Fiscal Note & Local Impact Statement

124 th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43266-0342 ✧ Phone: (614) 466-3615
✧ *Internet Web Site:* http://www.lsc.state.oh.us/

BILL: **Sub. H.B. 9** DATE: **March 27, 2001**

STATUS: **As Enacted—Effective June 26, 2001 (Certain sections effective March 27, 2001)** SPONSOR: **Rep. Setzer**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Authorizes governmental aggregation for retail natural gas service, subjects retail gas suppliers and governmental aggregators to PUCO certification, makes an appropriation for the THAW program, and increases an appropriation for the Home Energy Assistance Block Grant**

State Fiscal Highlights

STATE FUND	FY 2001	FY 2002	FUTURE YEARS
General Revenue Fund			
Revenues	Potential minimal loss	Potential loss up to $415,000 or more	Potential loss up to $1,010,000 or more
Expenditures	Increase up to $20 million	- 0 -	- 0 -
Utility and Railroad Fund (Fund 5F6)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase by $9,300	Increase by $111,400	Increase by $111,400
Fund 3K9			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase up to $20 million		

Note: The state fiscal year is July 1 through June 30. For example, FY 2002 is July 1, 2001 – June 30, 2002.

- The public utility excise tax base would be reduced as households signed up for governmental aggregation programs. Over time the reduction in excise taxes could be substantial ($19.1 million or more).
- The statewide sales tax base would be increased, as households signed up for aggregation programs. Over time the increase in sales tax revenues could be substantial ($17.8 million or more).
- The General Revenue Fund receives 95.2% of funds collected under each of these taxes.
- The bill would create a new line item in the budget of the Department of Job and Family Services and appropriate $20 million to that line item to be distributed to county departments of job and

family services. The funds would be used to assist Ohio households whose income is less than 200% of the federal poverty guidelines in paying their home heating bills.

- The Public Utilities Commission of Ohio would need to hire additional staff to implement the certification program created by the bill, increasing expenditures by approximately $111,000 in future fiscal years, assuming the required funds are appropriated.

- Am. Sub. H.B. 283 of the 123rd General Assembly would be amended to increase the appropriation to item number 195-611 in the Department of Development's budget by $20 million. The additional appropriation would increase funding for the Low Income Energy Assistance Program.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2001	FY 2002	FUTURE YEARS
Counties			
Revenues	up to $20,000,000 gain	- 0 -	- 0 -
Expenditures	up to $20,000,000 increase	- 0 -	- 0 -
Counties & Transit Authorities			
Revenues – permissive local sales tax	Potential minimal gain	Potential gain up to $1.4 million or more	Potential gain up to $3.3 million or more
Expenditures	- 0 -	- 0 -	- 0 -
Counties, municipalities and townships			
Revenues – Local Government Funds (LGF & LGRAF)	Potential minimal loss	Potential minimal loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The THAW program would provide $20,000,000 from the GRF to county departments of job and family services, which would be expended in providing assistance to low-income households in paying their heating bills. Given the number of applications received to date, it is possible that part of the $20 million may remain after paying all the benefits for which applications were received.

- The statewide sales tax base would be increased, as households signed up for aggregation programs. The increase in the sales tax base would be minimal in the short run but would increase over time. The average permissive sales tax rate levied by counties and transit authorities statewide is 1.1%.

- The Local Government Fund would receive 4.2% of any increase in state sales tax collections; the Local Government Revenue Assistance Fund would receive 0.6% of any increase.

- The public utility excise tax base would be reduced as households signed up for governmental aggregation programs. The decrease would be minimal in the short run but could become significant over time. 4.2% of excise tax revenue losses would come from the Local Government Fund and 0.6% would come from the Local Government Revenue Assistance Fund.

- Even though counties with permissive sales taxes may experience a net gain in revenues, counties without permissive sales taxes as well as municipalities and townships would lose revenues.

- It is unclear at this time to what extent administering the THAW program would increase county expenditures.

- Local governments would incur costs in establishing and administering an aggregation program. These costs would vary by program. These programs are optional, of course.

Detailed Fiscal Analysis

Background.

Substitute House Bill 9 (Sub. H.B. 9) contains four provisions that might have a fiscal impact on state or local budgets. First, it would allow a board of township trustees or a board of county commissioners to act as an aggregator for the provision of competitive retail natural gas service. Local governments are currently authorized to serve as aggregators for electricity service within their jurisdiction under Senate Bill 3 of the 123rd General Assembly, so this provision of the bill would ultimately create parity between natural gas service and electricity service. (Municipal corporations are assumed to have the authority to aggregate already, under the home-rule provisions of Article XVIII of the Ohio Constitution, so the bill would have no impact on aggregation within municipal boundaries.[1]) Second, the bill would create a new line item in the budget of the Department of Job and Family Services and appropriate $20 million in fiscal year 2001 for that line item. The funds would be distributed to county departments of job and family services to assist households with incomes below 200% of the federal poverty guidelines in paying their heating bills. The total expenditures for the program would not exceed $20 million, nor would the assistance to any individual household exceed $250. Third, the bill would subject retail natural gas suppliers and governmental aggregators to certification by the Public Utilities Commission of Ohio (the PUCO). And fourth, the bill increases the fiscal year 2001 appropriation for the Low Income Home Energy Assistance Program administered by the Department of Development.

Currently, natural gas sold through marketers in Ohio is included in the sales tax base, while gas sold directly by a natural gas utility is included in the public utility excise tax base, rather than the sales tax base. Therefore any effect the bill might have on the dollar value of natural gas sales would have a direct impact on these two tax bases. The statewide sales tax is currently 5%, with 95.2% of the

[1] See February 12, 2001 issue of LSC publication *For Members Only*. The publication is available on-line at www.lsc.state.oh.us/membersonly/124homerule.pdf.

revenue collected going to the GRF, 4.2% going to the Local Government Fund, and 0.6% to the Local Government Revenue Assistance Fund. On top of the statewide tax, counties and transit authorities may levy an additional sales tax. By its nature, the rate of this permissive tax varies from one jurisdiction to another, but the average rate statewide is 1.1%, making the combined average tax rate statewide 6.1%. The public utility excise tax rate is 4.75%, which is distributed in the same way as the statewide sales tax: 95.2% to the GRF, etc.

Currently there are 28 natural gas utilities in the state that pay the public utilities excise tax; of these, just three have a Choice Program: Columbia Gas of Ohio; Cincinnati Gas & Electric; and Dominion East Ohio Gas. The PUCO reports the following figures for the total customer base of these utilities as of December 2000, and for the number of those customers enrolled in the respective Choice Programs:

Choice Program Enrollment in Ohio, December 2000			
Nat. Gas Utility	**Total Customers**	**Enrolled Customers**	**Percent of Total Customers Enrolled**
Columbia Gas	1,360,615 (*resid.*)	432,325 (*resid.*)	31.8%
	120,528 (*comm.*)	42,198 (*comm.*)	35.0%
Dominion East Ohio	1,126,000 (*resid.*)	242,464 (*resid.*)	21.5%
	83,000 (*comm.*)	12,586 (*comm.*)	15.2%
Cincinnati Gas & Elec.	360,000 (*resid.*)	29,493 (*resid.*)	8.2%
	35,070 (*comm.*)	3,844 (*comm.*)	11.0%

source: Public Utilities Commission of Ohio.

Representatives of Columbia Gas and of Dominion East Ohio have testified before the Senate Ways and Means Committee that high gas prices have increased the percentages enrolled in their Choice programs, however the following analysis will assume the percentages shown here. LSC has investigated the impact of using the higher percentages testified to, and found the differences to be small.

Authorization of Governmental Aggregation.

The primary motivation for allowing for governmental aggregation is presumably to aid consumers in reducing their natural gas bills. To the extent that the bill was successful in accomplishing this, the public utility excise tax base would be reduced, as household consumers opted for the lower prices available by aggregating, and thus shifted to the sales tax base. The consequent increase in the sales tax base would almost certainly be somewhat reduced by the probable reduction in (dollar value of) natural gas sales to households currently in a Choice Program.[2] The increase in the number of households paying the sales tax would increase the sales tax base overall, consequently increasing sales tax revenues.

[2] Whether the dollar value of natural gas sales to households currently paying the sales tax would rise or fall with a fall in the price of gas depends on a concept that economists call "price elasticity of demand." The demand for natural gas is almost certainly inelastic, meaning that if the price of gas were to fall by, say 5%, unit sales of natural gas would increase by something less than 5%, with the result that sales revenue would fall.

Unfortunately, the data to quantify these changes in tax collections are simply not available. We do not know by what percentage allowing aggregation would reduce the price of gas. Nor do we know precisely what is the price elasticity of demand for natural gas. Most fundamentally, we do not know how quickly consumers would enroll in governmental aggregation programs. The fiscal effect would also depend heavily on the magnitude of the savings that consumers would experience in their natural gas bills. A September 8, 2000 press release from Columbia Gas of Ohio[3] indicated that Columbia customers had saved $73 million since 1997 as a result of Columbia's Choice Program, or about a 10% savings on the average residential bill. The $73 million figure seems to be consistent with testimony provided by the Ohio Consumers' Counsel before the House Public Utilities Committee. Nevertheless there are several sources of very significant uncertainty regarding the fiscal impact of the bill.

In order to get some idea of the impact on tax revenues, LSC economists have computed the results generated under several assumptions that seemed reasonable. The following analysis assumes that the bill has no impact on the ability of municipalities to implement natural gas aggregation programs. The U.S. Bureau of the Census estimated that the number of residents of townships in Ohio in 1998 was 3,981,642, out of a total estimated Ohio population of 11,209,493. Taking the ratio of the former number to the latter yields a ratio of 35.5%, which is the maximum percentage of households in the state that this bill would newly allow to be aggregated under a governmental aggregation program. The PUCO website shows the current savings from the Choice Program for an average residential household in each of the three programs. Suppose that governmental aggregation saves households that are currently in a Choice program 2% annually, and saves households that are not in a Choice program 12% annually. Suppose further that 110,507 eligible Ohio households were signed up for an aggregation program in FY 2002 and that 276,268 households were signed up in FY 2003. Under these assumptions, we arrive at total residential consumer savings of $15.7 million in FY 2002 and $38.2 million in FY 2003.

Under the foregoing assumptions, the reduction in the public utility excise tax would amount to $6.7 million in FY 2002 and $16.1 million in FY 2003. Partially offsetting this, state sales tax collections would increase by $6.2 million in FY 2002, and by $15.0 million in FY 2003. Similarly, permissive local sales tax collections would increase by about $1.4 million in FY 2002 and about $3.3 million in FY 2003. Over and above these effects, there may be some changes to both tax bases involving commercial customers, meaning that the numbers shown here might be increased by an amount in the range of a few hundred thousand dollars.

One final issue related to the aggregation provisions in the bill is that of so-called "stranded costs." Section 4929.25 of Sub. H.B. 9 allows a natural gas company to recover capacity and commodity costs if the PUCO certifies those costs to be recoverable under the terms of the bill. Any such cost recovery approved by PUCO would increase the prices paid by consumers, thereby increasing the sales tax base. This provision of the bill is incorporated into the above projections, subject to the same uncertainty associated with the other assumptions underlying those projections.

Temporary Heating Assistance for Warmth (THAW) Program.

[3] This press release can be found on-line at www.columbiagasohio.com/releases.

Sub. H.B. 9 would also create a new line item in the budget of the Department of Job and Family Services, item 600-437, Temporary Heating Assistance for Warmth, and appropriate $20 million to that line item in fiscal year 2001. The funds would be provided to county departments of job and family services to distribute to households whose income is less than 200% of the federal poverty guidelines. Each eligible household could receive a one-time payment up to either 50% of one primary heating bill (billed after October 1, 2000 and before April 1, 2001), including arrearages that arose due to heating bills incurred between December 1, 2000 and April 1, 2001, or $250, whichever is lower. The total expenditures for the program would not exceed $20 million.

The Department of Job and Family Services would issue guidelines for the program. Guidelines could determine, for example, how to handle the situation if households applied for more payments than were available under the bill. According to the most recent data available from the Current Population Survey (a joint project between the U.S. Bureau of Labor Statistics and the Bureau of the Census), there are 1,315,107 Ohio households with an income that puts them at or below 200 percent of the federal poverty guidelines. The non-TANF portion of this population can be calculated by subtracting the number of TANF households that have at least one adult.[4] In January, 2001 there were 51,058 households that had at least one adult. Thus, the number of non-TANF Ohio households meeting the income criteria of Project THAW is over 1.2 million. If each of these households applied for these funds, the $20 million ceiling could easily be reached. However the Governor's office has reported that the number of applications received as of March 2, 2001 was approximately 24,500 and the average amount applied for in those applications was $180. From the data to date, the Governor's office anticipates that there will be sufficient funds to pay all benefits for which applications are received, subject to the terms of the program.

It is unclear at this time to what extent administering the THAW program would increase county expenditures.

Certification of Retail Natural Gas Suppliers and of Governmental Aggregators.

Sub. H.B. 9 would require the certification of retail natural gas suppliers and governmental aggregators by the PUCO. The bill also provides that retail natural gas suppliers may be required to provide a performance bond to protect consumers and natural gas companies from the consequences of failure on the part of the retail supplier. The PUCO reports that implementing a certification program that complied with the provisions of the bill would require an additional two full time staff, in the Utility Specialist 1 classification. These positions would cost a total of an additional $111,400 per year at current compensation levels, including benefits.

In addition, the certification requirements, together with the costs associated with providing a performance bond, would have possibly significant effects on existing CHOICE Programs and on new governmental aggregation programs. These provisions of the bill would increase the costs of retailers, and may reduce the number of retailers in the market. The effect of these provisions may thus reduce the price discounts enjoyed by consumers, which would in turn reduce the fiscal impact of the bill. These provisions of the bill, like the stranded cost provision, are incorporated into the above

[4] Payments to TANF households could be made from currently available TANF funds under existing guidelines; no additional appropriation authority for TANF funds would be necessary.

projections, subject to the same uncertainty associated with the other assumptions underlying those projections.

Low Income Home Energy Assistance (LIHEAP).

Finally, the bill would amend Am. Sub. H.B. 283 of the 123rd G.A. to increase the appropriation in line item 195-611, Home Energy Assistance Block Grant, by $20 million. Funding for the LIHEAP Program is provided by the federal government through a block grant, and the program provides home heating assistance to households with incomes at or below 150% of the federal poverty guidelines. The federal government increased the amount of the block grant and other contingency funds in October and December of 2000 and January of 2001. Twenty million dollars represents Ohio's share of this increase.

LSC fiscal staff: Ross Miller, Economist

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