

Legislative Analysis



LOW-INCOME ENERGY ASSISTANCE & WEATHERIZATION FUND

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House Bill 4789

Sponsor: Rep. Aric Nesbitt

Committee: Energy and Technology

Complete to 6-3-13

A SUMMARY OF HOUSE BILL 4789 AS INTRODUCED 5-29-13

BRIEF SUMMARY:

In brief, the bill would do the following:

- Create the Low-Income Energy Assistance and Weatherization Fund;
- Allow gas and electric utilities to establish low-income energy assistance and weatherization programs;
- Allow the utilities to collect money from customers to fund the programs and remit it to the MPSC;
- Require approved programs to meet certain conditions;
- Require the MPSC to contract through a competitive bid process to provide the approved programs;
- Require the MPSC to conduct a reconciliation and order a utility to refund to the customers any overpayment it collected to fund its program; and,
- Not prohibit a utility from using an uncollectible true-up mechanism under the MPSC general rate-making authority.

DETAILED SUMMARY:

House Bill 4789 would add a new section to Public Act 3 of 1939, which created the Michigan Public Service Commission and authorized it to regulate public utilities (except municipally-owned utilities). The bill would create a new mechanism by which utility companies may collect revenue from customers to use to fund energy assistance and weatherization programs for low-income households. This would replace a program that had provided shut-off protection for low-income households until it was discovered that the underlying statutory authority for the program had been deleted, perhaps inadvertently, by Public Act 286 of 2008. The bill is similar to Senate Bill 284 of the current session.

The bill defines "utility" to mean an electric utility, a cooperative electric utility, or a natural gas utility. (However, there appears to be an inconsistent use of the term "utility," as some provisions refer to a "utility, municipally owned utility, or member-regulated

cooperative electric utility," which leads to uncertainty regarding to whom certain provisions would apply.)

Fund

The Low-Income Energy Assistance and Weatherization Fund would be created within the state treasury. The treasurer would direct the investment of the fund, but the Michigan Public Service Commission (MPSC) would be the administrator of the Fund for auditing purposes. Money at the end of a fiscal year would remain in the Fund and not lapse to the General Fund. The MPSC could only expend money from the Fund upon appropriation for low-income energy assistance and weatherization programs.

Low-Income Energy Assistance and Weatherization Program

The bill would allow a utility to apply to the MPSC no later than June 30, 2013, to recover funding to operate a 12-month program to provide more immediate assistance and also allow the utility, beginning in 2014, to apply no later than March 31 of each year to recover funds to operate a three-year program.

Whether for the 12-month program or the three-year program, a utility would file an application with the MPSC; the number of eligible low-income households to be served by the program would have to be included. After notice and a hearing, the MPSC would have to approve the funding for the program no later than August 31, 2013, for a 12-month program and, beginning in 2014, no later than August 31 of any year for a future three-year program.

Money collected by a utility under the bill would have to be remitted to the state treasurer for deposit in the fund on a monthly basis no later than 30 days after the last day in each calendar month.

A utility would not be allowed to request an amount to be collected that exceeded 100 percent of the uncollectible expenses anticipated for its residential customers over the collection period, and the MPSC could not approve an amount above that limit.

The MPSC would conduct a Low-Income Energy Assistance and Weatherization Program Funding Reconciliation, as a contested case under provisions of the Administrative Procedures Act, to reconcile the funding collected for a utility's program and its actual uncollectible expenses over the period of the program. If more than the actual uncollectible expenses were collected over that period, the MPSC would have to order the utility to refund the amount each customer overpaid, as reasonably and cost effectively as possible. The bill would not prohibit a utility from utilizing an uncollectible true-up mechanism under the MPSC's general rate-making authority.

It would be the MPSC's responsibility to contract with public or private entities to provide low-income energy assistance and weatherization programs for each utility that files an application above, or for a municipally owned utility or member-regulated cooperative electric utility that deposits money into the Fund. Contracts would be subject to a competitive bid process. A utility, municipally owned utility, or member-regulated

cooperative electric utility could participate in the cooperative bidding to provide low-income energy assistance and weatherization programs.

A low-income energy assistance and weatherization program would have to do all of the following in regards to the program:

- Describe the number of eligible low-income households to be served, the method by which eligible households are to be identified as likely to be in crisis and therefore eligible for enrollment, and the total number of eligible low-income households enrolled in the program.
- Describe how the program will reduce the incidences of disconnection and shutoffs, increase the percentage of residential customers who pay their monthly bill, reduce the number of requests for energy assistance by customers, and reduce energy consumption.
- Ensure that no more than 30 percent of the money received for the program is spent outside of the crisis season.
- Provide partial payment of an eligible low-income household's bill or arrearage, require eligible households to make a contribution to the payment of their bill or arrearage, and attempt to reduce the amount of lead-based substances in eligible low-income households.
- Ensure that not less than 92 percent of the money collected from each utility, municipally owned utility, or member-regulated cooperative electric utility is spent on energy assistance for that entity's eligible low-income households.

"Crisis" would mean that term as defined in Section 2 of the Michigan Energy Assistance Act. [That act defines the term to mean one of the following: (1) an individual or recipient has received a past due notice on an energy bill for his or her household; (2) a residential fuel tank is estimated to contain not more than 25% of its heating fuel capacity; (3) a stated need for deliverable fuel or a nontraditional fuel source in which there is no meter or regular energy bill provided; or, (4) a notice that the balance in a prepayment account is below a minimum amount.]

"Crisis season" would mean November 1 to May 31. "Eligible low-income household" would mean a household with a household income of not more than 150 percent of the federal poverty guidelines.

MCL 460.9t (proposed)

FISCAL IMPACT:

The Fiscal Year 2013-14 Department of Human Services budget appropriates \$60.0 million from a new Low-Income Energy Assistance Fund, and House Bill 4789 would create the funding mechanism for that new appropriation. However, House Bill 4789 requires the Public Service Commission to administer and expend the money from the new Low-Income Energy Assistance and Weatherization Fund, so this bill will have no fiscal impact on the DHS.

House Bill 4789 would have a significant fiscal impact on the Michigan Public Service Commission (PSC) to the extent that HB 4789 would engender additional costs for the PSC in the administration of the Low-Income Energy Assistance and Weatherization Program (LIEAWP).

Subsection 10 of HB 4789 requires that the money in the Low-Income Energy Assistance and Weatherization Fund (Fund) shall be expended only for low-income energy assistance and weatherization programs.¹ It is not entirely clear whether subsection 10 would be interpreted to prohibit the PSC from using money in the Fund for its costs to administer the LIEAWP. 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 LIEAWP if HB 4789 is enacted.

Furthermore, subsection 12(d) of HB 4789 requires that not less than 92% of the money collected for and remitted to the Fund by utilities shall be expended for "energy assistance." However, it is not entirely clear whether "energy assistance" would be interpreted to include weatherization programs. If so, then the remaining 8% could be presumed to support the administrative costs of entities receiving grants under the LIEAWP. If not, then the remaining 8% would presumably support both weatherization programs and the administrative costs of entities receiving grants under the LIEAWP.

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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.

¹ Subsection 8 of HB 4789 stipulates that, if a utility elects to participate in the LIEAWP, a utility shall not collect money for and remit money to the Fund in excess of the amount that it anticipates will become uncollectable expenses from residential customers during the period such money is collected and remitted. The PSC collects data pertaining to the total uncollectable expenses of investor-owned and cooperative electric and natural gas utilities, but does not collect uncollectable expenses data for municipally-owned electric utilities. During calendar year 2012, investor-owned and cooperative electric and natural gas utilities reported a total of approximately \$144 million. However, it is important to note that this amount excludes municipally-owned electric utilities and includes uncollectable expenses from all customer classes (i.e. residential, commercial, and industrial) whereas the limitation in subsection 8 of HB 4789 only pertains to the uncollectable expenses from residential customers. The PSC does not collect data that reports uncollected expenses by customer class.