

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 2427
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: MAY 21, 2021

SUMMARY

Synopsis: “The Reliability, Preparedness, and Storm Response Act”; requires public utilities to file certain information concerning emergency preparedness with BPU and increases certain penalties.

Type of Impact: Increase in annual State and local costs.

Agencies Affected: Board of Public Utilities and State 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 Increase		Indeterminate	
Local Cost Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that the Board of Public Utilities (BPU) and public utilities will face annual increased costs to establish emergency response plans, enact procedures to execute the plans, enforce 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.
- Ratepayers, including State and local government units, will see these increased costs mitigated to some degree from the fines imposed on public utilities that fail to meet the performance benchmarks and standards in their emergency response plans and service reliability plan, which are to be distributed to ratepayers as statement credits. These fines on public utilities are not recoverable from ratepayers.

BILL DESCRIPTION

This bill requires the BPU to develop and enforce performance benchmarks for service reliability and communications for electric public utilities and requires electric public utilities to submit to the BPU a review of strategies to mitigate flooding of substations within flood zones.

In addition, the bill requires all public utilities conducting business in the State to file a service reliability plan and an emergency communications strategic plan for review and approval by the BPU. After review of a public utility's service reliability or communications plan, the BPU may order the public utility to make modifications as it deems reasonably necessary to remedy any deficiency.

The BPU will have the authority to open an investigation to review the performance or communications of a public utility during an outage in the public utility's service area. If the BPU finds that, as a result of the failure of a public utility to implement its service reliability plan or communications plan, the public utility's performance was materially less effective, the BPU may impose a civil administrative penalty.

This bill amends existing law to increase the civil penalties paid by all public utilities for lapses in service delivery, preparedness, and responsiveness in emergencies. Civil penalties will be increased from \$100 per day to \$25,000 for each violation, but penalties are not to exceed \$2,000,000 for any series of related events. The Board of Public Utilities Civil Penalty Fund will be established in the BPU, into which all penalties collected will be deposited. The money in the fund will be used to 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 OLS estimates that the bill will result in an indeterminate increase in annual costs to all State and local government entities that are users of public utility services, as a result of increased public utility rates imposed on all ratepayers to fund the requirements of the bill. 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 returned to ratepayers in the form of a statement credit, which will partially offset the increased costs faced by ratepayers.

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 the ultimate costs of complying with the plans. The amount is likely to be modest 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, or emergency communications plans are to be distributed back to ratepayers in the form of statement credits. The penalties are to be distributed to ratepayers within 120 days of the imposition of the penalty. These fines will mitigate the cost of the bill to ratepayers but likely by less than the amount of the increase to comply with the requirements of the bill.

Section: Authorities, Utilities, Transportation and Communications

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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