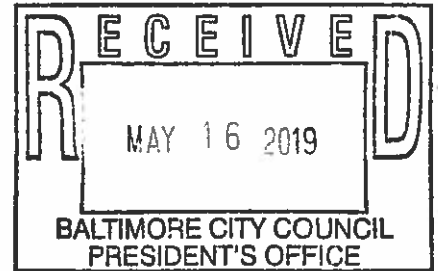


CITY OF BALTIMORE MEMORANDUM

From: Rudolph S. Chow, P.E.
Agency: Department of Public Works
600 Abel Wolman Municipal Building
Subject: City Council Bill 18-0307
Date: May 15, 2019
To: Taxation, Finance and Economic Development Committee



in favorable

Introduction

I am herein reporting on City Council Bill 18-0307 introduced by President Young and Council members Henry, Stokes, Scott, Costello, Burnett, Pinkett, Cohen, Sneed, Middleton, Bullock, Schleifer, Clarke, Dorsey, and Reisinger.

Purpose

The purpose of the bill is to, among other things: establish a water-for-all discount program for consumers, including tenants, an Office of Customer Advocacy and Appeals and a Committee for Office Oversight, its composition and duties; establish the eligibility requirements for the discount program and its grant of an annual billing credit and provide for its administration, computation, distribution, and recertification; except enrollees from certain penalties related to delinquencies; provide for the operational independence of the Office of Water Customer Advocacy and Appeals as a neutral intermediary and problem-solving investigatory body of billing disputes with the right to seek administrative and judicial appeals; prohibits service cutoff, imposing a lien, or including a property in tax sale if non-payment of water billing charges are under review, appeal or appellate review; require certain notifications prior to imposing service cutoff for non-payment, and require those persons issued a cutoff notice be given the opportunity to enter into a payment agreement; reduce the interest rate applicable to redemptions from tax sale of properties designated as an owner's principal residence by the State Department of Assessments and Taxation; and providing for special effective dates.

Brief History

The Department of Public Works is the agency responsible for the planning, development, operation, and maintenance of the water, wastewater, and stormwater systems. The Baltimore City water system is fed by three reservoirs (Prettyboy, Loch Raven, and Liberty) and can be supplemented by a withdrawal location from the Susquehanna River above Conowingo Dam. This raw water is treated at one of three water filtration plants (Montebello Plants I and II, Ashburton) before it is distributed. This system provides potable water to Baltimore City, Baltimore County, and portions of Howard and Anne Arundel counties. Raw water is supplied to Carroll and Harford counties. Baltimore City receives and treats wastewater from the City, Baltimore County, and portions of Howard and Anne Arundel counties at one of two wastewater treatment plants (Patapsco, Back River). The City maintains its stormwater infrastructure, which includes storm drains and inlets, pumping stations, and hundreds of

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Best Management Practices (BMPs). All three of these systems are separate enterprise funds, which mean that they must be operated without profit or loss to other funds of the City. Revenue derived from water charges, sewer charges and the stormwater remediation fee must be used solely for the operations and capital programs of each of the respective enterprise funds.

New City Assistance Program: In January 2019 the Board of Estimates approved rate increases of 9% beginning July 1, 2019, July 1, 2020 and July 1, 2021. As part of that approval, the Board also approved a new water affordability program called Baltimore H2O Assists (BH2O Assists). The new program will become available July 1, 2019 and combines the discounts currently available to senior citizens with the exemptions provided under the Hardship Exemption program. Customers whose income is at or below 175% of the federal poverty level (FPL) will be eligible for the new program. The FPL is adjusted annually. Customer households of one to three persons will be eligible at the three-person FPL income level (\$37,326). Customers who are at or below 50% of FPL would be eligible for the BH2O Plus program which would provide an additional credit currently set at \$236 and applied in equal amounts over a 12-month period. This credit amount would adjust with rate increases. The Low-Income Water Bill Assistance program will still be available to these customers who have arrearages, providing them the opportunity to receive an additional \$236 toward their unpaid balance as part of a payment plan. Payment plans will continue to be available to any customer who wishes to pay down arrearages.

It is estimated that just over 43,000 customer households will qualify for the BH2O Assists program, receiving a 43% discount on their water and sewer charges and the removal of Bay Restoration and Stormwater Remediation fees from the monthly bills. Customers already enrolled in the Senior Citizen discount program or the Hardship Exemption program will be automatically enrolled in the new BH2O Assists program. Customers who receive the BH2O Plus discount will have an additional \$19.66 deducted from their monthly bill. Using the average Baltimore household size of three persons and the industry average water usage of 6 units per month (6 Ccf = 4,488 gallons), this average household would be expected to receive a \$99.96 monthly bill. The BH2O Assists program would lower the monthly bill of this eligible customer household to \$61.15, resulting in an annual household credit of \$465.72. BH2O Plus would lower the monthly bill further to \$41.49, resulting in an annual household credit of \$701.64.

To better capture and grow enrollment, and to make the enrollment process as simple as possible, the Department is collaborating with the Mayor's Office of Human Services to process applications for the BH2O Assists and BH2O Plus programs. Human Services assists Baltimore residents with enrollment in energy assistance programs, which use 175% of the FPL as one of the enrollment criteria. Their clients must provide proof of income as part of that enrollment process. Rather than creating another application process, clients who are found eligible for the energy assistance program and who are customers of the water utility will become simultaneously eligible for the BH2O programs. In addition, customers will be able to go to one of the five Community Action Centers to apply. The Department is very grateful to the Department of Human Services for their willingness to provide residents easier access to a streamlined process for enrollment in BH2O programs.

On May 15, 2019 Mayor Young held a press event to discuss several issues, including the BH2O assistance programs. At that press event he highlighted the components of the BH2O programs and voiced his strong support for their implementation that will begin July 1, 2019. He also noted that he will be establishing an independent office within the Environmental Control Board to hear and recommend

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resolutions to customer water billing disputes separate from but after completion of the Department of Public Works administrative appeal process.

Fiscal Impact

City Council Bill 18-0307 would create an affordability program for households with incomes below 200% of the federal poverty level (FPL). The legislation would make any tenant eligible even if the tenant household subleases or is residing in a building or complex served by a master meter. The affordability credit would be calculated using a formula for each individual applicant based on an estimated bill amount, estimated annual income, and a tiered approach for applying credits (50% or less of FPL, the credit is based on 1% of annual income; greater than 50% but less than 100% of FPL, the credit is based on 2% of annual income; greater than 100% of FPL, the credit is based on 3% of annual income). Consumers served by master meters would receive a check for the amount of the discount and could choose to receive the credit on a monthly basis. The bill provides that the City divide the credit among the household members on the lease who share in the rent or prorate for persons who are subleasing. Unused credits would be transferred to a new property if the applicant relocated, or in the case of the consumer's demise, transferred to the surviving member of the household. Consumers would be expected to self-report if their income exceeds the eligibility criteria and it would be up to the Department to recover any credits distributed during any period of ineligibility. Program recipients would not be liable for any penalties for delinquent bills while enrolled in the program, nor could they be subject to turnoffs. Each on-time payment of a monthly bill would also be credited toward a pre-enrollment arrearage until all arrearages are satisfied.

The following is a list of some of the problems the Department has with the proposed affordability program: the program is not compatible with the current billing system in that it creates eligibility for persons who are not customers of the water utility; it would require significant changes to the billing system to create some sort of means to attach payment and credit tracking for persons served off of one master meter; it applies a credit prospectively for water that may or may not be used in the future; it involves the Department in private tenant-landlord leases and HOA agreements, etc.; it requires the issuance of checks in certain circumstances and, as the Department does not issue checks, would require some process and protocol with the Department of Finance to verify, confirm, and track those payments. It is difficult to ascertain the full fiscal impact of the program as written. While the President's office shared a draft fiscal statement comparing enrollments in BH2O programs with the water-for-all program, the water-for-all program was shown to have a lower enrollment impact than BH2O even though the water-for-all program has a 200% of FPL eligibility threshold and includes persons who are not counted in the BH2O program. In addition, no implementation costs are included in the analysis. Since the program would require significant changes to the billing system and require other internal and external tracking and processing steps, it is expected that the costs would be significant. The analysis also does not estimate the fiscal impact of writing down arrearages through the bill's provision of crediting the discounted on-time monthly bill payments against those account balances.

City Council Bill 18-0307 would create an Office of Water-Customer Advocacy and Appeals that would have access to all customer records held by the Department. It could investigate disputes even if the requestor has not exhausted all administrative processes, conduct appeal hearings, adjust customer bills, refund or reduce charges, and reverse Department administrative decisions. Persons accessing this

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process would not be subject to turnoffs, disputed amounts could not serve as the basis for a lien against the property, and could not be subject to tax sale. City Council Bill 18-0307 would also create a Committee for Office Oversight comprised of the Inspector General, the City Auditor, Director of DPW, City Council President, and three Councilmembers. It would review the operations of the Advocacy and Appeals Office, provide advice and guidance, and recommend new or modified policies and procedures.

Mayor Young announced his intention to establish an independent office within the Environmental Control Board to hear and resolve water billing disputes. This established body has processes and structures in place which can be adapted to a water billing dispute resolution office. It is to be expected that the Department would have to assign several of its staff to respond to an independent body's requests, provide assistance, appear at hearings, and develop case management processes and procedures to track outcomes and make any adjustments to accounts.

City Council Bill 18-0307 outlines provisions for turning off water service due to delinquencies. It requires notice at least 45 days in advance of a turnoff date, served by both certified mail and posting on the front entrance of the premise. It stipulates what information must be in the notice, including assistance programs and payment plan availability. A list of customer situations which would prohibit turnoffs are included in the legislation. It has been this Department's experience that residents routinely ignore or refuse to accept certified mail from the City of Baltimore – whether such a refusal would delay a turnoff is not clear in the legislation. The Department attempted to post premises for turnoffs at one time. Residential neighborhoods objected to the postings, believing that it contributed to a negative portrayal of their community; many multi-family structures that were posted had the notices immediately torn down – again; the legislation is silent on whether removal of the posted notices would negate turnoffs. It is the practice of the Department to accept medical certificates as a reason for not conducting turnoffs as well as bankruptcy proceedings. Age of occupants has not been included as a reason to not conduct turnoffs. The Department presumes that the legislation does not interfere with the shutting off of water service for water service breaks that threaten the structure of the premise or impacts adjacent properties.

Finally, the provisions of City Council Bill 18-0307 pertaining to changes to the tax sales would go into effect at the time of enactment and the bulk of the legislation would become effective six months after its enactment. The water-for-all affordability program would require extensive reworking of the billing system and other processes, which could not be completed in such a small timeframe. A similar program adopted in Philadelphia took a year and a half and millions of dollars to establish. In addition, the BH2O programs will be in place and accepting enrollments beginning July 1 of this year. The water-for-all program would be a competing program attempting to serve some of the same customers.

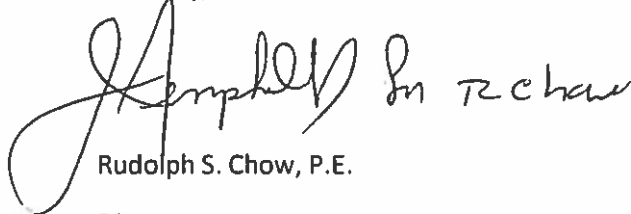
Agency/Department Position

The Department of Public Works has proceeded with a new affordability program proposed and adopted by the Board of Estimates which will go into effect July 1, 2019. The costs to establish the BH2O programs have been minimal and the fiscal impact of the programs are already factored into the rate increases approved by the Board of Estimates. Mayor Young, formerly the lead sponsor of this legislation, endorses the BH2O programs and has announced his intention to create an independent body within the Environmental Control Board to hear and consider water billing disputes. Based on the

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Mayor's recent announcements and the findings contained in this report, the Department of Public Works cannot support the legislation as written. The Department understands that the Committee intends to work on the legislation and is prepared to participate in that process.

Sincerely,

A handwritten signature in black ink that reads "Rudolph S. Chow". The signature is written in a cursive style with a large, looping initial "R".

Rudolph S. Chow, P.E.

Director

RSC:MMC

