

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 883 (Senator M. Washington)
Education, Energy, and the Environment

Environment - Water Utilities - Shutoff Protections (Water Access for All Protection Act)

This bill establishes various restrictions relating to the authority of a “water utility” to shut off water or sewer service to a customer. A water utility may not shut off service for nonpayment of overdue bills for specified protected customers and individuals. The bill also generally prohibits a county or county tax collector from selling real property solely to enforce a lien imposed for unpaid water, sewer, or sanitary system charges, fees, or assessments. The bill makes other related and conforming changes. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: The bill does not materially affect State finance or operations.

Local Effect: Local revenues may decrease, potentially significantly, beginning in FY 2024. Local expenditures may also be affected, as discussed below. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal, as discussed below.

Analysis

Bill Summary: “Water utility” means a centralized water supply and sewerage system that is owned and operated by a political subdivision, a sanitary commission, or an authority providing services under Title 9 of the Environment Article.

Temporary Shut Off Authorized under Specified Conditions

A water utility *may* shut off service temporarily for health or safety reasons or in a State or national emergency.

Prohibitions Against Shutting Off Service

A water utility *may not* shut off service for nonpayment of overdue bills if the customer or an authorized representative of the customer informs the water utility that the customer or an individual residing at the premises meets one or more of the following conditions:

- has a significant medical condition as certified in writing by a licensed medical doctor or a local health department (LHD) stating that the absence of water or sewer service will aggravate the medical condition;
- is at least age 65 and has an income at or below 50% of the area median income; or
- has a physical, cognitive, or medical impairment resulting from specified conditions, as certified in writing by a licensed doctor or an LHD, that prevents the exercise of normal bodily function, the ability to manage resources, or the ability of the customer/individual to be protected from neglect or hazardous situations without the assistance of others.

A water utility also *may not* shut off service solely because (1) the customer has not paid for service received at a separate metering point, residence, or location or (2) the customer has not paid for service at a premises occupied by another person. After giving a customer notice, a water utility *may* shut off service if the customer supplies a written, notarized statement that the premises are unoccupied.

Provisions Relating to Liens on Real Property

The bill specifies that, except as authorized under current law in Allegany, Dorchester, Kent, and Somerset counties, a county or county tax collector may not sell real property solely to enforce a lien imposed for unpaid water, sewer, or sanitary system charges, fees, or assessments.

The bill repeals provisions that (1) specify that any bill sent by a political subdivision that remains unpaid for 60 days from the date a late notice is sent pursuant to current law becomes a first lien on the property and (2) authorize an authority to recover a delinquent rate, fee, or charge, plus interest, by means of foreclosure of the lien for the rate, fee, or charge.

Other Provisions

The bill repeals an authorization for a sanitary commission to, after 30 days of nonpayment, and after written notice, disconnect water service to the property and require payment in full plus a reasonable reconnection charge before reconnecting service.

Finally, the bill repeals provisions that require a sanitary commission to publish notice of an order relating to a water shortage or the need to conserve the water supply, require each water user to obey such an order, and authorize the sanitary commission to disconnect the water supply of any person who violates the order.

Current Law: Under § 9-907 of the Environment Article, “authority” is defined as (1) a body politic and corporate that is created under Title 9 of the Environment Article (which governs water, ice, and sanitary facilities) or (2) if that body is abolished, the unit that succeeds to the principal functions of that body or is given the powers under Title 9, Subtitle 9 of the Environment Article by law.

Sanitary Commissions – Unpaid Bills, Discontinuation of Service, and Water Shortages

If a water bill is unpaid for 30 days after being sent and after written notice is left on the premises or mailed to the last known address of the owner, a sanitary commission may (1) disconnect water or sewer service and (2) require payment of the entire bill plus a reasonable reconnection charge prior to reconnecting service. In Allegany, Dorchester, Garrett, and Somerset counties, the sanitary commission may disconnect water service to enforce the collection of an unpaid charge that is at least 60 days overdue.

To enforce the collection of unpaid benefit assessments or other charges that are at least 60 days overdue, a sanitary commission, at any time, may (1) sue any person who was an owner of record of the parcel at any time since the benefit assessment was last paid or (2) file a bill in equity to enforce a lien through a decree of sale of property against any person who was an owner of record of the parcel at any time since the benefit assessment was last paid.

Kent County may authorize by local law the sale of real property to enforce a lien based on unpaid benefits assessments or other charges in accordance with procedures established in the Code of Kent County, as specified. In addition, in Allegany, Dorchester, and Somerset counties, the sanitary commission has the authority to request that the county tax collector conduct a sale of real property to enforce a lien representing any unpaid benefit assessments or other charges.

If a sanitary commission determines that there is a shortage of water or that the water supply should be conserved, the sanitary commission may issue an order that requires the conservation of water that includes specific requirements for conserving water use. Notice

of any such order must be published in a newspaper in each member county that is covered by the order. Water users must obey the order, as specified, and the sanitary commission may disconnect the water supply, without notice, of any person who violates the order.

Political Subdivisions – Unpaid Bills and Discontinuation of Service

If a water bill remains unpaid to a political subdivision after 30 days, the political subdivision must notify the owner in writing that the bill is late and service will be discontinued, leave notice on the owner's property or mail the notice to the owner's last known address, and discontinue service until the owner pays the bill and a reconnection charge. If a water or sewer bill remains unpaid after 60 days from the date of sending the notice, the bill and any reconnection penalty charge (for water service) is collectible in the same manner as taxes are collectible in the county where the water or sewerage system lies, and the service charges and any penalties are a first lien on the property. If a bill for sewerage service is unpaid for 45 days, a political subdivision may disconnect water service to the property after providing notice.

Water and Sewer Authorities – Unpaid Bills and Discontinuation of Service

If the owner, tenant, or occupant of a parcel of land does not pay any rate, fee, or charge for the use of or services furnished by a water or sewer authority within 30 days, the water or sewer authority may (1) disconnect or otherwise suspend service and (2) recover the amount of the delinquent bill, plus interest, in a civil action or by foreclosure of the lien for the rate, fee, or charge.

Public Service Commission Regulations Related to Private Water Companies

Public Service Commission regulations authorize a privately owned water company to deny service for the nonpayment of a bill, provided that the company has made a reasonable attempt to collect the amount owed and has provided the customer with written notice that the customer has at least five days, excluding Sundays and holidays, in which to settle the account or have service denied. A water company may only discontinue service without notice under specified circumstances, including hazardous conditions, equipment tampering, and unauthorized use of service.

Local Fiscal Effect: Although the overall impact on local government finances and operations is unknown, the bill has the potential to have a significant negative impact on local governments.

Local revenues may decrease, potentially significantly, beginning in fiscal 2024 due to the bill's prohibitions against shutting off service and selling real property to enforce a lien for unpaid bills. The actual decrease in local revenues is unknown and ultimately depends on the number of customers that fail to pay their utility bills and would otherwise have service

shut off and the number of properties that otherwise would have been sold to enforce a lien. The prohibition against shut offs for protected individuals is indefinite, and the Maryland Department of the Environment and Charles County both note that there are no provisions to verify or challenge an individual's certification that they (or an individual residing at the premises) qualify for one of the conditions that prohibits a water utility from shutting off service. Depending on the magnitude of the revenue loss, an affected water utility may need to increase rates on other customers to ensure sufficient funding to maintain the utility.

Additionally, as noted by Charles County, the bill's changes may require that some local governments upgrade their billing software, which may increase local expenditures.

LHDs may also be affected depending on the number of individuals who request certification of specified health conditions in writing.

Small Business Effect: Based on the definition of "authority" under current law, the definition of "water utility" under the bill, and the general composition of water utilities regulated under the affected provisions of the Environment Article, this analysis assumes that privately owned businesses that own and operate water systems are not affected by the bill's provisions that relate to water utilities. Small business customers, however, may benefit from the bill's changes to the extent the bill prevents their water or sewer service from being shut off or prevents their properties from being sold to enforce a lien.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 893 (Delegate Love) - Environment and Transportation.

Information Source(s): Charles County; Maryland Association of Counties; City of Laurel; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; State Department of Assessments and Taxation; Department of Legislative Services

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