



Senate Fiscal Agency
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House Bill 4656 (Substitute H-2 as reported with amendment)
Sponsor: Representative Jeff Mayes
House Committee: Energy and Technology
Senate Committee: Energy Policy and Public Utilities

CONTENT

The bill would amend Public Act 3 of 1939, the Public Service Commission (PSC) law, to allow the Attorney General, on his or her own motion or upon a referral from the PSC in a case of serious injury or death, or any customer of a municipally owned electric or natural gas utility, to bring a civil action for injunctive relief or imposition of a civil fine against the utility if it failed to meet the applicable requirements of the Act. The bill also would require a municipally owned utility to establish a complaint resolution process for its customers to resolve any allegations of violations that did not result in a death or serious injury.

An action could not be filed unless the prospective plaintiff had given the utility at least 60 days' written notice. Within 30 days after the utility received the notice, the parties would have to meet and make a good faith attempt to determine if there was a credible basis for the action. If the parties agreed that there was, the utility would have to take all reasonable and prudent steps necessary to comply with the applicable requirements of the Act within 10 days of the meeting, and could enter into a compliance agreement, which could include the payment of a civil fine.

A court could award costs of litigation, including reasonable attorney and expert witness fees, to the prevailing or substantially prevailing party. A court could order a municipally owned utility to pay a civil fine of at least \$1,000 but not more than \$20,000 for a first offense; at least \$2,000 but not more than \$40,000 for a second offense; or at least \$5,000 but not more than \$50,000 for a third or subsequent offense. A civil fine would have to be deposited in the Low Income and Energy Efficiency Fund.

Proposed MCL 460.9p

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill could have an indeterminate fiscal impact on the Department of Attorney General depending on the increase in caseload that could result from any lawsuits brought under the bill. However, the costs could be neutral if the Attorney General were awarded litigation costs.

The bill would require civil fine revenue to be deposited into the Low Income and Energy Efficiency Fund. This Fund provides assistance to low income customers to help with utility costs and also provides funding for energy efficiency programs. For FY 2008-09, the Department of Energy, Labor, and Economic Growth budget bill, Public Act 251 of 2008, includes a \$93.2 million appropriation to this Fund. Current revenue to the Fund comes from an assessment on DTE and Consumers Energy.

Date Completed: 9-24-09

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