utilities more flexibility in meeting the needs of their customers.

Some remain concerned that unlike the old LIEEF program, neither the Michigan Energy Assistance Program nor this bill will provide funds for weatherization projects. As many low-income families live in older, less insulated homes, some see weatherization assistance as an important piece in moving people to self-sufficiency in regards to heating, and even cooling, bills. In response, proponents of Senate Bill 284 noted that there are state and federal dollars earmarked specifically for energy projects, such as replacing inefficient older appliances or adding insulation, that can help people lower their energy needs.

POSITIONS:

A representative of Governor Snyder testified in support of the bill. (6-11-13)

The following organizations indicated support for the bill on 6-11-13: The Michigan Catholic Conference, DTE Energy, Integrys Energy Group, Consumers Energy, Michigan Propane Gas Association, Semco Energy, and WE Energies.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.