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## BILL ANALYSIS



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Senate Bills 248 through 250 and 252 through 256 (as introduced 4-23-25)

Senate Bill 251 (Substitute S-2)

Sponsor: Senator Stephanie Chang (S.B. 248 & S.B. 252)

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Committee: Housing and Human Services

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## **INTRODUCTION**

The bills would create a Low-Income Water Residential Affordability Program (Program) to ensure that a customer who had a household income of up to 200% of the Federal Poverty Guidelines (FPL) or who was eligible for certain assistance programs did not pay more than 3% of the customer's household income on a water bill. The bills would create the Low-Income Water Residential Affordability Fund (Fund) and require water or sewage customers to pay a monthly \$1.25 fee on each retail water meter to be deposited into the Fund for the Program's implementation; the Department of Treasury (DoT) could adjust the fee annually after three years. In addition, a water provider could implement its own program that corresponded with the Department of Health and Human Services' (DHHS) Program. The bills would require providers and the Water Affordability Task Force (Task Force) to submit certain reports to the DHHS and the Legislature concerning funding factors and program information.

The bills would prohibit a provider from shutting off water services to a critical care customer and a customer enrolled in a program within 120 days of delinquency and only after specified requirements were met. Customers that could not comply with a program's requirements would have to undergo triage to prevent disenrollment and service shut off. The bills also would prohibit tampering with providers' service lines to restore shut-off water service.

## **BRIEF FISCAL IMPACT**

The bills would establish the structure for a Program in Michigan, which would aim to support water providers in helping to cover the difference between what customers owe on their water bills and the reduced amounts offered through affordability programs offered by residential water affordability programs. The funding factor would start at \$1.25 per month per retail water meter and increase annually by up to \$0.25 until December 31, 2029. Depending on implementation, the Fund, estimated to reach \$71.2 million in the first 18 months, could be used for administrative costs, bill discounts, arrearage payments, and water loss mitigation programs. The bills also could have fiscal impacts for the DoT, local courts, and water providers, as well as criminal penalties that could affect law enforcement and corrections.

Proposed MCL 400.14t (S.B. 248)

Proposed MCL 400.14q (S.B. 249)

Proposed MCL 400.14n et al. (S.B. 250)

Proposed MCL 554.601f (S.B. 253); MCL 123.161 et al. (S.B. 254)

MCL 750.282 & 750.383a (S.B. 255); 777.16o & 777.16s (S.B. 256)

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## **CONTENT**

**Senate Bill 250** would amend the Social Welfare Act to do the following:

- Create the Program within the DHHS to ensure an eligible customer did not pay more than 3% of the customers household income on a water bill, subject to certain Program funding.
- Require the DHHS to prepare a Program policy and procedure manual by January 1, 2026.
- Require the DHHS and the DoT to project annually funding needs for the Program and, if funding were projected to be insufficient, identify alternative funding.
- Require the Program to apply immediately after its effective date to providers with 500 or more retail service connections and apply to all water providers in the State after 18 months.
- Require the DHHS to develop a nonaffordability application, which would trigger an income review, and specify what information could be used for the determination of income eligibility.
- Establish payment tiers based on the FPL with corresponding percentages of household income caps.
- Create an appeal and complaint process for a customer to challenge the eligibility decisions or make a complaint about the Program.
- Prescribe ranges of water usage based on household size that an eligible customer could use per month and require a provider to decide customers' limited allocations of water use per month within those ranges.
- Require the DHHS or a program administrator to assess whether an eligible customer needed a household plumbing repair and pay for up to \$2,500 per household for a repair.
- Allow a customer who was enrolled in the Program to receive full forgiveness for an overdue balance if the customer's balance were no more than \$1,500 or allow an enrolled customer with over \$1,500 of overdue balance to be fully forgiven if the customer were enrolled and made timely payments for 24 months.
- Allow a water provider to create its own program and specify that its own program would have to be comparable to the DHHS' Program.
- Require a provider to provide notice of its own program or the DHHS' Program and require the DHHS to notify all individuals who already received benefit program services of the availability of the Program.

**Senate Bill 248** would amend the Social Welfare Act to do the following:

- Create the Fund within the State Treasury and prescribe how money in the Fund could be spent.
- Require 5% of the Fund to be spent for administrative costs and prescribe how the remaining balance would be spent to implement the Program.
- Prescribe a monthly \$1.25 mandatory fee (funding factor) on each retail water meter payable by every customer receiving water or sewerage service from a provider.
- Require the funding factor to increase by \$0.25 each year from 2026 to 2029, and beginning January 1, 2030, annually based on changes in the Consumer Price Index.
- Require money collected from each of the DHHS's business service center regions to be remitted to providers and program administrators within each region.
- Allow the DoT to adjust the funding factor by October 1 to apply January 1 of the succeeding year.

- Require providers to annually provide the Task Force with a report concerning the Program and funding factor.
- Require the Task Force to annually provide the Legislature with a report concerning the Fund and post the report on the DHHS' website.
- Allow the Attorney General (AG) to file a civil action against a provider that failed to include the funding factor in customers' bills.
- Allow customers or entities to donate to the Fund and designate any customer or entity that contributed more than \$5,000 a "water affordability champion".

**Senate Bill 249** would amend the Social Welfare Act to do the following:

- Require the DHHS to create the Task Force within 30 days of the bill's effective date.
- Prescribe the Task Force's membership and responsibilities.
- Require the DHHS to work with the DoT to distribute funding from the Fund created by **Senate Bill 248** to providers for reimbursement and to assist with plumbing and other necessary repairs.
- Require the DHHS to work with the DoT to distribute funding from the Fund to third-party organizations involved in administering the Program.

**Senate Bill 252** would enact the "Water Shutoff Protection Act" to do the following:

- Prohibit a provider from shutting off residential water service while a customer was part of a program described in **Senate Bill 549**.
- Prohibit a provider from shutting off residential water for nonpayment within 120 days of the payment's due date.
- Prescribe the requirements for a water service provider to temporarily shut off a residential water service.
- Require a provider to contact a residential customer at least three times to notify the customer of a delinquent account and require the provider to keep records of such notices before shutting off service.
- Prescribe the requirements of delinquency notices.
- Allow a customer that applied for a water affordability program to pay \$10 a month to a provider to delay a shutoff.
- Specify that a shutoff could only occur between the hours of 8 AM and 3 PM.
- Prohibit a shutoff from occurring on a day that the provider's restoration services were not available.
- Require a provider to provide restorative service upon payment or payment arrangements, including a payment plan or enrollment in a program.
- Allow a provider to assess a maximum restoration fee of \$150 and prohibit the provider from issuing a shutoff fee.
- Require a customer who failed to comply with a program to participate in triage to restore program compliance and prevent disenrollment.
- Allow a program administrator to create a renewal agreement for the triage process.
- Allow a provider to proceed with a shutoff process if a program customer failed to comply with the triage.
- Prohibit a provider from shutting off services if the Fund created by **Senate Bill 248** were insufficient and the customer was enrolled in a program.
- Allow the AG or a lawful occupant to file a civil action for damages, declaratory relief, or temporary or permanent injunctive relief for a violation of the Act.
- Require providers to take reasonable steps to provide equal language access to water services and vital information to residential customers.
- Prohibit a local subdivision of the State from enacting or otherwise enforcing a rule, regulation, code, or ordinance that was not substantially similar to the Act.

**Senate Bill 253** would amend the landlord-tenant Act to do the following:

- Allow a tenant residing in certain metered or sub-metered rental premises to request a copy of a water or sewer bill from the water or sewer provider.
- Prohibit a landlord from interfering with or discriminating or retaliating against a tenant that made such a request.
- Require all rental agreements entered, renewed, or negotiated after the bill's effective date to include information on the tenant's rights to request and receive such information.

**Senate Bill 254** would amend Public Act 178 of 1939, which governs the collection of water or sewage charges, to require a provider to comply with a request made by a tenant under **Senate Bill 253**.

**Senate Bill 251 (S-2)** would enact the "Water Affordability and Transparency Act" to do the following:

- Create the Office of Residential Water Affordability within the DHHS and prescribe its duties.
- Require the DHHS to create a standardized provider report form by April 1, 2028, and prescribe its contents.
- Require a provider to submit this report to the DHHS by April 1 each year, beginning within 15 months of the bill's effective date.
- Require the DHHS to compile and publish on its website a summary of the reports received by September 1 each year, beginning within 20 months of the bill's effective date.
- Require the DHHS to provide training to providers concerning the report by December 31, 2026.

**Senate Bill 255** would amend the Michigan Penal Code to prescribe penalties and fines to an individual who restored water at the person's residence that was shutoff due to an inability to pay.

**Senate Bill 256** would add sentencing guidelines to the Code of Criminal Procedure for felonies proposed by **Senate Bill 255**.

Generally, Senate Bills 248, 249, 250, and 252 are tie-barred. Senate Bill 251 is tie-barred to Senate Bills 248 and 250. Senate Bill 254 is tie-barred to Senate Bill 253. Senate Bill 256 is tie-barred to Senate Bill 255.

Senate Bill 250 would take effect 180 days after the bill's effective date. Senate Bill 252 would take effect two years after the bill's effective date. Senate Bills 255 and 256 would take effect 90 days after the bills' effective date.

All the bills except **Senate Bill 254** and **Senate Bill 256** are described below.

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### **Senate Bill 250**

#### Definitions

"Provider" would mean a public or private community water supply that provides retail water service in the State or performs retail billing services for another community water supply.

"Eligible customer" would mean a residential customer whose household income does not exceed 200% of the FPL, as published annually in the Federal Register by the U.S. Department of Health and Human Services under its authority to revise the poverty line, or who meets any of the following requirements:

- Has received assistance from a State Emergency Relief Program within the past year.
- Receives food assistance under the Federal Supplemental Nutrition Assistance Program (SNAP) administered by the State.
- Receives medical assistance administered under the Social Welfare Act.
- Receives assistance under the Michigan Energy Assistance Program (MEAP).
- Receives assistance under the Special Supplemental Nutrition Program for Women, Infants, And Children (WIC).
- Receives Supplemental Security Income (SSI).
- Receives assistance under the Weatherization Assistance Program.

"Water bill" would mean a request from a provider to a retail water customer for payment for water service. The term would include a request for payment of sewer, stormwater, or other related services if the provider charged for those services.

"Retail water customer" would mean a residential or nonresidential customer receiving a water bill for water service. "Residential customer" would mean an individual who receives, or is eligible to receive, water service at that individual's primary residence.

"Program administrator" would mean the DHHS, provider, or third-party organization that administers an affordability program.

#### Low-Income Water Residential Affordability Program

The bill would create the Program within the DHHS to address the reduction or forgiveness of overdue water bill balances and to ensure that an eligible customer's monthly water bill, including discounts, was based on the customer's household income. Subject to available funding in the Fund proposed under Senate Bill 248, the Program would have to ensure that an eligible customer did not pay more than 3% of the customer's household income on a water bill.

The bill would require the DHHS to develop and, in consultation with relevant third-party organizations, administer the Program for eligible customers. The bill also would require the DHHS to prepare a Program policy and procedure manual by January 1, 2026. The manual would have to be consistent with applicable provisions in the MEAP Manual and include time limits for participation for potential eligible customers who were not seniors or persons with disabilities. The DHHS could review and update the Program manual as necessary.

Beginning January 1, 2026, and by each following January 1, the DHHS and the DoT would have to prepare projections to determine the estimated funding required to offer applicable Program benefits to all enrolled and eligible customers and projected eligible applicants who could enroll for the subsequent fiscal year. If the projections reflected that the required funding would be insufficient, the DHHS, the DoT, and the Task Force created by Senate Bill 249 would have to identify alternative funding sources or adjust Program benefits in a manner that prioritized all enrolled and eligible customers equitably, across geographic regions and provider population sizes, to ensure the Program could be sustained with available funding.

The DHHS, in consultation with the Task Force and the DoT, would have final decision-making authority to ensure Program benefits did not exceed the balance available in the Fund. Based on available funding, the DHHS, the DoT, and the Task Force would have to prioritize Program benefits designed to provide eligible customers with household income-based water bills over other benefits. Reducing the Program benefits corresponding with the lowest-income tier could only occur if all other alternatives had been exhausted.

The DHHS would have to implement the Program within 18 months after collection for the Fund began. The Program would immediately apply to providers with 500 or more retail water service connections. The Program would apply to all water providers in the State 18 months after the Program's implementation.

#### Program Notice

Each provider would have to give notice to its customers regarding the availability of either the DHHS' Program or the provider's own Program, if it had one, and information on how to apply for the programs. This notice would have to be given to each customer in writing or with the customer's water bill and by posting on the provider's website if the provider maintained a website.

Beginning on the date of Program implementation, the DHHS would have to engage in public relations activities to promote the Program across the State and would have to inform all

individuals receiving benefit program services from the DHHS regarding the availability of the Program and the process to apply.

### Nonaffordability Requirements

The bill would require the DHHS to develop a nonaffordability application and instructions before the Program was implemented. ("Nonaffordability application" would mean a form that the DHHS must develop to trigger an income eligibility review for the Program). The nonaffordability application and instructions would have to be made available upon implementation. The nonaffordability application would have to include the following:

- The option for authorization for release of the customer's information to the provider.
- The option to indicate consent to receive telephonic communications about the Program.
- An authorization for release of the customer's information to the provider.
- An authorization of the program administrator to call the individual on the telephone or send a text message about the Program.

Within 30 days after the receipt by a program administrator of an application, the program administrator would have to complete an income eligibility review to determine if the individual were eligible for the Program. The DHHS or program administrator would have to notify the provider within three business days after starting the eligibility review that it had begun such a review and that the provider could not pursue shutoff during the review. The program administrator would have to send notification to the applicant and the provider concerning the results of the eligibility review promptly once that review was completed.

In addition to any other verification of income accepted by the program administrator, the program administrator could accept a Federal income tax return as documentation of income. If applicable, the program administrator would have to use publicly available information regarding standard benefit amounts for SSI and Temporary Assistance for Needy Families (TANF). An applicant would have no obligation to provide confirmation of the amount of benefits the applicant received from SSI. Among other documents as determined by the program administrator, the program administrator would have to consider the customer's enrollment in the Low-Income Home Energy Assistance Program (LIHEAP), SNAP, WIC, SSI, the Weatherization Assistance Program, or the customer's self-verification of income or lack of income as proof of the customer's eligibility in the form of a written customer statement regarding income or lack of income.

The program administrator would have to inform an applicant of the applicant's eligibility determination. If the applicant were an eligible customer, the program administrator would have to provide the applicant with information regarding the Program and how the water bill payment would be determined by the provider.

The DHHS could contract or collaborate with a third-party organization that collected or processed household income information to complete the income eligibility review to determine if an applicant met the Program's requirements, notify the applicant and provider, or perform other functions necessary to implement the Program.

### Program Tiers

The DHHS, in consultation with the Task Force, would have to create tiers of eligible customers for the Program based on household income level compared to the FPL, and the corresponding discounts, credits, or percentage of household income caps on water bills for each tier. A water provider could use discounts, credits, or other payment methods to result in water bills that met the percentage of required household income-based payments.

The tiers would have to include the following:

- A tier for households where the household income was no more than 135% of the FPL for which the corresponding cap would have to be 2% of household income or a standardized household contribution of 2% of the average household income for households with income between 0% and 135% of the FPL within the provider's water service area.
- A tier for households where the household income was greater than 135% but not more than 200% of the FPL for which the corresponding cap would have to be 3% of household income or a standardized household contribution of 3% of the average household income for households with income between 135% and 200% of the FPL within the provider's water service area.

Depending on the availability of funds, the bill would allow the program administrator to issue a waiver to include a household that was between 200% and 250% of the FPL into the Program if the household were experiencing any of the following financial hardships:

- Job loss or reduction of income.
- Acute or chronic physical or mental illness.
- Increase in essential expenses.
- Major home repair due to natural disaster or unexpected catastrophic event or repairs to essential equipment.
- Death of a household income provider or unexpected funeral or burial expenses.

Beginning January 1, 2026, and by each subsequent January 1, the DHHS would have to adjust the standardize household contribution based on the DoT's projections of available funding on an annual basis. The available funding would have to include a projection for at least 10% Fund balance remaining at the fiscal year's end.

If, upon determination of the individual's household income, the program administrator found that the individual was an eligible customer, the program administrator would have to provide that information, as well as the eligible customer's household income, to that eligible customer's provider. On receipt of the information from the program administrator, the eligible customer's provider would have to provide a discount, credit, or other payment method on the eligible customer's water bill to ensure that the water bill was based on the eligible customer's household income as determined by the program administrator. The provider could not provide a discount or credit if the eligible customer's pre-discount or pre-credit bill amount would be lower than the bill amount after application of the discount or credit. The discount or credit would have to apply to the entire water bill, which would include any rider, fee, surcharge, or funding factor. The discount or credit could not be applied to other charges for public services on the eligible customer's water bill that were unrelated to water, sewer, or stormwater services.

The DHHS would have to develop a process and timeline for redetermination of eligibility based on the recommendations of the Task Force. The DHHS would have to consider the redetermination timelines and processes for similar programs, including SNAP. There would be no time limit on a customer's enrollment in a Program.

#### Water Allocations

An eligible customer would have a limited allocation of water use per month to qualify for the tiers described previously. If the eligible customer exceeded the customer's limited allocation, the provider could charge the provider's normal rate. The provider would have to determine the limited allocation of water use per month, within the following ranges:

- Six to eight centum cubic feet for households with zero to four people.



- Nine to 11 centum cubic feet for households with five to six people.
- Twelve to 14 centum cubic feet for households with seven to eight people.
- Fifteen to 17 centum cubic feet for households with nine to 10 people.
- Eighteen to 20 centum cubic feet for households with 11 or more people.

If a household exceeded the limited allocation of water use per month, the bill would require a provider to attempt to contact the customer to determine next steps the customer could take to reduce water consumption, including possible minor plumbing repairs, and to coordinate with the program administrator regarding continued eligibility in the Program.

#### Complaint or Appeal

The DHHS would have to establish or refer customers to a system of appeal and complaint process in which an applicant or eligible customer could challenge a program administrator's decision on eligibility at any point or submit a complaint regarding the Program. If an applicant or customer filed an appeal, the program administrator would have to notify the provider to place a hold on the individual's account to cease collection or service disconnection until the hearing process was complete.

The program administrator would have to make a good-faith effort to assess whether an eligible customer was the property owner and needed household plumbing repair to address a leak or other plumbing or water service issue. If the eligible customer were the property owner, the program administrator would have to connect the eligible customer with a master or journey plumber to fix the water service issue. The program administrator also would have to pay for the necessary minor repair up to \$2,500 per household. The program administrator would have to establish a waiver process to issue over \$2,500 for minor plumbing repairs if the property owner demonstrated an extreme need.

#### Water Liabilities and Balance Forgiveness

Timely payment of a water bill, as defined by the provider, would have to satisfy the customer's current water liability so that there was no addition to that customer's overdue balance.

A customer who was enrolled in the Program would have to receive full forgiveness of the individual's overdue balance if, on the date the individual was enrolled, the individual's overdue balance were less than or equal to \$1,500. If, on the date the individual enrolled in a Program, that individual had an overdue balance of more than \$1,500, that individual would have to receive forgiveness of \$1,500 of the current overdue balance. After 12 months of successful participation in the Program, that individual with over \$1,500 in original overdue balances would have to have up to \$1,500 in additional overdue balances forgiven.

A customer who was enrolled in the Program for 24 months and who made timely payments on the individual's water bills for 24 months would have to receive forgiveness of the remainder of the individual's overdue balance if the balance were greater than \$1,500 when the individual enrolled in the Program. The program administrator would have to request to the DHHS that an amount exceeding \$1,500 be forgiven if the individual had an extreme need. If the program administrator determined that the individual faced an extreme need or circumstances that led to the individual not making every payment for 24 months, the program administrator could decide, based on best judgement, that the individual should still receive forgiveness for overdue balances.

Upon enrollment, and while an eligible customer remained eligible and enrolled in the Program, a provider could not certify to the property tax authority any amount of overdue balance subject to forgiveness.

### Water Provider's Own Program

A provider, or two or more providers, could design and implement its own program rather than use the DHHS' Program, if its program met the following criteria:

- The program was designed so that an individual enrolled in its program did not pay more than the tiers prescribed by the bill (see Program Tiers) and complied with the enrollment process and overdue balance forgiveness requirements previously described.
- The provider considered the customer to be an eligible customer or a more generous threshold.
- Other criteria as determined by the DHHS.

A provider could partner with a community action agency, United Way organization, or other community organization to implement its program.

If a provider designed and implemented its own program and the provider already had a water affordability or assistance program, the provider would not need to require a customer who was already enrolled in the provider's water affordability or assistance program to reapply for a program funded by the water affordability funding factor.

A water provider that designed and implemented its own program would have to submit its program plan to the DHHS for review and approval and receive an approval letter from the DHHS. This plan would have to include a description that met the minimum required criteria. The DHHS would have to review program plans and provide the provider with any recommended or required changes. The water provider would have to provide updates to the DHHS about any substantive change to the program planned after receiving initial approval.

If a provider developed a program that was more generous than the Program created by the bill, the provider would have to use its own funding or other sources of funding beyond the Fund for the more generous program's increased budget. A water provider that designed and implements its own program could create more than two tiers in its tier system.

A provider could elect *not* to collect the funding factor if the provider's governing body adopted a policy to create and implement its own program and affordability fund. Two or more providers could create a combined program administered by one or more of the participants. Such a program would have to include a description of the minimum criteria and describe the providers' ability to maintain a fund to sustain the providers' program. The providers would have to submit an implementation plan to the DHHS for annual review and approval and receive an approval letter. The bill would require the DHHS to review the plan and provide the providers with any recommended or required changes. The providers' annual updates to the DHHS would have to identify whether there had been change to the program plan or fund. If the DHHS determined that providers were unable to administer or fund an affordability program for two consecutive years, the DHHS would have to notify the providers that they were required to enroll eligible customers in the DHHS Program and impose a funding factor.

If a water provider chose not to design and implement its own program, it would have to use the DHHS' Program. If an individual applied to the DHHS or contracted third party organization for the DHHS and the individual were a customer of a provider that had its own program, the DHHS or third-party organization would have to forward the application to that customer's provider's plan administrator. Lastly, the bill would specify that, if a provider were subject to a local ordinance that conflicted with the bill, the bill would supersede that local ordinance.

## **Senate Bill 248**

### Fund Creation and Use

The bill would create the Fund within the State Treasury. The State Treasurer could receive money

or other assets from any source for deposit into the Fund. The Treasurer would have to direct the investment of the Fund and would have to credit interest and earnings from its investments to the Fund. Money in the Fund at the close of the fiscal year would remain in the Fund and could not lapse into the General Fund. The DoT would be responsible for collecting and auditing related funds; however, the DHHS would be the administrator of the Low-Income Water Residential Affordability Program Fund for auditing purposes.

Upon appropriation, the DoT would have to provide 5% of the Fund to the DHHS to cover the administrative costs of the Program. The bill would require the DHHS to re-evaluate this amount every three years, beginning three years after the bill's effective date. The bill also would require the DoT to spend from the Fund \$425,000, to be provided to the DoT.

The remaining balance of the Fund would have to be spent on providers and program administrators for the following:

- A maximum of 15% for the actual administrative costs associated with the implementation of the Program.
- Payment or advancement to providers and program administrators for income-based bill discounts, income-based bill caps, or income-based rates.
- Overdue balance payments.
- A maximum of \$15.0 million for water loss mitigation programs administered by third party organizations such as home plumbing audits and minor plumbing repairs.

The DHHS would have to disburse funding to providers at least quarterly. Generally, the bill specifies that payments from the Fund would not be subject to levy or legal debt-collection.

#### Low-income Water Residential Affordability Funding Factor

Subject to certain limitations, the low-income water residential affordability funding factor would be a fee of \$1.25 per month per retail water meter, or the equivalent based on the provider's billing cycle. The fee would increase by \$0.25 annually in 2026, 2027, 2028, and 2029. Beginning January 1, 2030, and each following year, the bill would require the DoT to adjust the funding factor by the percentage increase in the U.S. Consumer Price Index for the preceding year. If the remaining balance reported by the DoT were greater than 10% of the funds collected by the funding factor, the DoT would have to set the funding factor at a rate at which the total funds collected would not exceed the total amount of funds collected by the funding factor minus the remaining balance.

If, on the bill's effective date, a provider operated an assistance or affordability program, any of the following fees could serve as that provider's funding factor:

- A fee of \$1.25 per month for each retail water-metered or flat rate account.
- A fee of \$1.25 per month for each retail water-metered or flat rate account minus an amount that was equivalent to the average monthly amount the customer paid the previous year for the provider's assistance or affordability program.
- A fee of \$1.25 per month for each retail water-metered account or flat fee rate minus 10% if the provider imposed a fee for participation in an assistance or affordability program during the previous year.

The bill would allow the DoT to adjust the funding factor within each of the DHHS's business service center regions. Money collected from the funding factor within each business service center region would have to be disbursed to providers and program administrators within the same business service center region.

The Task Force (see [Senate Bill 249](#)) or the DHHS could recommend to the DoT that the DoT reduce the funding factor if projections showed there was enough in the Fund to sustain the Program for three years with the reduced funding factor. Any adjustment to the funding factor would have to be determined by the DoT no later than October 1 and would take effect on January 1 of the succeeding year.

The funding factor could not exceed \$3 or result in total collections that were 10% greater than the total amount collected in the previous year, whichever was less.

The affordability funding factor would have to be considered as part of the total bill for the purposes of considering water affordability based on household income caps in the Program.

Providers would have to include the low-income water residential affordability funding factor on all retail water bills. Providers could list the low-income water residential affordability funding factor as a separate line item on residential customer bills or incorporate the funding factor into their retail water rates. Payment for services collected by providers would have to first apply to satisfy these requirements and would have to be remitted to the State Treasurer for deposit in the Fund on a regular cycle that matched the remitting providers' billing cycle but no later than 30 days after the last day of the billing cycle.

### Report

No later than April 1 following the first full year of collection, a provider would have to annually provide the Task Force with the following information regarding the low-income water residential affordability funding factor:

- The number of retail water-metered accounts for which a bill was sent subject to the funding factor on June 30 and December 31 of the previous calendar year.
- The total amount of money collected by the provider from the funding factor.
- The total amount of money not collected by the provider from the funding factor.
- The total amount of money remitted by the provider to the State Treasurer from the funding factor.
- The total amount of administrative costs associated with administering or implementing the Program.

By July 1 of each year, the Task Force would have to provide annually a report to the Legislature and post that report on the DHHS' website. The report would have to include the following:

- The information from the adjustment of a funding factor based on recommendations by the Task Force.
- The total amount of money remitted to each provider.
- Any recommended adjustments to the Program or Fund.
- The total amount of administrative costs associated with administering or implementing the Program.

These provisions would *not* give the Michigan Public Service Commission the power to regulate a public water utility.

The AG could enforce these provisions against a provider that failed to include the low-income water residential affordability funding factor on all retail water bills or remit the money collected from the affordability funding factor by filing a civil action in the circuit court in the county where the provider did business. Specifically, a provider would not be subject to liability for the affordability funding factor fees included on retail water bills but not collected through the provider's normal business practices.

The DoT would have to create a mechanism through which a retail water customer or philanthropic entity could donate funds into the Fund. Any entity that contributed more than \$5,000 would have to receive a "water affordability champion" designation.

Lastly, the bill would provide that it would not preclude a provider from establishing other funding mechanisms to supplement its approved locally administered program.

### **Senate Bill 249**

The bill would require the DHHS to create the Program Task Force within 30 days after the bill's effective date. The Director of the DHHS would have to appoint members to the Program Task Force, including at least the following:

- Representatives of a provider with a population of less than 3,300 served.
- Representatives of a provider with a population of between 3,300 and 10,000 served.
- Representatives of a provider with a population of over 10,000 served.
- Representatives of water and sewerage consumer advocacy groups.
- Representatives of community action agencies.
- Representatives of municipal governments.
- Representatives of small rural counties and suburban and urban areas.
- Representatives of environmental groups.

The Task Force would have to do all the following:

- Discuss, and advise the DHHS on, best practices for administering the Program created by Senate Bill 250.
- Within nine months of the bill's effective date, develop further guidance for the Program. (The DHHS would have to implement this guidance within 18 months of the bill's effective date).
- Work with the DHHS to develop educational outreach materials about the Program.
- Seek additional funding sources for the Program.
- Explore ways to expand the Program to include more types of providers.
- Review and make recommendations to the DHHS regarding any potential changes to the water usage limits described in Senate Bill 250.
- Within nine months after the bill's effective date, develop and recommend to the DHHS criteria for reviewing and approving a low-income water residential affordability program for a provider that created and implemented its own program.

The bill would require the DHHS to work with the DoT to distribute funding from the Fund to providers to make up the difference between the total of customers' actual water, sewerage, and stormwater bills and the total discounted water and sewerage bills provided through the Program or a provider's low-income water residential affordability program. The DHHS would have to collaborate with the DoT to distribute funds to assist with plumbing and other necessary repairs. The bill also would require the DoT to set aside a specific funding amount for plumbing repairs.

Lastly, the bill would require the DHHS to collaborate with the DoT to distribute funds to third-party organizations that the DHHS collaborated with to administer the Program to cover the administrative costs.

### **Senate Bill 252**

#### **Temporary Shutoff Allowance and Shutoff Prohibition**

The bill would enact the "Water Shutoff Protection Act" and specify that a provider could shut

off service temporarily to all residential customers, for reasons of health or safety, in a State or National emergency, or if a residential customer had not paid a delinquent account. If a provider shut off service for reasons of health or safety, the bill would require that provider to notify the customer in a manner consistent with the requirements of the Safe Drinking Water Act.

A provider could temporarily shut off water to critical care customers for reasons of health or safety or a State or National emergency but could not shut off service for nonpayment of a delinquent account if the critical care customer provided documentation saying such. "Critical care customer" would mean a residential customer who requires, or has a household member who requires, water or sanitation for home medical equipment, a life-support system, or treatment or therapy to reduce a public health risk, or has a communicable disease, and provides appropriate documentation to a provider from a physician or medical facility that identifies the medical equipment, life-support system, treatment, or therapy and certifies that an interruption of service would be immediately life-threatening or cause harmful health consequences.

"Delinquent account" would mean an account or bill for water, sewage, stormwater, or other similar services and for which there is a delinquency. "Delinquency" would mean the measure by which a provider determines a payment is late or overdue.

#### Shut-off Notification Requirements

A provider could only shut off service to a residential customer that had not paid a delinquent account if the provider contacted the residential customer at least three times using at least two of the following methods, as practicable:

- Posted a delinquency notice on the door of the premises to be shut off and, if the account customer had a separate mailing address, mailed a delinquency notice to that address within 60 to 90 days before the date of a proposed shutoff, that notified the occupant of the property of a delinquency in payments and informed the occupant of any applicable payment plans or water affordability programs.
- Made a personal visit to the premises where shutoff of service was proposed and direct contact was made with the head of household notifying that individual of a delinquency in payments and of any applicable payment plans or programs by an agent of the provider or third-party organization.
- Made a personal or automated telephone call to the telephone number identified on the customer account where direct contact was made or a message was recorded notifying that individual of a delinquency in the payments and of any applicable payment plans or programs.
- Sent a direct text message to the telephone number identified on the customer account notifying that individual of a delinquency in payments and of any applicable payment plans or Programs.
- Sent a written notice by first-class mail to the premises where shutoff of service was proposed notifying the account customer of a delinquency in payments and of any applicable payment plans or programs.

Providers would have to maintain a record of the date a delinquency notice was posted, a record of a date direct contact was made, a record of the date a call was made, a record of the date a text message was sent, or a date a record of written notice was sent.

At least one of the contacts made by the provider would have to be a posted delinquency notice on the door of the premises as described above.

#### Shut-off Notification Information

All written and oral notices of shutoff would have to contain at least the following information:

- The address at which service was provided.
- A clear and concise statement of the reason for the proposed shutoff of service.
- The date on or after which the provider could shut off service, unless the residential customer took appropriate action, and a description of the available courses of action to prevent a shutoff or to restore service following a shutoff.
- A statement that the provider would not shut off service if a residential customer entered and remained in compliance with an applicable payment plan or affordability program.
- The telephone number and address of the program administrator where the residential customer could make an inquiry, enter an applicable payment plan or program, or petition the provider in accordance with the provider's rules to dispute a delinquent account.
- A statement that if the residential customer that received the notice were a tenant whose lessor was responsible for the water or sewage bill, the tenant could prevent shutoff by contacting the provider immediately to provide documentation demonstrating that the tenant was not responsible for the water or sewage bill and that the tenant did not owe any delinquent rent payments; this provision would not prevent a provider from offering additional options for a tenant to maintain service.

### Delaying Shutoff

Except as otherwise provided, a provider would have to delay shutoff of service to a residential customer that paid at least \$10 per month, or another amount approved by the provider, on a delinquent account and had applied for enrollment in a water affordability program with the provider, the DHHS, or a third-party organization that administered a program.

A provider could shut off service without delay if any of the following applied:

- The residential customer applied to a water affordability program and at least 10 business days had passed since the program administrator determined that the residential customer was not eligible.
- The residential customer applied to a program and was determined to be eligible but did not enroll within 10 business days.
- The residential customer paid at least \$10 per month but did not apply to a water affordability program by submitting an application within 10 business days after the date the final notice of shutoff was issued.

"Eligible customer" would mean a residential customer whose household income does not exceed 200% of the FPL, as published annually in the Federal Register by the United States Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902, or who meets any of the following requirements:

- Has received assistance from a State emergency relief program within the past year.
- Receives food assistance under SNAP.
- Receives medical assistance administered by the State under the Social Welfare Act.
- Received assistance under MEAP.
- Received assistance under WIC.
- Received SSI.
- Received assistance under the Weatherization Assistance Program.

### Service Shut-off

A provider *could* shut off service to a residential customer on the date specified in the notice of shutoff or at a reasonable time following that date. If a provider did not shut off service and mailed a subsequent notice, then the provider could not shut off service before the date specified in the subsequent notice. Shutoffs could occur only between 8 AM and 3 PM.

A provider could not shut off service on a day, or a day immediately preceding a day, when the services of the provider were not available to the general public for the purpose of restoring service.

The day before or the day of the planned shutoff of service, an employee or agent of or a third-party organization contracted with the provider would have to call or send a text message to the telephone number and send an email to the email address, if provided, identified on the customer account notifying the residential customer of the planned shutoff. If the provider did not have a valid telephone number or email address on account, the provider would have to make a notation and could proceed with the planned shutoff.

An employee or representative of a provider would have to leave notice of the service shut off. The notice would have to state that service had been shut off and contain the address and telephone number of the provider where the residential customer could arrange to have service restored. If a shutoff were completed using meters with remote shutoff and restoration capacity, the provider would have to advise the residential customer on how to arrange for service to be restored.

A provider could not do any of the following:

- Shut off service because a residential customer had not paid for concurrent service received at a separate metering point, residence, or location.
- Shut off service because the property owner, who was the residential customer on record, had not paid for service at a premises lawfully occupied by another person.
- Shut off service if the amount the residential customer had not paid for service was the subject of an unresolved dispute under the provider's dispute resolution process.
- Shut off service to a multi-unit dwelling where at least one unit was not sub-metered and was lawfully occupied.
- Shut off service if an eligible customer received a combined bill that included public services unrelated to water, sewage, or stormwater services that was not paid in full after the eligible customer received a discount, credit, or other form of credit from a water affordability program.
- Shut off service to a residential customer who was renting property from a lessor who was responsible for the water or sewage bill, if the residential customer provided documentation demonstrating that the lessor was responsible for the water or sewage bill and that the tenant did not owe any delinquent rent payments; this provision would not prevent a provider from taking action to enforce a lien or institute an action for the collection of a delinquent debt that accrued while the lessor was responsible for the payment of water or sewage.
- Shut off service to a residential customer for nonpayment of a delinquent account if the residential customer were a critical care customer and provided documentation to the provider as such; if the time period were expected to extend for at least one year, the bill would require the critical care customer to annually provide documentation that demonstrated the customer was a critical care customer.
- Shut off service to a residential customer if a residential customer had entered and remained in compliance with an applicable payment plan or water affordability program, unless the payment was delinquent for at least 120 days.
- Shut off service to a licensed home for the aged or to a licensed adult foster care facility.

The bill would specify that, if a property owner were not occupying the premises at which service was delivered, a provider could shut off service if proper notice had been given, and the property owner supplied a written, certified statement, on a form and in a manner prescribed by the provider, that the premises were not lawfully occupied and the premises were in fact not lawfully occupied.



"Lawful occupant" would mean an individual who resides in a home and who has a valid lease, rental agreement, or affidavit of tenant responsibility for the water bill.

### Service Restoration

After a provider shut off service, the provider would have to restore service on the residential customer's request when the cause of the shutoff had been cured or payment arrangements had been made. This could include a payment plan or enrollment in an affordability program, whether that be the Program administered by the State or a program developed by a provider.

If a provider were required to restore service at the residential customer's meter manually, the provider would have to make reasonable efforts to restore service on the day the residential customer requested restoration. Except for reasons beyond its control, the provider would have to restore service within the first working day after the residential customer's request.

For providers using meter technology with remote shutoff and restoration capability, service would have to be restored no later than the first working day after the residential customer requested restoration, except in the case of documented equipment failure.

A provider could assess the residential customer a reasonable charge for restoring service. The charge could not exceed \$150 or the actual cost, whichever was less. A provider could not charge a residential customer a fee for a shutoff of service.

A provider would first have to apply payments received to the costs incurred for services for the oldest debt.

### Triage after Noncompliance with a Program

If an eligible customer failed to comply with the terms and conditions of a water affordability program, the eligible customer would have to be referred to a program administrator for triage before a provider could shut off service to a residential customer. The referred would have to participate in triage to restore compliance with and prevent disenrollment from the program. Within 10 business days after a residential customer was referred, the program administrator would have to send a letter by first-class mail to the premises that received service from the provider, and, if the residential customer had a separate mailing address, to that address. The letter would have to state all the following information:

- The start date of noncompliance.
- The reason for noncompliance and a statement of goals to engage the residential customer to ensure future compliance.
- The date for a triage meeting, which could take place by phone, virtually, or in person, with the program administrator, scheduled within 10 business days after the letter was postmarked; when selecting the form of the meeting, a residential customer's preference and availability would have to be taken into consideration.
- A statement that an extension for a triage meeting could be granted for good cause, as determined by the program administrator, and if no good cause were shown, failure to attend the triage meeting could result in disenrollment.
- A summary of the requirements to maintain eligibility in the program.
- A statement that the residential customer had 10 business days after the triage meeting to comply with triage requirements.

The program administrator could create a renewal agreement with the DHHS or provider to use during the triage process. The agreement would have to include all the following information:

- A statement of goals to engage the residential customer to ensure future compliance, including a payment plan and schedule, participation expectations, and additional household support that would be provided to the residential customer following triage.
- A list of triage requirements to maintain compliance in the program.

The triage requirements could include the following:

- A minimum payment.
- A restart of the residential customer's program calendar.
- The forgiveness of any amount owed on the delinquent account.
- Removal of any fees or charges on the delinquent account.
- A copayment credit on the delinquent account.
- Any other options for successful outcomes available through the program.

The program administrator would have to advise a provider if a residential customer failed to comply with the triage process or a renewal agreement, and the provider could proceed with the shut-off process.

A provider could develop policies and procedures to delay shutoff for residential customers who faced temporary financial hardship due to recent loss of a job, medical bills, or other extenuating circumstances. If the provider maintained a website, the provider would have to post its policies and procedures on the website.

#### Additional Provisions

A provider could not threaten to shut off service when the provider had no intent to terminate service or when termination of service were otherwise prohibited by law.

The Act's provisions would not apply to a shutoff at a premises if a property owner provided the provider a notarized statement that the premises were not lawfully occupied and the premises were in fact not lawfully occupied.

If the DoT projected that the funding required to implement a program did not exist in the Fund proposed by Senate Bill 550 and determined that adjustments had to be made, the provider could not shut off service to an eligible customer that entered into and remained in compliance with a program.

The AG or any residential customer or other lawful occupant of a premises subject to the proposed Act could enforce the Act by filing a civil action in the circuit court in the county where the residential customer lived or the provider did business. In any civil action commenced under this section, the plaintiff could obtain damages, declaratory relief, or temporary or permanent injunctive relief for any violation of the Act. A residential customer or other lawful occupant that prevailed in a civil action would be entitled to reasonable attorney fees and costs.

A provider would have to take reasonable steps to provide equal language access to water service and vital information for residential customers with limited English proficiency. "Equal language access" would mean the ability to receive information and to participate in and benefit from water service at a level equal to English-proficient individuals.

The bill also would prohibit a local subdivision of the State from enacting or otherwise enforcing a rule, regulation, code, or ordinance that was not substantially similar to the Act.

### **Senate Bill 253**

The bill would amend the landlord-tenant Act to allow a tenant in a metered or sub-metered rental premises that was *not* a multifamily rental property serviced by a single water meter to request a provider send a copy of the tenant's water and sewer bills to the landlord and the tenant.

The bill would prohibit a landlord from interfering with, or discriminating or retaliating against, a tenant that made such a request. Interference with, or discrimination or retaliation against, the tenant would include, but would not be limited to, any of the following:

- Shutting off access to water in the tenant's unit.
- Refusing to renew the tenant's lease.
- Unlawfully evicting the tenant because the tenant made such a request.
- Increasing the tenant's rental payment solely because the tenant exercised the tenant's right to request a copy of the tenant's water or sewer bill.

A rental agreement that was entered, renewed, or renegotiated after the bill's effective date would have to contain the requirements of these provisions. If the provisions of the bill conflicted with Federal law, the Federal law would prevail. Additionally, these provisions would apply only to leases entered, renewed or renegotiated after the bill's effective date, in accordance with the Constitutional prohibition against impairment of contracts under the State Constitution. It also would include a lease renewed each month as an estate at will.

### **Senate Bill 251 (S-2)**

The bill would create the Office of Residential Water Affordability within the DHHS. The Director of the DHHS would have to appoint a deputy for the Office. The Office would have to establish procedures for budgeting, spending money, and employing personnel in accordance with the Management and Budget Act.

The Office would have to track and maintain data on the following:

- All providers in the State, as identified by the Department of Environment, Great Lakes, and Energy.
- The status of each provider's affordability program.
- Information included in the report provided for in Senate Bill 248.

The Office also would have to create and maintain a website accessible to the public that contained the latter information.

Additionally, the bill would require the DHHS to develop a standardized provider report form by April 1, 2028. The report form would have to include the following information:

- Whether a provider was a governmental or nongovernmental entity.
- Whether a provider provided water, sewerage, or stormwater services, or a combination of these, to retail or wholesale providers.
- The name of the wholesale provider from which a retail provider obtained services and the rate the retail provider paid for services, if applicable; "rates" would mean the fixed component, if any, and the volumetric or other variable component, if any, of the cost of provider's services that are applied to a customer class.
- A list of the provider's customer classes; "customer class" would mean the provider's users identified under categories that included residential, commercial, industrial, irrigation, or wholesale.
- The number of customer connections to the provider's system, listed by customer class.

- The provider's rates and charges in effect, including any distinctions between customer classes and among customers in different geographic areas within the provider's service area.
- The total number of shutoff notices issued, as well as shutoffs and service restorations completed, for the previous calendar year, and the aggregate dollar amount in overdue balances owed on all delinquent accounts that had been shutoff.
- The total number of customer accounts where a delinquency resulted in litigation or action by an independent collection agency or transfer of debt to the local taxing authority, by customer class; the aggregate dollar amounts owed by these customers, respectively; and the provider's threshold amount of transferring balances to litigation, independent collection agents, or taxing authorities.
- An identification of the authority or government body that set or approved a provider's rates, financial policies, or decisions.
- Whether a provider held a public hearing on a proposed rate change.
- An itemized list of charges, fees, credits, and other cost details on the provider's water bills and whether each item was structured as a volumetric rate, uniform rate, flat rate, inclining block rate, or declining block rate; "charges" would mean the amounts that a provider bills to a customer under specific circumstances that are not included in the provider's base rate.
- The frequency of customer water bills, by customer class.
- Whether a provider had an emergency plan to restore water service to all customers in shutoff status at the time of a declaration of a local or statewide health emergency.
- The number of water and sewer main breaks reported to the provider in the previous calendar year.

The report also would have to include the following for providers that operated a low-income water affordability program:

- A statement of the type of program.
- The program's funding source.
- The date when the provider began administering the program.
- Eligibility criteria.
- The number of customers enrolled.
- The number of first-time enrollees since the last reporting period and the total balance owed by these customers.
- The average benefit amount provided to enrolled customers for the billing period.
- The number of customers that failed to pay a water bill or overdue balance while enrolled in the program.
- The total overdue balance resolved under the program.
- A link to or copy of the information available to customers regarding the provider's program.

A provider that did not operate a low-income water affordability program would have to include in the report a statement of the policy or practice the provider utilized to refer customers to the Program.

The bill would require a provider to submit this report to the DHHS by April 1 of each year, beginning within 15 months of the bill's effective date. The DHHS would have to make these reports available on its website. By September 1 of each year, beginning within 20 months of the bill's effective date, the DHHS would have to compile a summary of the reported information and make it available on its website.

Additionally, by December 31, 2026, the DHHS would have to provide training to providers on completing the standardized provider report.

This bill specifies that it would not expand any obligation of the State to provide water or to require the expenditure of additional resources to develop water infrastructure beyond its obligations under law.

### **Senate Bill 255**

Among other things, the Michigan Penal Code prohibits a person from tampering with a water, steam, or gas company's service lines. A person who violates these prohibitions is guilty of a misdemeanor if the value of the water, steam, gas, or propane used, burned, or wasted, or the damage caused is under \$500. The person is guilty of a felony for a violation resulting in over \$500 worth of damages.

The bill would specify that a person that violated the prohibitions generally described above by restoring water service to the person's lawfully occupied residence after a water service shutoff due to an inability to pay for water and sewer service, provided that no metering device or backflow prevention device was damaged, would be responsible for a State civil infraction as follows:

- For a first offense, the person could be ordered to perform up to 25 hours of community service.
- For a second offense, the person could be fined up to \$250 or ordered to perform up to 50 hours of community service, or both.
- For a third or subsequent offense, the person could be fined up to \$500 or ordered to perform up to 100 hours of community service, or both.

Additionally, a person described above who was issued a citation for a violation would have to be referred to a water affordability program, if eligible.

The Code also prohibits a person from unlawfully tampering with or destroying any machinery, tools, equipment, telephone line or post, telegraph line or post, telecommunication line, tower, or post, electric line, post, tower or supporting structures, electric wire, insulator, switch, or signal, natural gas pipeline, water pipeline, steam heat pipeline or the valves or other appliances or equipment appertaining to or used in connection with those lines, or any other appliance or component of the electric, telecommunication, or natural gas infrastructure that is the property of a utility. Generally, a person who violates this provision is guilty of a felony with up to five years' imprisonment or a maximum fine of \$5,000, or both.

The bill would specify that this provision would apply to an appliance or component of a water utility and that a person who violated the provision by restoring water service to the person's residence after a water shutoff to the residence due to an inability to pay for water and sewer service, provided that no metering device or backflow prevention device was damaged, bypassed, or rendered inoperable by the restoration, would be responsible for a State civil infraction in the same manner as described above. A person who was issued a citation for a violation would have to be referred to a program, if eligible.

### **PREVIOUS LEGISLATION**

*(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)*

Senate Bills 248, 249, 250, 252, 253, 255, and 256 are similar to Senate Bills 550, 980, 549, 551, 554, 552, and 553 from the 2023-2024 Legislative Session.

## **FISCAL IMPACT**

### **Senate Bills 248 through 250**

#### **DHHS**

The bill would create a restricted fund, the Low-Income Water Residential Affordability Program Fund, which would allow the State to appropriate funding to operate and administer funding to water providers to make up the difference between the total of customers' actual water, sewerage, and stormwater bill and total discounted water and sewerage bills provided through the DHHS or a local water provider water affordability program. The amount appropriated to the Fund each year would be subject to variation.

The initial annual funding factor would be \$1.25 per month per retail water meter or flat rate account that was not an irrigation or fire-line account. The fee would increase by \$0.25 annually from January 1, 2026, until December 31, 2029, so up to \$2.50 per month. After December 31, 2029, the bill would allow the DHHS to adjust the funding factor by the percentage increase in the United States Consumer Price Index for the immediately preceding calendar year. The rate increase would be limited if the Department of Treasury reported a remaining balance that exceeded 10% of funds collected by the funding factor in that fiscal year. The DHHS would have to adjust the rate so total collections did not surpass the amount from the low-income water affordability funding factor minus the remaining balance. The funding factor would be limited to \$3.00 per month for each retail water meter, or a set rate that led to collections totaling 10% more than those from the previous year.

The bill also would allow for the funding factor to vary based on the geographically-based DHHS business service center area. Based on information from the United State Environmental Protection Agency Safe Drinking Water Information System, in Michigan there are approximately 2.5 million retail water meters serviced by water systems with 500 or more retail water service connections. According to the same source, there are approximately 106,000 retail water meters serviced by water systems with 500 or fewer retail water service connections.

The bills would require the DHHS to begin the affordability program not later than 18 months after the collection for the Fund begins. Upon implementation of the collection, water systems with 500 or more retail water service connections would be eligible for participation. No later than after the affordability program was implemented, the affordability program would apply to all water providers in the State.

Given the uncertainty and complexity of various funding factors at different business service center locations and implementation at various times to simplify the fiscal impact of the bills, the following analysis is based on a statewide allocation of the funding factor with an assumed uniform annual change. Based on the available data, the estimated amount collected in the Fund in the first 18 months (assuming a funding factor implementation of November 1, 2025) if all 2.5 million retail water meters were subject to two months of \$1.25 per month per retail water meter, 12 months of \$1.50 per month per retail water meter, and four months of \$2.00 per month per retail water meter \$71.2 million.

Under the bills' specifications, the Fund could be appropriated to the DHHS and local water providers. If at the commencement of a program, the Fund had reached the assumed \$71.2 million, the DHHS could spend, upon appropriation, 5% of the Fund or \$3.5 million for administrative costs associated with the Program and \$425,000 to the Department of Treasury. The remainder of that assumed initial balance, \$67.2 million, would be available for the following:

- Actual administrative costs of the water providers, which would be limited to 15% of the balance in the Fund which after 18 months could be estimated at \$10.1 million.
- Payment or advancement to providers for income-based bill discounts, income-based bill caps, or income-based rates.
- Arrearage payments.
- Water loss mitigation programs which would be capped at a total of \$15.0 million.

Estimates of revenue collections would be subject to the funding factor not being assessed on households that were participants in the Fund or retail water customers not remitting payment for the Program funding factor in their bills as water providers would not be liable for uncollected funding factor fees.

Assuming a 3% percentage increase in the United States Consumer Price Index for the immediately preceding calendar year the fastest period over which the funding factor fee could increase to the \$3 per month per retail water meter is estimated at the 2035 calendar year. If the funding factor fee reached the maximum \$3 per month per retail water meter and the water meter connections are assumed to remain at 2.5 million, the Fund could collect \$90.0 million annually.

#### Local Governments

For local fiscal impact, there would be no centralized data to assess the fiscal impact on each water system within the State so the fiscal impact on municipal water systems is uncertain. Several different factors could affect the impact to local units of government. One of these would include whether the municipal water system would operate its own Program or participate in the Program established in the DHHS.

As an illustrative example of the status of the second largest municipal water system in the State, the City of Grand Rapids, Table 1 demonstrates a snapshot of fiscal data for a municipal water system.

<b>City Fiscal Year</b>	<b>Average Monthly Billings</b>	<b>Average Monthly Delinquent Payment Balance</b>	<b>Average Monthly Number of Customers</b>	<b>Monthly Amount Collected based on \$2 funding factor fee</b>
2019-20	\$5,313,000	\$1,935,000	81,063	\$1,945,500
2020-21	\$5,540,800	\$2,347,000	81,390	\$1,953,400
2021-22	\$6,119,800	\$2,126,300	81,690	\$1,960,500
2022-23	\$6,420,000	\$2,185,200	82,035	\$1,968,900

As this data is just for one municipal water system at a specific time, no broad fiscal impact statement can be made for all local units of government. "Program administrator" would mean the DHHS, the local water provider, or a third party organization. Depending on which entity was chosen as a program administrator, if the DHHS were chosen, there would be additional cost to the State.

The bill also would result in new costs for the DoT. Under the bill, the DoT would have to administer the Fund. While the general administration and investment of the Fund likely would

not result in significant cost increases, the bills also specify that the Department would have to make adjustments to the funding factor if needed and create a mechanism by which customers or philanthropic entities could make a donation for deposit into the Fund. As a result of these obligations, the DoT could incur indeterminate costs related to administrative and information technology needs. As described above, the bill would allow, but not require, the DHHS to pay \$425,000 to the DoT from its allowed administrative costs.

The bill would have an indeterminate fiscal impact on the DHHS and no fiscal impact on local units of government. The bill would create the Low-Income Water Residential Affordability Program Task Force within the DHHS. The bill makes no mention of any reimbursement costs, so it is unclear if the DHHS would be responsible for providing task force members with reimbursement for necessary expenses incurred in the performance of their duties as task force members. For context, other similar commissions committees and task forces average less than \$50,000 in reimbursement costs annually.

The bill likely would have a minor fiscal impact on the DoT. Its additional responsibilities, including preparation of cost projections, could result in the need for one or more additional full-time equivalents (FTEs). The annual cost of an FTE is approximately \$137,500. The bill would allow, but not require, the DHHS to pay \$425,000 to the Department of Treasury from its allowed administrative costs.

### **Senate Bill 251 (S-2)**

The bill would have an indeterminate fiscal impact on the DHHS to create the Office of Residential Water Affordability and to create a standardized low-income water provider report and to compile and publish the summary information required under the bill. There would be an uncertain level of costs to local units of government in order to complete the required form with the information required under the bill.

### **Senate Bill 252**

#### **Local Governments**

The bill would have an indeterminate fiscal impact for locally owned providers.

Under the bill, a provider could incur additional costs to comply with the described shut-off notification procedures; however, most providers already engage in similar notification practices. As a result, the fiscal impact on any given local provider would depend on its current practices as well as the number of customers who meet the delinquent account criteria described in the bill.

Although statewide and local actions prohibiting or delaying water shutoffs were enacted during the COVID-19 pandemic, there is insufficient data available to determine whether prohibiting water shut offs for critical care customers would have a significant negative fiscal impact on locally-owned providers overall over a more extended period. Costs and revenue effects would likely vary over time and among different providers depending on the number of customers served and their location. It is possible that the terms of the affordability program would result in revenue collection that would not have otherwise occurred due to the smaller payment amounts required of qualified customers. Conversely, delaying or preventing shut-offs could result in meaningful revenue loss to a provider should the payments made by customers fall below the cost of providing the service for an extended time. In addition, providers with a significant number of qualifying customers could experience additional administrative costs to monitor payments and ensure compliance with the procedures outlined in the bill. Providers could elect to increase rates to compensate for any new incurred losses if additional funding were not provided to offset these losses.



The bill would allow a provider to assess a restoration charge of not more than \$150 that could offset losses associated with water shutoff procedures.

The bill would have an indeterminate, and potentially minimal fiscal impact on State and local revenue and expenditure. State expenses incurred under the bill would likely be minimal and incorporated within the regular scope of duties for the programs affected by the bill. The bill would be unlikely to have any impact on State revenue. For local governments that operate retail water services, to the extent that the bill would prevent shutoffs that would otherwise occur, uncompensated expenses would increase by an unknown amount. Similarly, Notification requirements under the bill could increase local unit expenditures by an unknown amount. To the extent that customers would maintain service under the bill and the alternative payment arrangements were successful, the bill could increase revenue from retail water services over what would otherwise occur.

The bill could have a minor fiscal impact on local courts, particularly circuit courts, on account of an increase in complaints to enforce the proposed Act outlined in the bill language. Circuit court judges and administrators would likely need to identify and develop processes for handling such cases. Some confusion could be present as typically circuit courts handle civil cases in which the amount in controversy exceeds \$25,000. Claims for money judgements of a lesser amount are handled in district, or small claims, courts.

The AG could incur litigation costs, but only if it chose to enforce the act via civil litigation. It is not known under what circumstances the AG would intervene, though it would seem more likely that the AG would file civil actions against larger providers or landlords to address systemic violations, instead of single instance violations. Such costs are indeterminate. The bill would provide for attorney fees and costs for prevailing customers and lawful occupants; it does not indicate whether the AG would be reimbursed for such costs when it prevailed in a civil action under the proposed Act.

#### **Senate Bills 253 and 254**

The bills would have no fiscal impact on courts or the AG.

#### **Senate Bill 255**

The bill could have a positive fiscal impact on local units of government. The bill would impose new civil fines of up to \$500. Revenue collected from civil fines is used to support local libraries and county law libraries. The amount of revenue for local libraries is indeterminate and dependent on the actual number of violations.

#### **Senate Bill 256**

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.