

DRAFT 5
SUBSTITUTE FOR
SENATE BILL NO. 551

A bill to prescribe the powers and duties of certain providers of retail water service in this state; to prescribe the powers and duties of certain state officers and entities; to prohibit certain acts and practices of providers of retail water service; and to provide for remedies and penalties for certain violations of this act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "water shutoff protection
2 act".

3 Sec. 3. As used in this act:

4 (a) "Critical care customer" means a residential customer who
5 requires, or has a household member who requires, water or
6 sanitation for home medical equipment, a life-support system, or



1 treatment or therapy to reduce a public health risk, or has a
2 communicable disease, and provides appropriate documentation to a
3 provider from a physician or medical facility that identifies the
4 medical equipment, life-support system, treatment, or therapy and
5 certifies that an interruption of service would be immediately
6 life-threatening or cause harmful health consequences.

7 (b) "Delinquency" means the measure by which a provider
8 determines a payment is late or overdue.

9 (c) "Delinquent account" means an account or bill for which
10 there is a delinquency.

11 (d) "Eligible customer" means a residential customer whose
12 household income does not exceed 200% of the federal poverty
13 guidelines, as published annually in the Federal Register by the
14 United States Department of Health and Human Services under its
15 authority to revise the poverty line under 42 USC 9902, or who
16 meets any of the following requirements:

17 (i) Has received assistance from a state emergency relief
18 program within the past year.

19 (ii) Receives food assistance under the federal supplemental
20 nutrition assistance program administered by this state.

21 (iii) Receives medical assistance administered by this state
22 under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

23 (iv) Receives assistance under the Michigan energy assistance
24 program.

25 (v) Receives assistance under the special supplemental
26 nutrition program for women, infants, and children.

27 (vi) Receives supplemental security income.

28 (vii) Receives assistance under the weatherization assistance
29 program.



1 (e) "Lawful occupant" means an individual who resides in a
2 home and who has a valid lease, rental agreement, or affidavit of
3 tenant responsibility for the water bill.

4 (f) "Program administrator" means the department, provider, or
5 third-party organization that administers a low-income water
6 residential affordability program.

7 (g) "Provider" means a community water supply that is publicly
8 or privately owned and that provides retail water service in this
9 state.

10 (h) "Residential customer" means an individual who receives,
11 or is eligible to receive, water service at the individual's
12 primary premises.

13 Sec. 5. (1) A provider may shut off service temporarily to all
14 residential customers, including critical care customers, for
15 reasons of health or safety, in a state or national emergency, or,
16 subject to this section and section 7, if a residential customer
17 has not paid a delinquent account. When a provider shuts off
18 service for reasons of health or safety, the provider must issue a
19 notification that is consistent with the requirements of the safe
20 drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, to the
21 residential customer.

22 (2) Subject to section 7, a provider shall not shut off
23 service because a residential customer has not paid a delinquent
24 account unless the provider contacts the residential customer at
25 least 3 times using 2 or more of the following methods, as
26 practicable:

27 (a) Posts a delinquency notice on the door of the premises to
28 be shut off and, if the account customer has a separate mailing
29 address, mails a delinquency notice to that address not less than



1 60 days and not more than 90 days before the date of a proposed
2 shutoff, that notifies the occupant of the property of a
3 delinquency in payments and informs the occupant of any applicable
4 payment plans or low-income water residential affordability
5 programs. A provider shall maintain a record of the date the
6 delinquency notice was posted.

7 (b) Makes a personal visit to the premises where shutoff of
8 service is proposed and direct contact is made with the head of
9 household notifying that individual of a delinquency in payments
10 and of any applicable payment plans or low-income water residential
11 affordability programs. A provider shall maintain a record of the
12 date direct contact was made. A personal visit described under this
13 subdivision may be conducted by a contracted third-party
14 organization or other agent of the provider.

15 (c) Makes a personal or automated telephone call to the
16 telephone number identified on the customer account where direct
17 contact is made or a message is recorded notifying that individual
18 of a delinquency in the payments and of any applicable payment
19 plans or low-income water residential affordability programs. A
20 provider shall maintain a record of the date the call was made.

21 (d) Sends a direct text message to the telephone number
22 identified on the customer account notifying that individual of a
23 delinquency in payments and of any applicable payment plans or
24 water affordability programs. A provider shall maintain a record of
25 the date the text message was sent.

26 (e) Sends a written notice by first-class mail to the premises
27 where shutoff of service is proposed notifying the account customer
28 of a delinquency in payments and of any applicable payment plans or
29 low-income water residential affordability programs. A provider



1 shall maintain a record of the date the written notice was sent.

2 (3) At least 1 of the contacts made by the provider must be a
3 delinquency notice as provided for under subsection (2) (a).

4 (4) All written and oral notices of shutoff under subsection
5 (2) must contain, at a minimum, all of the following information:

6 (a) The address at which service is provided.

7 (b) A clear and concise statement of the reason for the
8 proposed shutoff of service.

9 (c) The date on or after which the provider may shut off
10 service, unless the residential customer takes appropriate action,
11 and a description of the available courses of action to prevent a
12 shutoff or to restore service following a shutoff.

13 (d) A statement that the provider will not shut off service if
14 a residential customer has entered and remains in compliance with a
15 payment plan or low-income water residential affordability program.

16 (e) The telephone number and address of the program
17 administrator where the residential customer may make an inquiry,
18 enter into a payment plan or low-income water residential
19 affordability program, or petition the provider in accordance with
20 the provider's rules to dispute a delinquent account.

21 (f) A statement that if the residential customer that receives
22 the notice is a tenant whose lessor is responsible for the water or
23 sewage bill, the tenant may prevent shutoff if the tenant contacts
24 the provider immediately and provides documentation demonstrating
25 that the tenant is not responsible for the water or sewage bill and
26 that the tenant is does not owe any delinquent rent payments. This
27 subdivision does not preclude a provider from offering additional
28 options for the tenant to maintain service.

29 (5) Except as otherwise provided in this subsection, a



1 provider shall delay shutoff of service to a residential customer
2 that pays at least \$10.00 per month, or another amount approved by
3 the provider, on a delinquent account and applies for enrollment in
4 a low-income water residential affordability program with the
5 provider, the department of health and human services, or a third-
6 party organization that administers a low-income water residential
7 affordability program. A provider is not required to delay shutoff
8 of service under this subsection if any of the following apply:

9 (a) The residential customer applied to a low-income water
10 residential affordability program and 10 business days have passed
11 since the program administrator determined that the residential
12 customer is not eligible.

13 (b) The residential customer applied to a low-income water
14 residential affordability program and was determined to be eligible
15 but did not enroll in the program within 10 business days.

16 (c) The residential customer paid at least \$10.00 per month
17 but did not apply to a low-income water residential affordability
18 program by submitting an application within 10 business days after
19 the date the final notice of shutoff was issued.

20 (6) Subject to the requirements of this act, a provider may
21 shut off service to a residential customer on the date specified in
22 the notice of shutoff or at a reasonable time following that date.
23 If a provider does not shut off service and mails a subsequent
24 notice, then the provider shall not shut off service before the
25 date specified in the subsequent notice. Shutoffs must occur only
26 between the hours of 8 a.m. and 3 p.m.

27 (7) A provider shall not shut off service on a day, or a day
28 immediately preceding a day, when the services of the provider are
29 not available to the general public for the purpose of restoring



1 service.

2 (8) The day before or the day of the planned shutoff of
3 service, an employee or agent of or a third-party organization
4 contracted with the provider shall call or send a text message to
5 the telephone number and send an email to the email address, if
6 provided, identified on the customer account notifying the
7 residential customer of the planned shutoff. If the provider does
8 not have a valid telephone number or email address on the customer
9 account, the provider shall make a notation and may proceed with
10 the planned shutoff.

11 (9) When an employee or representative of a provider shuts off
12 service, the employee or representative shall leave a notice. The
13 notice must state that service has been shut off and contain the
14 address and telephone number of the provider where the residential
15 customer may arrange to have service restored.

16 (10) When a shutoff is completed using meters with remote
17 shutoff and restoration capacity, the provider shall advise the
18 residential customer on how to arrange for service to be restored.

19 (11) A provider shall not do any of the following:

20 (a) Shut off service because a residential customer has not
21 paid for concurrent service received at a separate metering point,
22 residence, or location.

23 (b) Shut off service because the property owner, who is the
24 residential customer on record, has not paid for service at a
25 premises lawfully occupied by another person. If a property owner
26 is not occupying the premises at which service is delivered, a
27 provider may shut off service if proper notice has been given, and
28 the property owner supplies a written, certified statement, on a
29 form and in a manner prescribed by the provider, that the premises



1 are not lawfully occupied and the premises are in fact not lawfully
2 occupied.

3 (c) Shut off service if the amount the residential customer
4 has not paid for service is the subject of an unresolved dispute
5 under the provider's dispute resolution process.

6 (d) Shut off service to a multi-unit dwelling where at least 1
7 unit is not sub-metered and is lawfully occupied.

8 (e) Shut off service to a residential customer who is renting
9 property from a lessor who is responsible for the water or sewage
10 bill, if the residential customer provides documentation
11 demonstrating that the lessor is responsible for the water or
12 sewage bill and that the tenant does not owe any delinquent rent
13 payments. This subdivision does not preclude a provider from taking
14 action enforce a lien or institute an action for the collection of
15 a delinquent debt that accrued while the lessor has responsibility
16 for payment of a water or sewer bill in accordance with sections 3
17 and 6 of 1979 PA 178, MCL 123.163 and 123.166.

18 (f) Shut off service to a residential customer for nonpayment
19 of a delinquent account if the residential customer is a critical
20 care customer and provides documentation to the provider
21 demonstrating that the residential customer is a critical care
22 customer. The documentation must specify the time period during
23 which service must not be shut off. If the time period is expected
24 to extend for 1 year or more, the critical care customer must
25 annually provide documentation demonstrating that the individual
26 remains a critical care customer.

27 (g) Shut off service to a residential customer if a
28 residential customer has entered into and remains in compliance
29 with a payment plan or low-income water residential affordability



1 program. A provider shall not shut off service for nonpayment until
2 the payment is delinquent for at least 120 days.

3 (h) Shut off service to a home for the aged licensed under
4 part 213 of the public health code, 1978 PA 368, MCL 333.21301 to
5 333.21335, or to an adult foster care facility licensed under the
6 adult foster care facility licensing act, 1979 PA 218, MCL 400.701
7 to 400.737.

8 (12) After a provider has shut off service, the provider shall
9 restore service on the residential customer's request when the
10 cause of the shutoff has been cured or payment arrangements have
11 been made, including at the residential customer's option a payment
12 plan or enrollment in a low-income water residential affordability
13 program.

14 (13) When a provider is required to restore service at the
15 residential customer's meter manually, the provider shall make
16 reasonable efforts to restore service on the day the residential
17 customer requests restoration. Except for reasons beyond its
18 control, the provider shall restore service not later than the
19 first working day after the residential customer's request.

20 (14) For providers using meter technology with remote shut-off
21 and restoration capability, service must be restored no later than
22 the first working day after the residential customer requests
23 restoration, except in the case of documented equipment failure.

24 (15) A provider may assess the residential customer a
25 reasonable charge for restoring service. The charge must not exceed
26 \$150.00 or the actual cost, whichever is less. A provider shall not
27 charge a residential customer a fee for a shutoff of service.

28 (16) A provider shall first apply payments received to the
29 costs incurred for services for the oldest debt.



1 Sec. 7. (1) If an eligible customer fails to comply with the
2 terms and conditions of a low-income water residential
3 affordability program, the eligible customer must be referred to a
4 program administrator for triage before a provider may shut off
5 service to a residential customer. An eligible customer referred
6 under this subsection must participate in triage to restore
7 compliance with and prevent disenrollment from the low-income water
8 residential affordability program. Within 10 business days after a
9 residential customer is referred under this subsection, the program
10 administrator shall send a letter by first-class mail to the
11 premises that receives service from the provider, and, if the
12 residential customer has a separate mailing address, to that
13 address. The letter must state all of the following information:

14 (a) The start date of noncompliance.

15 (b) The reason for noncompliance and a statement of goals to
16 engage the residential customer to ensure future compliance.

17 (c) The date for a triage meeting with the program
18 administrator, scheduled not more than 10 business days after the
19 letter was postmarked. The triage meeting described in this
20 subdivision may take place by telephone, virtually, or in person,
21 taking into consideration the residential customer's preference and
22 availability.

23 (d) A statement that an extension for a triage meeting may be
24 granted for good cause, as determined by the program administrator,
25 and if no good cause is shown, failure to attend the triage meeting
26 may result in disenrollment.

27 (e) A summary of the requirements to maintain eligibility in
28 the low-income water residential affordability program.

29 (f) A statement that the residential customer has 10 business



1 days after the triage meeting to comply with triage requirements.

2 (2) The program administrator may create a renewal agreement
3 with the department or provider to use during the triage process
4 described under subsection (1). The agreement must include all of
5 the following information:

6 (a) A statement of goals to engage the residential customer to
7 ensure future compliance, including a payment plan and schedule,
8 participation expectations, and additional household support that
9 will be provided to the residential customer following triage.

10 (b) A list of triage requirements to maintain compliance in
11 the low-income water residential affordability program, which may
12 include, but is not limited to, any of the following:

13 (i) A minimum payment.

14 (ii) A restart of the residential customer's program calendar.

15 (iii) The forgiveness of any amount owed on the delinquent
16 account.

17 (iv) Removal of any fees or charges on the delinquent account.

18 (v) A copayment credit on the delinquent account.

19 (vi) Any other options for successful outcomes available
20 through the low-income water residential affordability program.

21 (3) The program administrator shall advise a provider if a
22 residential customer fails to comply with the triage process or a
23 renewal agreement described under subsection (1) or (2), and the
24 provider may proceed with the shut-off process described in section
25 5.

26 (4) A provider may develop policies and procedures to delay
27 shutoff for residential customers who face temporary financial
28 hardship due to recent loss of a job, medical bills, or other
29 extenuating circumstances. If the provider maintains a website, the



1 provider must post its policies and procedures on the website.

2 (5) A provider shall not threaten to shut off service when the
3 provider has no intent to terminate service or when termination of
4 service is otherwise prohibited by law.

5 (6) This section does not apply to a shutoff at a premises if
6 a property owner provides the provider a notarized statement that
7 the premises are not lawfully occupied and the premises are in fact
8 not lawfully occupied.

9 Sec. 9. If the department of treasury projects that the
10 funding required to implement a low-income water residential
11 affordability program does not exist in the low-income water
12 residential affordability program fund created in section 14t of
13 the social welfare act, 1939 PA 280, MCL 400.14t, and determines
14 that adjustments must be made in accordance with section 14o(6) of
15 the social welfare act, 1939 PA 280, MCL 400.14o, the provider
16 shall not shut off service to an eligible customer that has entered
17 into and remains in compliance with a low-income water residential
18 affordability program.

19 Sec. 11. The attorney general or any residential customer or
20 other lawful occupant of a premises subject to this act may enforce
21 this act by filing a civil action in the circuit court in the
22 county where the residential customer lives or the provider does
23 business. In any civil action commenced under this section, the
24 plaintiff may obtain damages, declaratory relief, or temporary or
25 permanent injunctive relief for any violation of this act. A
26 residential customer or other lawful occupant that prevails in a
27 civil action filed under this section is entitled to reasonable
28 attorney fees and costs.

29 Sec. 13. A provider shall take reasonable steps to provide



1 equal language access to water service and vital information for
2 residential customers with limited English proficiency. As used in
3 this section, "equal language access" means the ability to receive
4 information and to participate in and benefit from water service at
5 a level equal to English-proficient individuals.

6 Sec. 15. A political subdivision of this state shall not enact
7 or otherwise enforce a rule, regulation, code, or ordinance that is
8 not substantially similar to this act.

9 Enacting section 1. This act takes effect 1 year after the
10 date it is enacted into law.

11 Enacting section 2. This act does not take effect unless all
12 of the following bills of the 102nd Legislature are enacted into
13 law:

14 (a) Senate Bill No. 549.

15 (b) Senate Bill No. 550.

