

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1231 (Delegate Brooks)
 Economic Matters

Public Service Commission - Damaged, Obsolete, or Excessive Lines - Fines

This bill requires the Public Service Commission (PSC) to promptly notify the owner of a utility pole if PSC receives notice related to the pole of (1) a damaged or dangling line; (2) an obsolete or redundant line; or (3) blight or public nuisance caused by an excessive number of lines on the pole. Within 30 days after receiving notice from PSC, the owner of the utility pole must require the person that controls the line or lines to investigate, and, where appropriate, repair or remove the offending line or lines. If the offending line or lines are not repaired or removed within 90 days after PSC notification, PSC must impose a fine on the utility pole owner of \$250 for each day of noncompliance. PSC must adopt regulations to implement these requirements.

Fiscal Summary

State Effect: Special fund expenditures increase by \$244,500 in FY 2022. Future years reflect annualization and the elimination of one-time costs. Special fund revenues increase correspondingly from assessments imposed on public service companies. General fund revenues may increase minimally from fines imposed under the bill beginning in FY 2022.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
SF Revenue	\$244,500	\$237,900	\$244,500	\$252,600	\$261,000
SF Expenditure	\$244,500	\$237,900	\$244,500	\$252,600	\$261,000
Net Effect	\$0	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law: The market for utility pole attachments in Maryland is not regulated at the State level. In instances where states have not exercised their right to regulate pole attachments, the Federal Communications Commission (FCC) has the authority to regulate and adopt procedures to resolve complaints concerning the rates, terms, and conditions for pole attachments. As part of its oversight, FCC sets appropriate pole attachment rates and promulgates rules governing the timeline for work completion throughout the pole attachment process.

Many of the rules and regulations currently in place for pole attachments stem from the Pole Attachment Act of 1978, which implemented Section 224 of the 1934 Communications Act, and directed FCC to create just and reasonable rates, terms, and conditions for the pole attachments of cable television providers. The Pole Attachment Act also authorized states to preempt federal pole attachment regulations by promulgating pole attachment regulations at the state level.

State Fiscal Effect: Special fund expenditures for PSC increase by \$244,477 in fiscal 2022, which accounts for the bill's October 1, 2021, effective date. This estimate reflects the cost of hiring two technical staff and one staff attorney to receive, inspect, investigate, and prosecute complaints related to damaged or dangling lines, obsolete or redundant lines, or blight or public nuisances caused by an excessive number of lines on a utility pole. It includes salaries, fringe benefits, one-time start-up costs, vehicle and travel costs, and ongoing operating expenses.

Positions	3.0
Salaries and Fringe Benefits	\$171,308
Vehicles and Travel Costs	50,800
Other Operating Expenses	<u>22,369</u>
Total FY 2022 State Expenditures	\$244,477

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses, including travel expenses.

While the bill does not directly specify that the fine for noncompliance in the bill is a civil penalty, this analysis assumes that is the case. With limited exceptions, civil penalties assessed by PSC are paid into the general fund. Therefore, general fund revenues may increase minimally from fines imposed under the bill beginning in fiscal 2022.

Additional Comments: Chapter 431 of 2015 required PSC to convene a workgroup to study attachments to utility poles in the State, including whether the regulation of pole attachment agreements at the State level is in the public interest, and to submit a report of

its findings to the General Assembly by December 31, 2015. The [report](#) found, in part, that FCC regulates the market for pole attachments efficiently, and pole attachment regulation at the State level was not in the public interest.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 754 (Senator Hayes) - Finance.

Information Source(s): Public Service Commission; Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2021
rh/lgc

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