



OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 249 of the 132nd G.A.
(L_132_0668-5)

Status: In House Public Utilities

Sponsor: Rep. Duffey

Local Impact Statement Procedure Required: No

Subject: To regulate residential utility resellers

State Fiscal Highlights

- Subjecting residential utility resellers operating in Ohio to regulation by the Public Utilities Commission of Ohio (PUCO) is unlikely to increase PUCO's administrative costs, according to a PUCO official. Most funding for PUCO draws from the Public Utilities Fund (Fund 5F60).
- The bill requires PUCO to issue rules within one year that must include provisions governing enforcement of the statutes and rules, and penalties for violating them. The bill does not specify whether the penalties should include fines or provide any guidelines about fine amounts or the disposition of any potential revenue.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

The bill specifies that residential utility resellers are subject to regulation by PUCO as public utilities. A residential utility reseller may obtain a waiver from the bill's pricing requirements. The bill specifies that third-party billing services are not subject to such residential utility reseller regulation. The bill also specifies that an electric distribution utility has the right of first refusal to build out the facilities needed to serve individual end-use customers in its service territory and the right to serve those customers. Unless the electric distribution utility waives such rights under a process established by PUCO, a residential utility reseller may not engage in redistribution or resale of electricity at a specific location.

The bill requires PUCO to adopt rules within one year governing (1) the regulation of residential utility reselling, (2) the application procedure for a waiver to preserve a competitive result for alternative pricing, and (3) the process for an electric distribution utility to waive its right of first refusal to build the distribution facilities

needed to serve an individual end-use customer in lieu of a residential utility reseller.¹ Beginning one year after its effective date, the bill prohibits any person from practicing residential utility reselling in Ohio except in accordance with the rules adopted by PUCO, unless the person has obtained a waiver from PUCO. If PUCO does not adopt such rules before the specified deadline, PUCO is required to order the transfer of customers of resellers to utility providers appropriate to the utility services provided by the resellers, subject to certain conditions² and a deadline provided by the bill. Sections 4941.07 and 4941.08 of the bill specify various provisions that must be included in PUCO's rules, including penalties for violating the regulation and rules of residential utility reselling.

The bill prohibits proprietors and third-party billing services from charging an occupant a distinct charge for any utility service provided to a common area.³ The bill allows a proprietor to arrange for a third-party billing service to administer billing for utility service to occupants under certain circumstances. The bill does not prevent a residential utility reseller from purchasing a component of utility service through a competitive provider at a rate that is different than the rate for that component under the utility provider's standard offer, if the reseller is compliant with the PUCO rules or has obtained a waiver.

The bill does not limit the authority of PUCO, a municipality, or another local jurisdiction from prohibiting or limiting the practice of residential utility reselling. The bill applies to electric, natural gas, water, and sewage disposal services.

Fiscal effect

The bill is unlikely to increase PUCO's administrative costs due to new duties under the bill, according to a PUCO official. The rules that must be adopted by PUCO under the bill must include provisions related to enforcement and penalties for violations.

Most PUCO expenses are paid from appropriation item 870622, Utility and Railroad Regulation, which draws on the Public Utilities Fund (Fund 5F60).⁴ The bill

¹ The bill defines "residential utility reselling" as any situation in which a person charges an occupant for billing or provision of utility service as a distinct charge, separate from the standard monthly charge. The bill excludes utilities themselves from this definition, as well as charges solely for third-party billing service.

² For example, the order must make special provision with respect to a municipal utility as necessary to effectuate the transfer in order to comply with Ohio Const., art. XVIII.

³ But the bill does not prevent a proprietor, residential utility reseller, or third-party billing service from (1) using a submeter or submeters to determine the cost of utility service provided to common areas and factoring that cost into customers' monthly rental payments or condominium association fees, or (2) factoring the costs of all utility service provided to occupants, including common areas, into those monthly payments.

⁴ Fund 5F60 receives funding from an assessment on the utilities regulated by PUCO. The amount of the assessment is based on the amounts appropriated by the General Assembly for line items drawing on Fund 5F60. More details can be found in the Catalog of Budget Line Items (COBLI), an LSC publication that can be found on the LSC website.

does not provide any guidelines about penalties for violations; it does not specify that penalties should include fines, and fine amounts, or the fund (or funds) that would receive any revenue from penalties that may be assessed.

The bill has no direct fiscal effect on political subdivisions.

Synopsis of Fiscal Effect Changes

The bill's fiscal effects remain unchanged under the substitute bill.