

FINANCIAL IMPACT ESTIMATING CONFERENCE

INITIATIVE FINANCIAL INFORMATION STATEMENT SUMMARY

RIGHT TO COMPETITIVE ENERGY MARKET FOR CUSTOMERS OF INVESTOR-OWNED UTILITIES; ALLOWING ENERGY CHOICE (18-10)

The proposed amendment will require transition to a restructured electricity market that profoundly differs from the vertically integrated structure that is in place today. Under the current structure, each investor-owned utility can own and control its own power generation facilities, the transmission and distribution of its electricity, and sales to customers.

The specifics of the restructured system are left to the Legislature to determine after the passage of the amendment. At a minimum, the restructured system will require the design and development of:

- an organized wholesale market or participation in an existing wholesale market;
- requirements for divesting incumbent utility providers of generation assets and the treatment of any stranded assets;
- appropriate regulatory oversight and ownership of transmission and distribution facilities as well as service billing issues;
- the degree of oversight and requirements for retail sales providers;
- an appropriate array of consumer protections; and
- default electric service and back-up generation plans.

Each of these components has multiple sub-issues that also need to be addressed. Because key terms and relationships are undefined by the amendment and in current law—and since the interests of incumbent businesses are at stake—significant litigation and legal expenses are probable, regardless of the final legislative design.

Some parts of the restructured system will result in additional costs that do not exist today and will likely be significant. These include addressing the treatment of stranded assets, transition expenses and the mechanics of divestiture. While most of these costs may ultimately be recovered through additional charges on customer electric bills, some may have to be paid upfront by the State or another entity established for this purpose. More importantly, state and local governments are consumers of electricity like other customers and, as such, would directly bear any added expense of electric bills that are higher than they otherwise would be.

The economic theory underlying deregulation is that free market competition either drives down electric prices or staves off increases by providing incentives to keep down costs and pursue operational efficiencies. Academic and case studies of other states where restructuring has occurred are inconclusive with respect to the magnitude of the price change, its timing, and its direction. To the extent that charges for electricity decrease, state and local governments will experience lower electric bills. The converse is also true.

Compared to the effect on costs, price changes have the opposite budgetary effect from taxes that are based on price. For example, lower prices would lead to decreased Gross Receipts Tax revenue which is bonded for the construction of educational facilities; however, its current collection point (at distribution) will not work under the proposed structure. Legislation will be needed to address the structural changes; however, what the Legislature may do is unknown.

Another impact of the proposal is on local government franchise fees which are in part, based on consideration for the local government's agreement not to provide competing utility services. This part of the fee would be irrelevant under restructuring, and existing collections would be significantly reduced.