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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 86
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 86's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. Maharath

Local Impact Statement Procedure Required: No

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Highlights

- The Public Utilities Commission of Ohio (PUCO) may incur a minimal increase in administrative costs to register public utility resellers and enforce the bill's requirements. Such costs, if any, would be paid from Dedicated Purpose Fund appropriation item 870622, Utility and Railroad Regulation (Fund 5F60).
- GRF receipts may increase due to forfeitures paid by resellers of public utility service.
- The bill may have a minimal fiscal effect on affected political subdivisions. The courts of common pleas may incur expenses to adjudicate any cases generated by S.B. 86.

Detailed Analysis

The bill vests the Public Utilities Commission of Ohio (PUCO) with regulatory authority over "resellers" of public utility service. Generally, a reseller is a person that charges residential consumers for submetered utility service and: (1) the monthly charge for the service is more than \$6.00 above the amount of the purchase price of the service from a utility provider, or (2) the person has common ownership in, or is affiliated with, or shares in the revenue or profits of, an entity from which the service was purchased. The bill prohibits a reseller from operating in Ohio without having a current, valid certificate from PUCO.

Under S.B. 86, a reseller cannot charge consumers more than the "allowable residential rate." The bill defines this term as the total per-unit charge for all components of utility service for customers who receive the residential standard service offer (electric utility service), standard choice offer (natural gas utility service), or residential standard rate or offer (water works or sewage disposal system service) from a PUCO-regulated utility provider. The bill also specifies a cap on utility service charges billed to residential consumers for common areas, which must be listed as a separate line item on a residential consumer's bill. Please see the LSC bill analysis for a full description of provisions governing resellers.

Scope of PUCO regulation

S.B. 86 requires that PUCO adopt administrative rules for the exclusive purpose of governing resellers operating in Ohio and implementing the reseller provisions the bill establishes. However, the bill prohibits PUCO from adopting rules that do the following:

- Regulate a reseller's rates or charges, except as specifically authorized under the bill.
- Require resellers to file rates, charges, or tariffs at PUCO.
- Require resellers to file an annual report or other report of the reseller's activities at PUCO.

Penalties

PUCO must assess a forfeiture against a reseller for each violation of or failure to comply with the bill. Each day's continuance of a failure or violation is a separate offense. All forfeitures collected must be deposited to the credit of the GRF.

If directed to do so by PUCO, the Attorney General must commence and prosecute actions to recover forfeitures. The bill requires actions to recover forfeitures to be prosecuted in the name of the state, and permits actions to be brought in the court of common pleas of any county in which the reseller is located.

Forfeitures assessed by PUCO must not be more than \$1,000 for each violation or failure under the bill. The amount of this forfeiture must be commensurate with the severity of the violation or failure. However, in certain cases, the bill requires PUCO to assess a \$10,000 forfeiture.

Fiscal effect

PUCO may incur a minimal increase in administrative costs to register public utility resellers and enforce the bill's requirements. Such costs, if any, would be paid from Dedicated Purpose Fund (DPF) appropriation item 870622, Utility and Railroad Regulation (Fund 5F60). Potentially, PUCO could collect offsetting revenues from public utility resellers. The bill neither prescribes nor prohibits PUCO from levying an application fee for the certificate obtained by resellers operating in this state. The bill specifies that it does not prohibit PUCO "from determining whether an entity that charges an amount to a residential consumer for utility service, as measured through one or more submeters, is a public utility."¹ Continuing law in R.C. 4905.10 requires PUCO to fund DPF item 870622 by annually assessing each railroad and public utility within this state "in proportion to the intrastate gross earnings or receipts, excluding earnings or receipts from sales to other public utilities for resale, of the railroad or public utility."

If PUCO levies penalties on resellers, GRF receipts may increase due to forfeitures paid by these entities. Separately, the bill may have a minimal fiscal effect on affected political subdivisions. The courts of common pleas may incur expenses to adjudicate any cases generated by S.B. 86.

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¹ Section 4934.32.