Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 353 (Substitute S-2 as passed by the Senate)
Senate Bills 880 and 881 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Veronica Klinefelt (S.B. 353)
Senator Sam Singh (S.B. 880)
Senator Rick Outman (S.B. 881)
Committee: Energy and Environment

Date Completed: 8-5-24

CONTENT

Senate Bill 353 (S-2) would amend the Michigan Energy Assistance Act to do the following:

- **Beginning October 1, 2025, expand eligibility for energy assistance by changing the qualifying household income from 150% of the Federal poverty level (FPL) to 60% of the State median income.**
- **Require the Department of Health and Human Services (DHHS) to prioritize providing energy assistance to vulnerable populations.**
- **Delete a provision prohibiting more than 30% of the Low-income Energy Assistance Fund from being used outside of the Michigan Energy Assistance Program's (MEAP) crisis season, which begins on November 1 and ends May 31.**
- **Require the DHHS, in consultation with the Michigan Public Service Commission (MPSC), to set a minimum allocation of funds that would have to be used by entities with which the MPSC contracted.**
- **Allow the DHHS to establish guidelines for verifying eligibility of all applicants to ensure assistance funds were provided only to eligible low-income households.**

Senate Bill 880 (S-1) would amend Public Act 3 of 1939, the Public Service Commission law, to do the following:

- **Require the DHHS to ensure that the Low-income Energy Assistance Fund was administered to promote Statewide access to the MEAP, collaboration between the DHHS, the MPSC, energy providers, and entities that administered assistance programs, and education and outreach.**
- **Require, beginning March 1, 2027, the DHHS to provide to the House and Senate appropriations subcommittee for the DHHS budget and the House and Senate standing committees on energy a report concerning the Fund.**
- **Require, beginning December 1, 2025, the State Treasurer to report to the MPSC the total amount of money that was collected by the Fund and the remaining balance of the Fund from the immediately preceding fiscal year.**
- **Allow, beginning on the bill's effective date, the MPSC to increase the low-income energy assistance funding factor by up to $0.25 each year; however, the funding factor could not exceed $2.**
- **Require, beginning in 2029, the MPSC to adjust the funding factor by the percentage increase in the United States Consumer Price Index.**
- **Limit the ability to opt-out of collecting a funding factor to an electric utility, municipally owned electric utility, or cooperative electric utility with less than 45,000 residential electric customers.**

-- Require a utility that opted out to establish and fund an energy assistance program that aided its residential customers for their electric and home heating needs consistent with the eligibility requirements of the MEAP.
-- Require, beginning October 1, 2025, a utility that opted out to provide notice to its residential customers of available energy assistance provided by the utility.
-- Allow the Attorney General (AG) or a utility customer to commence an action against a utility if certain requirements were met.

<u>Senate Bill 881 (S-1)</u> would amend Public Act 3 of 1939 in line with changes proposed by <u>Senate Bill 880 (S-1)</u>.

Senate Bills 880 and 881 are tie-barred to each other and to Senate Bill 353.

<u>Senate Bill 353 (S-2)</u>

<u>The MEAP</u>

The Act requires the DHHS to provide energy assistance through payment or partial payment of bills for electricity, natural gas, propane, heating, oil, or other heating fuels for eligible low-income households through MEAP. Currently, "eligible low-income household" means a household with a household income of not more than 150% of the Federal poverty guidelines. The bill would sunset this definition on September 30, 2025.

After October 1, 2025, "eligible low-income household would mean a household with a household income of not more than 60% of the State median income and whose electric utility did not opt-out of collecting low-income energy assistance funding factor.[1] "State median income" would mean the State median income promulgated by the Secretary of the United States Department of Health and Human Services in accordance with procedures established under Section 2002 of the Social Security Act[2] and adjusted, in accordance with regulations prescribed by the Secretary, to take into account the number of individuals in the household.

Generally, the Act requires energy assistance to include services that will enable participants to become or move towards self-sufficiency. This includes assisting participants in using energy services to optimize energy efficiency. The bill would delete this example. Instead, it would specify that, among other things, energy assistance could include referral to weatherization or energy waste reduction programs and services. Additionally, the bill would require the DHHS to notify participants that they were eligible for other services under the program, including energy waste reduction products and services offered by an energy provider or a home weatherization assistance program.

The bill also would require the DHHS to prioritize providing energy assistance to vulnerable populations. "Vulnerable population" would mean households experiencing energy insecurity that have at least one member that meets the following criteria:

-- A child under five years of age.
-- An individual with a disability.

[1] Under Public Act 3 of 1939, an electric utility, municipally owned electric utility, or cooperative electric utility may elect to not collect a low-income energy assistance funding factor by annually filing a notice with the MPSC by July 1. A utility that elects to not collect a low-income energy assistance funding factor cannot shut off service to any residential customer from November 1 to April 15 for nonpayment of a delinquent account.
[2] Generally, Section 2002 of the Social Security Act entitles each state to payment for each fiscal year in an amount equal to its allotment for that year, to be used by the state for services such as child care, transportation, family planning, counseling, and more.

-- An individual who was 60 years of age or older.
-- An individual who had experienced homelessness in the preceding 12 months and who needed energy assistance to secure housing.

The Act allows the DHHS to use funds from Federal energy assistance programs and any funds collected or appropriated to fund the MEAP. The DHHS can only use money from the Low-Income Energy Assistance Fund for energy assistance.

The Act allows the DHHS to use money in the Fund for the MEAP's crisis season, which begins on November 1 and ends on May 31 of each year. The Act specifies that up to 30% of the funds received for MEAP may be spent outside of the crisis season. The bill would delete these provisions.

The Act requires the DHHS to provide a report to the Legislature, the Senate and House appropriations subcommittees on the DHHS's budget, the Senate and House committees on issues related to energy, and the Senate and House Fiscal Agencies on how money from the MEAP is distributed. The bill would require, beginning with the program year starting on October 1, 2025, the annual report to be filed by March 1, 2027.

Additionally, the Act allows the DHHS, in consultation with the MPSC, to contract with an entity to provide energy assistance. An entity with which the DHHS contracts must use at least 92% of the funds received from the DHHS for energy assistance. An entity *may* use between 90% and 92% of the funds received for energy assistance upon approval from the DHHS. The bill would delete these provisions.

Instead, the bill would require the DHHS, in consultation with the MPSC, to set a minimum allocation of funds that would have to be used by entities with which the MPSC contracted. By October 1, 2025, the DHHS, in consultation with the MPSC, would have to provide guidelines on the provision of self-sufficiency services. Starting with the program year that began on October 1, 2026, the guidelines would have to be incorporated into performance metrics.

Guidelines

The bill would allow the DHHS to establish guidelines for verifying eligibility of all applicants to ensure assistance funds were provided only to eligible low-income households. In establishing such guidelines, the DHHS would have to consider opportunities to incorporate categorical eligibility. "Categorical eligibility" would mean policies that make a household eligible for energy assistance based on the household's involvement in other low-income assistance programs that used similar eligibility criteria.

The bill would *not* require an electric provider, natural gas provider, or other energy provider to verify eligibility of program applicants.

Additional Definitions

Currently, "crisis" means one of the following:

-- An individual or recipient has received a past due notice on an energy bill for his or her household.
-- A residential fuel tank is estimated to contain no more than 25% of its heating fuel capacity.
-- A stated need for deliverable fuel or a nontraditional fuel source in which there is no meter or regular energy bill provided.

-- A notice that the balance in a prepayment account is below a minimum account.

The bill would amend the definition to allow a residential fuel tank to qualify as a crisis if it were estimated to contain no more than 30% of its heating fuel capacity.

"Energy burden" would mean the percentage of annual household income required to pay a household's home energy bills including electricity and home heating. "Energy insecurity" would mean an energy burden above 6% of a household's annual income.

Senate Bill 880 (S-1)

Low-Income Energy Assistance Fund

Section 9t of the Act creates the Low-income Energy Assistance Fund within the State Treasury to provide energy assistance for low-income households. The DHHS, in consultation with the MPSC, must ensure that all money collected for the Fund from a geographic area is returned, to the extent possible, to that geographic area.

The bill would require the DHHS to ensure that the Fund was administered to promote all the following:

-- Statewide access to the MEAP, ensuring that funds collected from a specific geographic area were, to the extent possible, returned to eligible low-income customers in that specific geographic area.
-- Collaboration between the DHHS, the MPSC, energy providers, and entities that administered assistance programs to ensure that eligible low-income customers in a geographic area were receiving funds proportional to what customers in that geographic area were being assessed.
-- For energy providers and entities that administered assistance programs, education and outreach on availability of the assistance programs and funding.

Reporting Requirements

Beginning March 1, 2027, and by each subsequent March 1, the DHHS would have to provide to the House and Senate appropriations subcommittee for the DHHS budget and the House and Senate standing committees on energy a report that contained all the following information:

-- The distribution of money from the Fund across the State.
-- A summary of total funds received and assistance awarded for each county in the State.
-- A summary of the education, marketing, and outreach to improve the distribution of funds.

The bill would allow the DHHS to combine this report with the report required under Section 3 of the Michigan Energy Assistance Act. (Among other things, Section 3 requires the DHHS to provide a report to the Legislature, its committees described above, and the Senate and House Fiscal Agencies on how money from the MEAP is distributed.)

The bill also would require, beginning December 1, 2025, and by each subsequent December 1, the State Treasurer to report to the MPSC the total amount of money that was collected by the Fund and the remaining balance of the Fund from the immediately preceding fiscal year.

Low-Income Energy Assistance Funding Factor

Under the Act, the MPSC may, after an opportunity to comment, annually approve a low-income energy assistance funding factor (funding factor) by July 31 of each year for the subsequent fiscal year. The bill would change this date to May 1 of each year.

Currently, the funding factor must be the same across all customer classes and may not exceed $1. The amount used by the MPSC to calculate a funding factor during each fiscal year may not exceed $50.0 million minus the amount appropriated from the General Fund in that fiscal year for home energy assistance and the amount remaining in the Low-income Energy Assistance Fund from the prior fiscal year. An electric utility, municipally owned electric utility, or cooperative electric utility that collects money under the Act must remit that money to the State Treasurer for deposit in the Fund on a monthly basis within 30 days after the last day in each calendar month. The electric utility, municipally owned electric utility, or cooperative electric utility must list the funding factor as a separate line item on each customer's bill.

Under the bill, before its effective date, the funding factor could not exceed $1. Beginning on the bill's effective date, the MPSC could increase the funding factor to $1.25. The MPSC could further increase the funding factor by $0.25 each subsequent year; however, the funding factor could not exceed $2. The bill also would delete the cap on the amount used by the MPSC to calculate the funding factor.

Additionally, beginning in 2029 and each year thereafter, the MPSC would have to adjust the funding factor by the percentage increase in the United States Consumer Price Index for the immediately preceding calendar year.[3] If the remaining balance in the Low-Income Energy Assistance Fund reported by the MPSC were greater than 10% of the funds collected by the funding factor in the fiscal year for which the remaining balance was reported, the MPSC would have to set the funding factor at a rate at which the total funds collected would not exceed the total amount of funds collected by the funding factor minus the remaining balance reported.

Under the Act, an electric utility, municipally owned electric utility, or cooperative electric utility may elect to not collect a funding factor by annually filing a notice with the MPSC by July 1. The bill would limit the ability to opt-out of collecting a funding factor to an electric utility, municipally owned electric utility, or cooperative electric utility with less than 45,000 residential electric customers. Additionally, it would change the date by which a notice would have to be filed from July 1 to April 1. It would require the notice filed by a utility to include the total number of retail billing meters the utility served in the State that would be subject to the funding factor if the utility did not opt out. The utility would have to provide the number of retail billing meters to the MPSC as both a total of retail billing meters in the utility's service territory and a total of billing meters by county.

<u>Opting Out of Collecting a Funding Factor</u>

Currently, notwithstanding any other provision of the Act, an electric utility, municipally owned electric utility, or cooperate electric utility that elects to not collect a funding factor cannot shut off service to any residential customer from November 1 to April 15 for nonpayment of a delinquent account. The bill would delete this provision.

Instead, the bill would require an electric utility, municipally owned electric utility, or cooperative electric utility that opted out to establish and fund an energy assistance program for its residential customers that provided assistance to its residential customers for their electric and home heating needs consistent with the eligibility requirements of the MEAP. The utilities would have to ensure that the funds available for energy assistance programs established were sufficient to provide all eligible customers who applied, but the utility would not be required to spend more for an energy assistance program than what the utility would have collected from the funding factor if the utility did not opt out.

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[3] "Consumer Price Index" would mean the United States Consumer Price Index for all urban consumer as defined and reported by the United States Department of Labor, Bureau of Labor Statistics.

Beginning annually on October 1, 2025, an electric utility, municipally owned utility, or cooperate electric utility that opted out of collecting the funding factor would have to provide notice to its residential customers of available energy assistance provided by the utility. The notice would have to include a description of the program, eligibility guidelines, application information, and a statement that the utility's assistance program was offered instead of collecting the funding factor. The utility also would have to include information regarding the assistance program on its website.

Beginning annually on December 1, 2026, an electric utility, municipally owned utility, or cooperate electric utility that opted out of collecting the funding factor would have to submit a report that contained the following information:

-- The total amount of funds available for energy assistance for the utility's customers.
-- The total number of the utility's customers, by county, that applied for energy assistance through the utility program.
-- The total number of the utility's customers, by county, that received assistance.
-- The total amount of assistance awarded to the utility's customers, by county, including a description of the amount of assistance awarded for each home heating commodity.
-- Any other information the MPSC considered necessary to demonstrate compliance with this requirement.

The bill would allow the MPSC to develop a template that utilities could use to meet these reporting requirements.

The AG or a customer of a municipally owned utility or cooperative electric utility that opted out could commence a civil action for injunctive relief against the utility if that utility failed to meet these requirements. The AG or customer would have to commence an action in the circuit court for the county in which the principal office of the utility was located.

The AG or customer could not file an action unless the AG or customer had given the utility at least 60 days' written notice of the intent to sue, the basis for the suit, and the relief sought. Within 30 days after the utility received written notice of the intent to sue, the utility and the AG or customer would have to meet and make a good faith attempt to determine if there was a credible basis for the action. The bill would require the utility to take all reasonable and prudent steps necessary to comply with the applicable requirements within 90 days after the meeting if there was a credible basis for the action. If the parties did not agree as to whether there was a credible basis for the action, the AG or customer could proceed to file the suit. The bill would require the MPSC to ensure that an electric utility that opted out of collecting the funding factor complied with these requirements and could, after opportunity for a hearing, take steps to enforce them.

Senate Bill 881 (S-1)

Section 9t creates the Low-Income Energy Assistance Fund within the State Treasury, to provide energy assistance for low-income households. The DHHS, in consultation with the MPSC, must ensure that all money collected for the Fund from a geographic area is returned, to the extent possible, to that geographic area. The bill would require the MPSC to ensure that the Fund was administered to promote the provisions outlined in **Senate Bill 880 (S-1)**. The bill also would prescribe reporting requirements for the State Treasurer and the DHHS that aligned with those outlined in **Senate Bill 880 (S-1)**.

MCL 400.1232 (S.B. 353)
460.9t (S.B. 880)
460.9 (S.B. 881)

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

Senate Bill 353 (S-2)

The bill could have a significant fiscal impact on State government and possible indirect fiscal impact on some local units of government. As all the bills would increase the low-income energy assistance funding factor and allow the low-income energy assistance funding factor to collect more than $50.0 million, available State restricted revenue could increase.

Under the changes proposed in the bill, changing MEAP income threshold eligibility from 150% of Federal poverty guidelines to 60% of State median income eligibility threshold could result in an additional 335,161 households being eligible for assistance.

Table 1

Estimates of Household Size and Income Levels

Household Size	150% of FPL Income (2024)	Households at or under Income Level
1-person	$22,590	163,980
2-person	30,600	303,608
3-person	38,730	164,924
4-person	46,800	158,491
5-person	55,275	95,012
6-person	62,940	35,853
Total		**921,868**

Household Size	60% of State Median Income (2024)	Households at or under Income Level
1-person	$32,167	200,152
2-person	42,065	447,431
3-person	51,963	233,620
4-person	61,861	219,337
5-person	71,758	110,804
6-person	81,656	45,685
Total		**1,257,029**

Sources: United States Department of Health and Human Services – Office of the Assistance Secretary for Planning and Evaluation: HHS Poverty Guidelines for 2024, United States Department of Health and Human Services – Administration for Children and Families: State Median Income (SMI) by Household Size, United State Census Bureau: S1901 Income in the past 12 months – Michigan 2022 ACS 5-Year Estimate Detailed Tables, United State Census Bureau: B11016 Household Type by Household Size – Michigan 2022 ACS 5-Year Estimate Detailed Tables

Additionally, the annual report required by the bill could result in nominal costs for the DHHS.

Senate Bill 880 (S-1)

Because the bill would remove the $50.0 million annual limit on the amount that the low-income energy assistance funding factor may collect and would allow for annual increases to the low-income energy assistance funding factor monthly amount, the fiscal impact would depend on decisions made by the MPSC and future funding factor increases. The increases of State restricted revenue collection range from approximately $6.0 million annually up to $70.0 million annually.

Using calendar year 2023 customer data and the Fiscal Year 2024 low-income energy assistance funding factor, the MEAP program is projected to collect approximately $49.0

million as shown in Table 2. If the number of participating utility customers stayed constant, under Senate Bill 880 (S-1), the total increase estimated collection of State restricted funds could range from approximately $20.0 million ($1.25 funding factor) up to $60.0 million ($2.00 funding factor).

Table 3 shows an estimate of the potential growth in the funding factor and a 2% average growth in the MEAP low-income energy assistance funding factor customer base. Based on the changes to the funding factor proposed in the bill and the average annual growth of customers in participating utilities, the estimated increase in State restricted fund could be $70.0 million annually under a 2% annual customer growth rate and a $0.25 annual increase in the low-income energy assistance funding factor.

Senate Bill 881 (S-1)

The bill would have a minimal fiscal impact on the Department of Treasury and no fiscal impact on local units of government. The Department of Treasury would experience minimal additional costs to oversee the Low Income Energy Assistance Fund. Any additional costs would be within current appropriations.

Fiscal Analyst: John P. Maxwell
Nathan Leaman
Cory Savino, PhD

Table 2

Estimated Utility Low-Income Energy Assistance Funding Factor Collections								
Utilities and Customers			**Funding Factor**					
Utility Type	**Utility Name**	**Utility Customers Estimate (2023)**	**FY 2023-24 Funding Factor**	**Current Law Maximum**	**Potential Increases Under SB 880**			
			$0.88	$1.00	$1.25	$1.50	$1.75	$2.00
Cooperative	Alger Delta Cooperative Electric Association	10,343	$109,222	$124,116	$155,145	$217,203	$248,232	$109,222
Investor Owned	Alpena Power Company	17,960	$189,658	$215,520	$269,400	$377,160	$431,040	$189,658
Municipal	City of Bay City	20,200	$213,312	$242,400	$303,000	$424,200	$484,800	$213,312
Municipal	City of Crystal Falls	1,557	$16,442	$18,684	$23,355	$32,697	$37,368	$16,442
Municipal	City of Dowagiac	2,600	$27,456	$31,200	$39,000	$54,600	$62,400	$27,456
Municipal	City of Gladstone	3,122	$32,968	$37,464	$46,830	$65,562	$74,928	$32,968
Municipal	City of Hart	1,400	$14,784	$16,800	$21,000	$29,400	$33,600	$14,784
Municipal	City of Norway	2,065	$21,806	$24,780	$30,975	$43,365	$49,560	$21,806
Municipal	City of Petoskey	5,400	$57,024	$64,800	$81,000	$113,400	$129,600	$57,024
Municipal	City of St. Louis	1,980	$20,909	$23,760	$29,700	$41,580	$47,520	$20,909
Investor Owned	Consumers Energy	1,884,290	$19,898,102	$22,611,480	$28,264,350	$39,570,090	$45,222,960	$19,898,102
Municipal	Croswell Light & Power Department	1,400	$14,784	$16,800	$21,000	$29,400	$33,600	$14,784
Investor Owned	DTE Energy	2,266,460	$23,933,818	$27,197,520	$33,996,900	$47,595,660	$54,395,040	$23,933,818
Cooperative	Great Lakes Energy Cooperative	130,942	$1,382,748	$1,571,304	$1,964,130	$2,749,782	$3,142,608	$1,382,748
Municipal	Hillsdale Board of Public Utilities	6,000	$63,360	$72,000	$90,000	$126,000	$144,000	$63,360
Cooperative	HomeWorks Tri-County Electric Cooperative	26,989	$285,004	$323,868	$404,835	$566,769	$647,736	$285,004
Investor Owned	Indiana Michigan Power Company (AEP)	131,703	$1,390,784	$1,580,436	$1,975,545	$2,765,763	$3,160,872	$1,390,784
Municipal	Marshall Electric Department	4,500	$47,520	$54,000	$67,500	$94,500	$108,000	$47,520
Cooperative	Midwest Energy Cooperative	36,865	$389,294	$442,380	$552,975	$774,165	$884,760	$389,294
Municipal	Negaunee Department of Public Works	2,200	$23,232	$26,400	$33,000	$46,200	$52,800	$23,232
Municipal	Newberry Water & Light Board	1,400	$14,784	$16,800	$21,000	$29,400	$33,600	$14,784
Municipal	Niles Utilities Department	7,100	$74,976	$85,200	$106,500	$149,100	$170,400	$74,976

Table 2

Estimated Utility Low-Income Energy Assistance Funding Factor Collections								
Utilities and Customers			**Funding Factor**					
Utility Type	**Utility Name**	**Utility Customers Estimate (2023)**	**FY 2023-24 Funding Factor**	**Current Law Maximum**	**Potential Increases Under SB 880**			
Investor Owned	Northern States Power Company - Wisconsin (Xcel)	8,935	$94,354	$107,220	$134,025	$187,635	$214,440	$94,354
Cooperative	Presque Isle Electric & Gas Co-op	34,500	$364,320	$414,000	$517,500	$724,500	$828,000	$364,320
Cooperative	Thumb Electric Cooperative	12,200	$128,832	$146,400	$183,000	$256,200	$292,800	$128,832
Municipal	Union City Electric Department	1,500	$15,840	$18,000	$22,500	$31,500	$36,000	$15,840
Investor Owned	Upper Peninsula Power Company	53,484	$564,791	$641,808	$802,260	$1,123,164	$1,283,616	$564,791
Municipal	Village of Baraga	740	$7,814	$8,880	$11,100	$15,540	$17,760	$7,814
Totals......................................		**4,677,835**	**$49,397,938**	**$56,134,020**	**$70,167,525**	**$98,234,535**	**$112,268,040**	**$49,397,938**

Sources: Michigan Public Service Commission Report Form P-521 Annual Electric Utility Filing, Michigan Public Power Agency Municipal Data, and Citizen 2023 Edition of Citizens Utility Board: 2023 Edition Ranking Michigan Among the States

Table 3

Actual and Estimated Collections for Low-Income Energy Assistance Funding Factor FY 2018-19 through FY 2028-29											
	Actual					**Estimated**					
	FY2018-19	**FY2019-20**	**FY2020-21**	**FY2021-22**	**FY2022-23**	**FY2023-24**	**FY2024-25**	**FY2025-26**	**FY2026-27**	**FY2027-28**	**FY2028-29**
Funding Factor	$0.93	$0.92	$0.91	$0.87	$0.90	$0.88	$0.87	$1.25	$1.50	$1.75	$2.00
Average Customers	4,341,818	4,504,368	4.435,217	4,727,219	4,612,695	4,677,835	4,750,640	4,824,577	4,899,665	4,975,923	5,053,367
Collected Revenues	$48,454,690	$49,728,221	$48,432,573	$49,352,573	$49,819,101	$49,397,938	$49,596,678	$72,368,662	$88,193,987	$104,494,386	$121,280,812

Sources: Michigan Public Service Commission MEAP Annual Reports, State Accounting SIGMA Reporting System