

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 719, 889 and 2221
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JUNE 19, 2018

SUMMARY

- Synopsis:** "The Reliability, Preparedness, and Storm Response Act of 2018"; requires public utilities to file certain information concerning emergency preparedness with BPU and increases certain penalties.
- Type of Impact:** Increases State and local costs; increased local revenue
- Agencies Affected:** Board of Public Utilities (BPU), and local government entities

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost		Indeterminate increase	
Local Cost		Indeterminate increase	
Local Revenue		Indeterminate increase	

- The BPU and public utilities will face costs to establish emergency response plans, enacting procedures to execute the plans, enforcing the emergency response plans, and to conduct a study of public utility service reliability. These costs will ultimately be borne by ratepayers in the form of increased rates. State and local government units will share in these costs as ratepayers.
- Local government entities will realize increased revenue in the form of grants from the “Board of Public Utilities Civil Penalty Fund,” which is funded with fines imposed on public utilities that fail to meet the performance benchmarks and standards in their emergency response plans and service reliability plan. These fines on public utilities are not recoverable from ratepayers.

BILL DESCRIPTION

The substitute, known as “The Reliability, Preparedness, and Storm Response Act of 2018,” requires the Board of Public Utilities (BPU) to develop and enforce performance benchmarks for

service reliability, service disruption, service restoration, and communications for public utilities that distribute electricity to end users within New Jersey.

The substitute requires every electric public utility to file an emergency response plan with the BPU, which is to reflect the performance benchmarks established by the BPU. This plan is to serve as an official plan of action for each electric public utility in the event of a widespread power outage and is to include, but not be limited to: 1) the identification of management staff responsible for electric public utility operations during an emergency; 2) an explanation of the electric public utility's system of communication with customers during an emergency that extends beyond normal business hours and business conditions; 3) a history of contacts with customers that report or document to the electric public utility a need of essential electricity for medical reasons; 4) designation of electric public utility staff to communicate with local officials and relevant regulatory agencies; 5) provisions regarding how the electric public utility will assure the safety of its employees and contractors; 6) procedures for deploying electric public utility and mutual aid crews to work assignment areas; 7) the designation and prioritization of areas where a power outage may result in the malfunctioning of septic systems or the loss of drinkable water due to customers' use of electric well water pumps; 8) strategies to address flooding, wind damage, and vegetation management; and 9) identification of supplies and equipment anticipated to be needed by the electric public utility during an emergency and the means of obtaining additional supplies and equipment.

The substitute requires the BPU to establish and enforce separate standards concerning service reliability, service disruption, service restoration, and communications for public utilities that are not electric public utilities, and requires each of those public utilities to annually submit a service reliability plan and an emergency communications plan to the BPU.

The substitute also requires the BPU to undertake a detailed and comprehensive study of public utility service reliability in this State, to prepare a report on the study, and to submit the report to the Governor and the Legislature. This substitute reaffirms the BPU's authority to open an investigation to review the performance or communications of any public utility during a disruption of service in the public utility's service area. If the BPU finds that certain harms occurred as a result of a public utility's failure to follow an applicable emergency response plan, an applicable service reliability plan, or an applicable emergency communications plan, the BPU may impose certain civil administrative penalties. The substitute also allows the BPU to fine any public utility for failing to file a required plan in a timely manner.

The substitute increases the maximum for existing civil penalties paid by all public utilities, subject to the jurisdiction of the BPU, for violating any law, rule, regulation, or order by the BPU. Civil penalties are increased from \$100 a day to a maximum of \$25,000 a day for each violation, but penalties are not to exceed \$2,000,000 for any series of related events. The substitute also extends the applicability of these civil penalties to include failure to meet the performance benchmarks described in an emergency response plan and failure to meet standards described in a service reliability plan or an emergency communications plan. The "Board of Public Utilities Civil Penalty Fund" is established in the BPU, into which all collected penalties will be deposited. The BPU is required to use the monies in the fund to provide grants for certain municipal maintenance activities and to otherwise increase public utilities' service quality and reliability. Civil penalties will not be recoverable from ratepayers.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The bill will result in an indeterminate increase in costs to all State and local government entities that are users of public utility services, as a result in increased public utility rates imposed to fund the requirements of the bill on public utilities and the BPU. Penalties imposed by the BPU on public utilities that fail to meet the performance benchmarks and standards in their emergency response plans and service reliability plans will be deposited into a special fund that is distributed as grants to municipalities for certain municipal maintenance activities and to otherwise increase public utilities' service quality and reliability. These grants can represent increased local revenue which may offset the increased costs from increased public utility rates.

The bill imposes a variety of costs that will require increased public utility costs. The primary cost is for public utilities to create emergency response plans, service reliability plans, and emergency communications plans. The public utilities will face costs to implement the provisions of these plans, and face penalties not recoverable from their ratepayers if they fail to adhere to these plans. These costs are intended to increase the quality and reliability of public utility service. The cost of that improvement in service quality and reliability will be passed along to ratepayers in the form of higher rates. These higher rates will be distributed across all of a public utility's customers. State and local government entities are ratepayers, so they will face increased costs in the same manner as all other public utility customers.

The bill also requires the BPU to ensure the compliance of public utilities with their plans, and to undertake a detailed and comprehensive study of public utility service reliability and prepare a report on its findings. These costs to the BPU are also likely to be passed on to ratepayers through a charge on their bills. State and local government entities will face increased costs in the same manner as all other public utility customers through these charges on their bill. The magnitude of increased charges that will be faced by State and local government entities is indeterminate because it is unclear what requirements will be in the plans, what standards the BPU will use in approving those plans, and ultimate costs of complying with the plans. The amount is likely to be modest though because the costs will be spread over a very large overall rate base, with many non-governmental ratepayers.

The penalties imposed by the BPU on public utilities that fail to comply with their emergency response plans, service reliability plans, and emergency communications plans are to be deposited into the "Board of Public Utilities Civil Penalty Fund." The monies in that fund are to be distributed by the BPU as grants to municipalities for certain municipal maintenance activities and to otherwise increase public utilities' service quality and reliability. The grants that are issued to municipalities will represent an increase in local revenue. The amount of that increase in local revenue is unclear because it cannot be known at this time how many violations of the plans will occur, the amount of penalties that will ultimately be collected, and the distribution of grants in the fund between municipalities and other uses that otherwise increase public utilities' service quality and reliability.

Section: Authorities, Utilities, Transportation and Communications

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).