

Legislative Analysis



LIEEF PROGRAM

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5190 (Substitute H-1)

Sponsor: Rep. Ken Horn

Committee: Energy and Technology

Complete to 12-6-11

A SUMMARY OF HOUSE BILL 5190 AS REPORTED BY COMMITTEE 12-6-11

The bill would end the collection of funds for the Low-Income and Energy Efficiency Fund (LIEEF) from consumers as part of their utility bills and require any such funds being held in escrow to be refunded among the customer classes paying into the fund.

The bill would amend the Public Service Commission's (PSC) enabling act to do the following:

- Prohibit a utility from charging a customer to help fund any low-income and energy efficiency fund.
- Prohibit the PSC from including a low-income and energy efficiency charge in an affected utility's base rates. "Affected utility" would mean a regulated electric or natural gas utility that was authorized by the PSC to collect in retail rates an amount designated to be contributed to the LIEEF, and that since July 21, 2011, has been holding that collected amount in escrow.
- Require the PSC to refund all money being held in escrow for the LIEEF and allocate that refund among each customer class proportional to the amount paid by each customer class.
- Require the PSC to pay any entity the amount approved for an energy efficiency grant before refunding the money to utility customers if that entity had completed the energy efficiency project before July 21, 2011.

MCL 460.10d

(Note: A companion bill, House Bill 5189, would make a one-time appropriation of \$62 million from federal Temporary Assistance for Needy Families (TANF) money to be used to assist needy families with heating bills this winter. However, the two bills are not tie-barred.)

BACKGROUND INFORMATION:

The Low-Income and Energy Efficient Fund (LIEEF) was created within the Customer Choice and Electricity Reliability Act (Public Act 141 of 2000) to protect low-income

residents from utility shut-offs and to promote energy efficiency by all customer classes. PA 141 provided funding for the LIEEF for a period of six years through "securitization savings exceed[ing] the amount needed to achieve a 5% rate reduction for all customers." Through a PSC order, the securitization savings were later rolled into base rates for Detroit Edison's electric customers and funding for the LIEEF became part of the utility's cost of service. Later, other PSC orders authorized Consumers Energy to provide revenue annually to the LIEEF from its electric and natural gas customers and for Michigan Consolidated Gas Company to provide money annually from its customers. The Legislature granted the PSC authority to expend money from the LIEEF through the appropriations process for programs assisting low income residents with bill payment assistance and energy efficiency and weatherization programs.

However, the provision within the act creating the LIEEF (Section 10d) was amended by Public Act 286 of 2008. All of the references to the LIEEF were deleted by PA 286. Subsequently, on July 21, 2011, in a court case regarding a utility company's requested rate increase, the Michigan Court of Appeals held that because the language referencing the LIEEF had been eliminated by PA 286, the PSC no longer had the authority to fund and administer the LIEEF. (re application of Michigan Consolidated Gas Company to Increase Rates, Docket Nos 298830 and 29887.)

As a result of the COA decision, money collected from utility customers for the LIEEF is being held in escrow while a legislation solution is sought. Legislation is needed to fund the services that LIEEF had provided for, provide authorization for the money that has been collected but not expended to be returned to the customers from whom it was collected, and to provide short-term funding to help low-income residents through the winter while a long-term solution is being developed.

Arguments offered by proponents

Proponents of the bill maintain that the bill is a short-term solution to help needy persons with heating bills now that winter has begun and to buy a little time while longer-term approaches are explored. Supporters say that though there were many positives in the old LIEEF program, any deficiencies that existed should be corrected in any program going forward. For example, the manner in which money was collected from utility customers varied by utility company, with some charging a set price per meter and others basing the charge on utility usage. Deficiencies in distribution of the funds going to LIEEF were also noted.

Others see making the LIEEF collection part of customer utility base rates as a hidden tax assessed on residential and commercial consumers. The bill would not only end the current practice of using a hidden tax to fund low-income heating assistance, it would prevent any such practices in the future.

House Bill 5190 is viewed as a part of the means to get needed assistance with heating bills to those facing an imminent shut off. The bill itself ends the LIEEF collection and distribution program and provides a mechanism for the PSC to refund the money sitting

in escrow since the COA ruling, thus setting the stage for a more comprehensive approach to be debated and adopted next year.

Arguments offered by opponents

House Bill 5190 as reported from committee would reduce the LIEEF to an energy assistance program only; programming to provide energy education and help with weatherization efforts for low-income persons, schools and school districts, and local governments to reduce energy consumption would no longer be available.

Opponents say that funds held in escrow need to be distributed to those who had been awarded grants for various projects before the COA decision was issued. Many projects for public, charter, and private schools and local governments had been started on the promise of funding throughout the project only to be told to stop because funds to finish those projects would not be forthcoming. This has left purchased equipment, much of which cannot be used for other projects because of being custom-ordered, languishing in warehouses because the funds for installation have been cut off. Some governmental buildings have been left without operational heating and cooling systems. Failing to fund these promised projects to completion is a waste of utility customers' money already paid into LIEEF and costs these same consumers in other ways as local units waste taxpayer money on higher utility bills and fixes for broken heating and cooling systems.

Opponents also say that eliminating the energy efficiency portion of the LIEEF program costs jobs and hurts local contractors who were scheduled to work on projects now cancelled.

In addition, some feel that a different bill, House Bill 5008, merits discussion as a means to reauthorize the PSC to administer the LIEEF.

FISCAL IMPACT:

HB 5190 could have an indeterminate impact on the staffing requirements of the Public Service Commission (PSC) if the elimination of the LIEEF results in a reduction in hours required of staff to administer the funds and review grant applications. LIEEF assessments do not support any costs of administrative staff; staffing costs are supported solely by Public Utility Assessments and not GF/GP appropriations.

Table #1 presented below contain LARA's estimates of savings to utility customers if LIEEF assessments currently held in escrow are refunded while Table #2 presents estimates of customer savings if the LIEEF program is eliminated.

Table #1

Average Customer Refund of LIEEF Funds Held in Escrow*

Detroit Edison	\$0.65 per customer, per month
Consumers (Elec)	\$0.63 per customer, per month
Consumers (Gas)	\$0.33 per customer, per month
MichCon	\$0.15 per customer, per month

* Estimate, through December 2011

SOURCE: Department of Licensing and Regulatory Affairs

Table #2

Average Customer Savings if LIEEF Assessment was Eliminated

<i>per customer, per month</i>	Residential	Commercial	Industrial
Detroit Edison	\$1.58	\$1.42	\$5.70
Consumers (Elec)	\$0.51	\$2.36	\$99.70*
<i>per customer, per month</i>	Residential	C&I Non-Trans	C&I Transport
Consumers (Gas)	\$0.85	\$0.86	\$1.76
MichCon	\$0.27	\$1.17	\$32.31

* This average number is likely skewed higher because of the large use of one customer, and may not accurately reflect the rate impact for the entire class.

SOURCE: Department of Licensing and Regulatory Affairs

However, the PSC notes that if the LIEEF program is eliminated and not replaced with another program to subsidize the energy costs of low-income utility customers, the utilities' uncollectible expenses (from low-income customers) are likely to rise. The rise in uncollectible expenses could result in an increase in utility rates for customers.

Local units of government are eligible to apply for and be awarded grants under the LIEEF program. In the past, the LIEEF program has awarded grants to local units of government that would no longer be able receive LIEEF grants if the program was eliminated or replaced with a wholly state-administered program.

POSITIONS:

A representative of Americans for Prosperity testified in support of the bill. (12-6-11)

A representative of the Clean Energy Coalition testified in support of the bill if amended to include funding for energy contracts previously awarded by the MPSC but not yet completed due to funding being cut off in late July when the COA issued its decision. (12-6-11)

The National Federation of Independent Business (NFIB) indicated support for the bill. (12-6-11)

ABATE indicated support for the bill as introduced, and was still reviewing the H-1 Substitute. (12-6-11)

A representative of the Michigan Community Action Agency Association testified in opposition to the bill. (12-6-11)

A representative of the Michigan League for Human Services testified in opposition to the bill. (12-6-11)

AARP Michigan indicated opposition to the bill. (12-6-11)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Paul Holland

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.