

Legislation introduced to make you pay other people's water bills

State legislation would add new fees to your water bill

Legislation recently introduced in the Michigan Legislature proposes to add new annual fees ranging between \$24 - \$36 to the water bill of Armada residents and businesses. These state-mandated fees will fund a program to assist low-income persons throughout Michigan with paying their water bills.

The Village Council opposes the proposed legislation for the following reasons:

- It is inequitable for Armada residents to be compelled to fund a program that will not benefit them based on the program's income eligibility criteria
- The proposed legislation is poor fiscal and public policy as it incentivizes lower income residents of one municipal water system to not pay for their consumption of water and forces residents of other water systems to pay for the resulting deficit
- The water bills of Armada businesses and residents should not be increased \$24 - \$36 per year based on state legislation which imposes a cost that has no relation to the cost of operating the Armada water system

In December 2023, the Village Council unanimously adopted the attached Resolution opposing the proposed legislation and forwarded it to the Michigan legislators representing Armada, Senator Dan Lauwers and Representative Jaime Green.

If you want to learn more about the proposed legislation, please use the following link: <https://www.legislature.mi.gov/documents/2023-2024/billanalysis/Senate/pdf/2023-SFA-0549-G.pdf>. If you wish to communicate directly with Sen. Lauwers and Rep. Greene regarding this proposed legislation, their contact information follows:

When contacting your state legislators, please be polite and remember the lawmaker may or may not have made up his or her mind on whether to vote for the proposed new fee

State Senator

Senator Dan Lauwers

S-9 Capital Building

P.O. Box 30036

Lansing, MI 48909-7536

Phone: 517-373-7708

Email: sendlauwers@senate.michigan.gov

State Representative

Representative Jaime Greene

N. House Building 9-999

P.O. Box 30014

Lansing, MI 48909

Phone: 517-373-1775

Email: JaimeGreene@house.mi.gov

VILLAGE OF ARMADA
MACOMB COUNTY, MICHIGAN

A resolution of the Village Council for the Village of Armada, Macomb County, Michigan in opposition to Michigan House Bills 5088 – 5093 and Michigan Senate Bills 549 – 554 proposing financial assistance for payment of municipal water bills

At the regular meeting of the Village of Armada Council, Macomb County, Michigan, held at the Municipal Offices, 74274 Burk Street, Armada MI 48005, on January 22, 2024, commencing at 7:00 p.m.

Present: Adair, Ballard, Boelke, Clark, Coenen, Sledz

Absent: Shall

The following Resolution was offered by Boelke and seconded by Clark

WHEREAS, the Village of Armada, Michigan (Armada) is a general law village situated in northern Macomb County with a population of 1,684 residents (2020 census);

WHEREAS, the businesses and residents of Armada have borne the significant cost of planning, constructing, operating, maintaining, and repairing a public potable water system through payment of water rates and fees established by the Village Council;

WHEREAS, these costs include compliance with federal and state mandates for infrastructure and water quality without commensurate financial contribution by either level of government;

WHEREAS, House Bills 5088 – 5093 in tandem with Senate Bills 549 – 554 (collectively the "proposed legislation") have been enrolled in the Michigan House of Representatives and Michigan Senate, respectively, and assigned to House and Senate committees;

WHEREAS, these enrolled bills propose the imposition and collection of a fee estimated at between \$24 to \$36 annually from the Armada businesses and residents who receive municipal water through the public potable water system;

WHEREAS, the new fees will fund a state program that will provide financial assistance to lower income persons throughout the state of Michigan;

WHEREAS, there is a fundamental inequity in the proposed legislation arising from its imposition of fees on Armada businesses and residents for an assistance program that does not provide a commensurate benefit to those bearing the financial burden for the new fees;

WHEREAS, the proposed legislation is also poor fiscal and public policy as it incentivizes lower income residents of one municipal water system to not pay for their consumption of potable water using fees collected from another municipal water system. This is not the proper way to address the financial hardship being experienced by these residents. In fact, many municipal water systems have duplicative assistance programs that are funded using fees collected within their respective water systems;

WHEREAS, Armada businesses and residents carry a significant financial burden for the Village's potable water system and the proposed legislation serves only to make that burden greater for years to come. To burden our businesses and residents struggling with existing water rates without any measurable return to the Armada municipal water system cannot be supported by this Village Council.

NOW, THEREFORE,

BE IT RESOLVED, that the Village Council in and for the Village of Armada vehemently opposes the proposed legislation and urges the Michigan House of Representatives and Michigan Senate to forego any further consideration of House Bills 5088 - 5093 and Senate Bills 549 - 554; and,

BE IT FURTHER RESOLVED, that the Village Clerk is authorized and directed to submit a true copy of this resolution on the Michigan House Representative and Senator representing the businesses and residents of the Village of Armada.

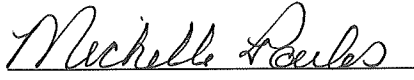
Yays: Boelke, Clark, Sledz, Coenen, Ballard, Adair

Nays: None

Absent: Shall

RESOLUTION ADOPTED.

The foregoing is a true copy of the resolution adopted at a regular meeting of the Armada Village Council held the 22nd day of January, 2024.



Michelle Poulos, MiPMC, CMMC
Armada Village Clerk



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 549 through 554 (as introduced 10-3-23)
Sponsor: Senator Stephanie Chang (S.B. 549 & 551)
Senator Rosemary Bayer (S.B. 550)
Senator Jeff Irwin (S.B. 552)
Senator Paul Wojno (S.B. 553)
Senator Mary Cavanagh (S.B. 554)
Committee: Housing and Human Services

Date Completed: 10-31-23

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 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 customers who received water or sewage to pay a monthly \$2 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 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 were unable to comply with a Program's requirements would have to undergo triage to prevent disenrollment and service shut off. The bills also would prohibit a person from tampering with a provider's service lines to restore water after a shut off because of an inability to pay and prescribe a civil fine, misdemeanor, or felony depending on the amount of damage arising out of a violation.

BRIEF FISCAL IMPACT

The bills would establish the structure for a Program in Michigan, which would aim to support water providers in bridging the gap between customers' actual water bills and discounted bills provided through residential water affordability programs. The funding factor would start at \$2 per month per retail water meter and could increase annually by up to 10% to a maximum of \$3. The Fund, estimated to reach \$90.0 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 correctional facilities.

Proposed MCL 400.14n et al. (S.B. 549)
Proposed MCL 400.14t (S.B. 550)
MCL 750.282 & 750.383a (S.B. 552)
777.16o & 777.16s (S.B. 553)
Proposed MCL 554.601b (S.B. 554)

Legislative Analyst: Eleni Lionas
Fiscal Analyst: Bobby Canell; Joe Carrasco Jr.
John P. Maxwell; Elizabeth Raczkowski
Cory Savino, PhD; Michael Siracuse

CONTENT

Senate Bill 549 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 customer's household income on a water bill, subject to certain Program 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.
- 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 the DHHS and the DoT to project annual funding needs for the Program and, if funding were projected to be insufficient, identify alternative funding.
- Create a Program Task Force and prescribe the DHHS-appointed members.
- Require that the DHHS and DoT distribute money from the Fund created under **Senate Bill 550** to make up the difference between an eligible customer's water bill and the total discounted water bill.
- Require providers to provide notice of its own Program or the DHHS' program and require the DHHS to notify all individuals who received benefit program services of a Program by January 1, 2025.
- Require the DHHS to develop a nonaffordability application form that would trigger an eligibility review for the Program.
- Establish payment tiers based on Federal Poverty Guidelines 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.
- 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 in the Program and made timely payments for 24 months.

Senate Bill 550 would amend the Social Welfare Act to do the following:

- Create the Fund within the State Treasury and prescribe how the money in the Fund could be spent.
- Require 3% of the Fund to be spent for administrative costs and prescribe how the remaining money would be spent to implement the Program.
- Create a \$2 mandatory fee (funding factor) on each retail water meter payable by every customer receiving water or sewerage service from a provider.
- After three years, 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 customer's 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 551 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 four 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 had applied for a Program to pay \$10 a month to a provider to delay a shut off.
- Specify that a shut off could only occur between the hours of 8 AM and 3 PM.
- Prohibit a shut off 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 the 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 550 were insufficient.
- 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.

Senate Bill 552 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 553 would add sentencing guidelines to the Code of Criminal Procedure for felonies proposed by Senate Bill 552.

Senate Bill 554 would amend landlord-tenant Act to do the following:

- Allow a tenant in a metered or sub-metered rental premises to request a copy of water or sewer bills or a transfer of the bills to the tenant's name.
- Require a landlord to comply with either request.
- Prohibit a landlord from 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 Bills 549, 550, and 551 are tie-barred. Senate Bill 553 is tie-barred to Senate Bill 552.

Senate Bill 549 would take effect 180 days after its enactment. Senate Bill 551 would take effect one year after its enactment. Senate Bills 552 and 553 would take effect 90 days after its enactment.

All the bills but Senate Bill 553 are described in further detail below.

Senate Bill 549

Low-Income Water Residential Affordability Program

The bill would create Program within the DHHS to address reduction or retiring 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 550, the Program would have to ensure that the customer did not pay more than 3% of the household income on a water bill.

"Provider" would mean a community water supply that is publicly or privately owned and provides retail water service in the State.

"Eligible customer" would mean a provider's customer whose household income does not exceed 200% of the Federal poverty guidelines 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 State.
- Receives medical assistance administered under the Act.
- Receives assistance under the Michigan Energy Assistance Program.
- Receives assistance under the Special Supplemental Nutrition Program for Women, Infants, And Children (WIC).
- Receives supplemental security income.
- 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 charges 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 is either receiving or is eligible to receive water service at that individual's primary residence.

The DHHS would have to develop and, with the assistance of third-party organizations, administer the Program to customers of a water provider that chose to use the DHHS' Program. On an annual basis, the DHHS and the DoT would have to prepare projections to determine the estimated funding that would be required to offer applicable Program benefits to all enrolled and eligible customers and projected eligible applicants who could enroll for the coming fiscal year. If the projections reflected that the required funding would be insufficient, the DHHS, the DoT, and the Low-income Water Affordability Program Task Force (Task Force) would have to identify alternative funding sources or adjust Program benefits in a manner that could be sustained through 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 revenue collected. The DHHS, DoT, and the Task Force would have to prioritize Program benefits designed to provide eligible applicants with household income-based water bills over other program benefits, based on available funding. Reducing the Program benefits

corresponding with the tier with the lowest household income could only occur if all other alternatives had been exhausted.

The Program would have to begin 18 months after collection for the Fund began and 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 initiation.

Low-income Water Affordability Program Task Force

Within 30 days after the bill's effective date, the DHHS would have to create the Task Force.

The Director of the DHHS would have to appoint at least the following members of the Task Force:

- Representatives of a water provider with a population served of less than 3,300.
- A water provider with a population served of between 3,300 and 10,000.
- A water provider with a population served of over 10,000.
- Representatives of water and sewerage customer advocacy groups
- Representatives of community action agencies.
- Representatives of municipal governments.
- Environmental groups.

The Task Force would have to do all the following:

- Discuss, and advise the DHHS on, best practices for administering the Program.
- Within nine months of the bill's effective date, develop further guidance for the Program.
- 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 water providers.

Under the bill, the DHHS would have to implement the plan on further guidance within 18 months of the bill's effective date.

The DHHS would have to collaborate with the DoT to distribute money from the Fund to the water 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 DHHS' or a provider's Program. The DHHS would also have to collaborate with the DoT to distribute funds to assist with plumbing repairs and other necessary repairs and the DoT would have to set aside a specific funding amount for plumbing repairs.

The DHHS would have 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.

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 the process to apply for that Program. The notice described above would have to be given to each customer in writing on the customer's water bill and by posting on the provider's website if the provider maintained a website.

Beginning January 1, 2025, the DHHS would have to inform all individuals receiving benefit program services from the DHHS regarding the availability of the Program and the process to apply for that Program.

Nonaffordability Requirements

"Nonaffordability application" would mean a form that the DHHS must develop to trigger an income eligibility review for the Program. The nonaffordability application would have to include the option of authorization for release of the customer's information to the provider and the option for indicating consent to receive telephonic communications about the Program.

Within 30 days after the DHHS or program administrator received a signed nonaffordability application, the program administrator would have to complete an income eligibility review to determine if the individual were eligible. The DHHS or the program administrator would have to ensure that the application was as simple and accessible as possible. The application would have to include an authorization for release of the customer's information to the provider and an authorization for the program administrator to call the individual on the telephone or send a text message about the affordability program. The DHHS or program administrator would determine eligibility. The DHHS or program administrator would have to notify immediately the provider it had begun an eligibility review and that the provider could not pursue shutoff during the review. The DHHS or program administrator would have to send notification to the applicant and the provider about the results of the eligibility review promptly once that review was completed.

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

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. When applicable, the Program administrator would have to use publicly available information regarding standard benefit amounts for supplemental security income and temporary assistance for needy families. An applicant would have no obligation to provide confirmation of the amount of benefits the applicant received from supplemental security income. 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, SNAP, WIC, supplemental security insurance, 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 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 individual met the Program's requirements, notify the applicant and provider, or perform other functions necessary for implementing the Program.

Program Tiers

The DHHS would have to create tiers of eligible customers for the Program based on household income level compared to the Federal Poverty Guidelines and the corresponding discounts, credits, or percentage of household income caps on water bills for each tier, in consultation with the Task Force. A water provider could use discounts, credits, or other 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 Federal Poverty Guidelines 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 Federal Poverty Guidelines 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 Federal Poverty Guidelines 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 Federal Poverty Guidelines within the provider's water service area.

The bill would require the DHHS 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 were 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. Upon receipt of the information from the Program administrator, the eligible customer's provider would have to provide a discount, credit, or other method on the eligible customer's water bill to result in a bill that was affordable 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 prediscount precredit bill amount would be lower than the bill amount after application of the discount or credit. The discount or credit would apply to the entire water bill, which would include, any rider, fee, surcharge, or funding factor.

"Low-income water residential affordability funding factor" or "affordability funding factor" would mean a mandatory fee on each retail water meter payable by every customer receiving water or sewerage service from a provider.

The Program administrator would have to inform the individual of the eligibility determination. If the individual were an eligible customer, the Program administrator would have to provide him or her with information regarding the Program and the rate to be charged by the provider.

The DHHS would have to develop a process and timeline for redetermination based on the recommendations of the Task Force. Under the bill, there could not be a time limit on a customer's enrollment in a Program.

Complaint or Appeal

The DHHS would have to establish or refer customers to a system of appeal and complaint process in which a customer could challenge a Program administrator's decision on eligibility at any point or submit a complaint regarding the Program. Upon the customer's filing an appeal, the Program administrator would have to notify the provider to place a hold on the customer'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 needed household plumbing repair to address a leak or other plumbing or water service issue. The DHHS or contracted third party organization would have to connect the eligible customer with resources to fix the water service issue and 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 plumbing repairs if the customer demonstrated an extreme need.

Water Liabilities

Timely payment, as defined by the water provider, of a water bill would have to satisfy the customer's current water liability so that there were 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 were 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 half 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 could request to the DHHS that an amount exceeding \$1,500 be forgiven if the individual had an extreme need.

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

Water Provider's Own Program

A water provider 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 3% of that individual's household income on either the water bill or the discounted water bill, whichever resulted in a lower amount to be paid.
- The provider maintained records of the customers enrolled in the program and relevant data and made those records and data available to the DHHS.
- The provider considered the customer to be an eligible customer or a more generous threshold.
- Other criteria as determined by the DHHS.

A water provider could partner with a community action agency, united way organization, or other community organization to implement its Program.

If a provider designed and implements 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. 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 at any point the water provider identified that its Program would not have sufficient resources to continue, the water provider would have to notify the DHHS within 90 days and detail what steps were being taken to attempt to address the situation. The DHHS would have to collaborate with the water provider to identify potential strategies.

A water provider that designed and implements its own Program could create more than 2 tiers in its tier system.

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.

Senate Bill 550

Fund Creation and Disbursal

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 have to remain in the Fund and could not lapse into the General Fund.

The DoT would be responsible for collecting and auditing related funds.

Upon appropriation, the DoT would have to spend 3% of the Low-Income Water Residential Affordability Program Fund to the DHHS for administrative costs of the Program. The remaining balance of the Fund would have to be spent on providers for the following:

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

Subject to the expenditures from the Fund after the first 3% were spent, the benefits would have to be provided to eligible customers for the DHHS' Program or the provider as described in Senate Bill 549. At least 80% of the funding received by a provider would have to be spent on the payment or advancement to providers for income-based bill discounts, income-based bill caps, or income-based rates unless otherwise approved by the DHHS.

The DHHS would have to disburse funding to providers at least quarterly for all items listed above but for the original 3% administrative costs.

Low-income Water Residential Affordability Funding Factor.

Subject to certain limitations, the low-income water residential affordability funding factor would have to be a fee of \$2 per month per retail water meter, or the equivalent based on the provider's billing cycle. 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.

After three years, the DoT could adjust the funding factor annually based on Task Force recommendations. 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 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

After the first full year of collection, by April 1, the 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 meters for which a bill was sent subject to the low-income water residential affordability funding factor on June 30 and December 31 of the previous calendar year.
- The total amount of money collected by the provider from the low-income water residential affordability funding factor.
- The total amount of money not collected by the provider from the low-income water residential affordability funding factor.
- The total amount of money remitted by the provider to the state treasurer from the low-income water residential affordability 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.

Senate Bill 551

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. When a provider shut off service for reasons of health or safety, the provider would have to leave a notice at the premises.

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 which there is a delinquency. "Delinquency" would mean the measure by which a provider determines a payment is late or overdue.

A provider could not shut off service to a residential customer if a residential customer has entered and remained in compliance with a payment plan or Program created under Senate Bill 549. A provider could not shut off service for nonpayment until the payment was delinquent for at least 120 days.

Shut-off Notification Requirements

A provider could not shut off service because a residential customer had not paid a delinquent account unless the provider contacted the residential customer at least four 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 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 a payment plan or Program.
- The telephone number and address of the program administrator where the residential customer could make an inquiry, enter a 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 landlord was responsible for the water bill, the tenant should contact the landlord and provider immediately.

The bill would specify that if a tenant received notice that the statement would not preclude a provider from offering additional options for the tenant to maintain service.

Delaying Shut-off

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 Program with the provider, the DHHS, or a third-party organization that administered a Program.

A provider would not be required to delay shutoff of service if any of the following applied:

- The residential customer applied to a Program and 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 in the Program within 10 business days.

- The residential customer paid at least \$10 per month but did not apply to a 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 Federal Poverty Guidelines, 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.
- Receives any other form of Federal or State public assistance.

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 would have to occur only between the hours of 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 the customer 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.

When a shutoff was 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.

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 a Program.

When a provider was 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 shut-off 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 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.
- 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.

Senate Bill 552

Among other things, the Michigan Penal Code prohibits a person from tampering with a water, steam, or gas companies 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 50 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 Program, if available.

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.

Under the bill, a person who violated the provision described above 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 available.

Senate Bill 554

The bill would amend the landlord-tenant Act to allow a tenant in a metered or sub-metered rental premises to request the landlord to do either of the following:

- Send a copy of the water and sewer bills to the landlord and the tenant.
- Transfer the water and sewer bill for the tenant's rental unit in the tenant's name and make the tenant responsible for the water and sewer bill.

A landlord that received such a request would have to do all the following:

- Approve the request.
- Within 60 days of receiving a transfer request, transfer the water and sewer bills to the tenant's name.
- Ensure that the costs of the water and sewer bill were not included in the tenant's rental payment.

The bill would prohibit a landlord from discriminating or retaliating against a tenant that made a request. Discrimination or retaliation against the tenant would include shutting off access to water in the tenant's unit or increasing the tenant's rental payment in violation of the tenant's lease agreement.

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 of 1963.

PREVIOUS LEGISLATION

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

Senate Bills 549, 550, 551, 552, 553, and 554 are companion bills to House Bills 5088, 5089, 5090, 5092, 5093, and 5091, respectively.

FISCAL IMPACT

Senate Bills 549 & 550

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 \$2 per month per retail water meter. The bill would allow for the funding factor to increase annually by up to 10% to a maximum of \$3 per retail water meter per month. Based on information from the United State Environmental Protection Agency Safe Drinking Water Information System, 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 limit collection into the Fund for the first 18 months to water systems with 500 or more retail water service connections. During this first 18 months, the Fund would be collecting funds and not distributing funds for the Program.

Based on the available data, the estimated amount collected in the Fund in the first 18 months if all 2.5 million retail water meters were subject to the \$2 per month funding factor fee would be \$90.0 million.

Under the specifications of the bills, the Fund could be appropriated to the DHHS and local water providers. If at the commencement of program, the Fund had reached the assumed \$90.0 million, the DHHS would be able to spend, upon appropriation, 3% of the fund or \$2.7 million for administrative costs associated with the Program. The remainder of that assumed initial balance, \$87.3 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 \$13.1 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.

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.

The fastest period over which the funding factor fee could increase to the \$3 per month per retail water meter is 6 years. 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 2.6 million, the Fund could collect \$93.6 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.

City Fiscal Year¹	Average Monthly Billings	Average Monthly Delinquent Payment Balance	Average Monthly Number of Customers	Monthly Amount Collected based on \$2 funding factor fee
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

¹ City of Grand Rapids Fiscal Year is July 1 to June 30.

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" is defined under the bill as 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.

DoT

The bills also would result in new costs for the Department of Treasury. Under the bills, the DoT would be required to administer the Fund. While the general administration and investment of the Fund likely would not result in significant cost increases, the bill also specifies that the DoT would be required to work with DHHS to prepare projections, to adjust the funding factor if needed, and to perform other duties related to Fund disbursement and management. This could include assisting DHHS with distribution of payments to third party organizations. In addition, the DoT would be required to develop a mechanism through which an individual customer or a philanthropic organization could contribute to the Fund. As a result of these obligations, the DoT could incur indeterminate costs related to administrative and information technology needs.

These responsibilities could result in the need for one or more additional Full-time-equivalents (FTE). The annual cost of an FTE is approximately \$137,500.

Senate Bill 551

Courts

The bills could have a minor fiscal impact on local courts, particularly circuit courts, on account of an increase in complaints to enforce the newly created Water Shutoff Protection 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. Additionally, most disputes involving landlords and tenants are adjudicated in district court.

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 period. In addition, providers with a significant number of qualifying customers could experience additional administrative costs in order to monitor payments and ensure compliance with the procedures outlined in the bill. Providers could elect to increase rates in order 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.

Senate Bill 552

The bill's criminal penalties could have a negative fiscal impact on the State and local governments. Violations of the proposed Act would be punishable as misdemeanors and felonies of different severity. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. Misdemeanor convictions could increase county jail and local probation supervision costs, which vary by jurisdiction and are thus indeterminate. Based on 2022 data, the average cost to State government for felony probation supervision is approximately \$4,800 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$45,700. Per diem rates for housing a prisoner in a State correctional facility range from \$98 to \$192 per day, depending on the security level of the facility. Additionally, any associated fine revenue would increase funding to public libraries.

Senate Bill 553

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.

Senate Bill 554

The bill would have no fiscal impact on State or local governments.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.