

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 1294

**PRINTER'S NO.** 2998

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

April 6, 2011

**PRIME SPONSOR**

Representative Godshall

**HISTORY OF BILL**

Referred to CONSUMER AFFAIRS, April 6, 2011

Reported as amended, June 8, 2011

First consideration, June 8, 2011

Re-committed to RULES, June 8, 2011

Re-reported as committed, Sept. 26, 2011

Laid on the table, Sept. 26, 2011

Removed from table, Sept. 28, 2011

Second consideration, Oct. 3, 2011

Re-committed to APPROPRIATIONS, Oct. 3, 2011

(Remarks see House Journal Page ), Oct. 3, 2011

Re-reported as committed, Oct. 4, 2011

Third consideration and final passage, Oct. 4, 2011 (184-17)

(Remarks see House Journal Page ), Oct. 4, 2011

In the Senate

Referred to CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, Oct. 11, 2011

Reported as amended, Jan. 18, 2012

First consideration, Jan. 18, 2012

Re-referred to APPROPRIATIONS, Jan. 18, 2012

Re-reported as amended, Jan. 23, 2012

**DESCRIPTION AND PURPOSE OF BILL**

House Bill 1294, as amended, amends Title 66 (Public Utilities) by establishing a new Subchapter B to Chapter 13 providing for distribution system improvement charges ("DSIC"). The bill also makes technical corrections, further provides for burden of proof by utilities as it relates to the use of future year tests in rate proceedings, permits a utility that provides both water and wastewater service to combine all components of its water and wastewater revenue requirements for the purpose of charging rates on a consolidated basis, and increases civil penalties for violations of gas pipeline safety.

# **SENATE APPROPRIATIONS COMMITTEE**

## **FISCAL NOTE**

The bill establishes new subchapters A and B in chapter 13. Specifically, section 307(g), which provides for distribution system improvement charges for water is repealed and replaced by subchapter B. Section 1311 is amended so that a utility that provides both water and wastewater services can combine all components of its water and wastewater revenue requirements for the purpose of charging rates on a consolidated basis if it is in the public interest to do so.

New subchapter B provides for a DSIC for water, wastewater, natural gas and electric. The purpose of a DSIC is to encourage the maintenance and upgrade of distribution systems (e.g. pipelines, meters, poles and towers, sewer pipes, etc.) by allowing for the recovery of the fixed costs of certain non-revenue producing, non-expense reducing distribution system improvement projects by providing a utility company with the resources to accelerate the replacement of aging distribution infrastructure. No company would be eligible to petition for a DSIC before January 1, 2013. The DSIC will appear as a surcharge on customers' bills.

In order to be eligible to recover costs through a DSIC, a utility must submit a long-term infrastructure improvement plan to the Commission. The Commission must promulgate regulations for the periodic review at least once every five years of long-term infrastructure plans, and may authorize a utility to revise, update or resubmit a plan as appropriate. Prior to a petition, the Commission will adopt a model tariff.

The petition shall include an initial tariff that describes the eligible property, the effective date and computation of the DSIC, the method to provide quarterly updates and a description of the consumer protections. Testimony and evidence must be provided to demonstrate that the DSIC is in the public interest and will provide and maintain adequate, efficient, safe, reliable and reasonable service.

The legislation requires the filing of a long-term infrastructure improvement plan and certification that a base rate case has been filed within the last five years under section 1308(d). If a base rate case has not been filed, the utility must file a base rate case in order to be eligible for a DSIC. The recent base rate case requirement ensures that a company's operating expenses, depreciation and capital costs are up to date and consistent with the rates charged for service.

Customers must be notified of the submission of the proposed DSIC and initial tariff and any changes that occur as a result of quarterly adjustments.

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## FISCAL NOTE

The Commission shall review, approve, modify or reject the DSIC and initial tariff. A utility with an approved DSIC must file an asset optimization plan describing all eligible property repaired, improved and replaced in the preceding 12 month period and a description of improvements in the upcoming 12-month period.

The initial DSIC shall be calculated to recover the fixed cost of eligible property that has not previously been reflected in the utility's rate base and has been placed in service during the three-month period ending one month prior to the effective date of the DSIC. The fixed cost of eligible property shall consist of depreciation and pretax return, except that for city natural gas distribution operations, the recoverable costs shall be amounts reasonably expended or incurred to purchase and install recovery eligible property and associated financing costs, if any, including debt service, debt service coverage and issuance costs.

The DSIC will be capped at 5% of the amount billed to customers under applicable rates for wastewater, natural gas and electric utilities. The Commission may grant a waiver of the 5% cap if it is determined to be in the public interest. A DSIC for a water utility is capped at 7.5% of the amount billed to customers. DSICs previously granted to a water utility under current law are preserved.

A DSIC shall be reset to zero as of the effective date of new base rates that provide for prospective recovery of the annual costs previously recovered under the DSIC. After the reset date, only the fixed costs of new eligible property that have not been reflected in the utility's rate base shall be included in the quarterly updates of the DSIC. Also, the DSIC shall be reset at zero if in any quarter the utility's most recent annual or quarterly earnings report shows that it exceeds the allowable rate of return used to calculate the DSIC.

The Commission shall prescribe the specific procedures to consider and approve a DSIC. The DSIC must be applied equally to all customer classes as a percentage of each customer's billed revenue. There must be a process to adjust the charge and provide credit for over-collections and charges for under-collections. The DSIC shall be subject to audit and annual reconciliation by the Commission. If DSIC revenues exceed eligible costs, the over-collection shall be refunded with interest.

The Commission is required to establish standards to ensure that work on utility distribution systems is performed by qualified employees of either the utility or independent contractor in a manner that protects system reliability and public safety. Work that is performed by independent contractors must be subject to reliability and safety standards and to inspection by utility employees. Otherwise it will not be eligible for a DSIC.

# **SENATE APPROPRIATIONS COMMITTEE**

## **FISCAL NOTE**

Section 3301(c) is amended to increase the civil penalties for violations of gas pipeline safety to reflect recent changes in federal law.

The legislation corrects technical errors contained in section 308 (Bureaus and Offices) of Title 66, which occurred in the reorganization of the Public Utilities Commission ("Commission") under Act 129 of 2008.

House Bill 1294 amends section 315 regarding the use of future year tests in rate cases by permitting the use of a fully projected future test year. Under current law, which allows for a future test year but not a fully projected future test year, the rate base information relied upon from the test year is outdated because of the time needed to decide and settle the rate case.

The Act shall take effect in 60 days.

### **FISCAL IMPACT:**

It is presumed there would be no costs to the Commonwealth. The Commission has indicated that its responsibilities under the legislation would be carried out by existing complement and budget. Any additional costs related to the review and approval of a DSIC would be charged to the regulated utilities through the normal assessment process.

The increased civil penalties may generate minimal revenue to the Commonwealth.