



Ohio Revised Code

Section 4911.18 Assessments - consumers' counsel operating fund.

Effective: June 30, 2005

Legislation: House Bill 66 - 126th General Assembly

(A) For the sole purpose of maintaining and administering the office of the consumers' counsel and exercising the powers of the consumers' counsel under this chapter, an amount equal to the appropriation to the office of the consumers' counsel in each fiscal year shall be apportioned among and assessed against each public utility within this state, as defined in section 4911.01 of the Revised Code, by first computing an assessment as though it were to be made in proportion to the intrastate gross earnings or receipts of the public utility for the calendar year next preceding that in which the assessment is made, excluding earnings or receipts from sales to other public utilities for resale. The office may include in that first computation any amount of a public utility's intrastate gross earnings or receipts underreported in a prior year. In addition to whatever penalties apply under the Revised Code to such underreporting, the office shall assess the public utility interest at the rate stated in division (A) of section 1343.01 of the Revised Code. The office shall deposit any interest so collected into the consumers' counsel operating fund. The office may exclude from that first computation any such amounts that were over-reported in a prior year.

The final computation of the assessment shall consist of imposing upon each public utility whose assessment under the first computation would have been one hundred dollars or less an assessment of one hundred dollars and recomputing the assessment of the remaining companies by apportioning an amount equal to the appropriation to the office of consumers' counsel in each fiscal year less the total amount to be recovered from those paying the minimum assessment, in proportion to the intrastate gross earnings or receipts of the remaining companies for the calendar year next preceding that in which the assessments are made, excluding earnings or receipts from sales to other public utilities for resale.

In the case of an assessment based on intrastate gross receipts under this section against a public utility that is an electric utility as defined in section 4928.01 of the Revised Code, or an electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code, such receipts shall be those specified in the utility's, company's, cooperative's, or aggregator's most recent report of intrastate gross receipts and sales of



kilowatt hours of electricity, filed with the public utilities commission pursuant to division (F) of section 4928.06 of the Revised Code, and verified by the commission.

In the case of an assessment based on intrastate gross receipts under this section against a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code, such receipts shall be those specified in the supplier's or aggregator's most recent report of intrastate gross receipts and sales of hundred cubic feet of natural gas, filed with the commission pursuant to division (B) of section 4929.23 of the Revised Code, and verified by the commission. However, no such retail natural gas supplier or such governmental aggregator serving or proposing to serve customers of a particular natural gas company, as defined in section 4929.01 of the Revised Code, shall be assessed under this section until after the commission, pursuant to section 4905.26 or 4909.18 of the Revised Code, has removed from the base rates of the natural gas company the amount of assessment under this section that is attributable to the value of commodity sales service, as defined in section 4929.01 of the Revised Code, in the base rates paid by those customers of the company that do not purchase that service from the natural gas company.

(B) Through calendar year 2005, on or before the first day of October in each year, the office of consumers' counsel shall notify each public utility of the sum assessed against it, whereupon payment shall be made to the counsel, who shall deposit it into the state treasury to the credit of the consumers' counsel operating fund, which is hereby created. Beginning in calendar year 2006, on or before the fifteenth day of May in each year, the consumers' counsel shall notify each public utility that had a sum assessed against it for the current fiscal year of more than one thousand dollars that fifty per cent of that amount shall be paid to the consumers' counsel by the twentieth day of June of that year as an initial payment of the assessment against the company for the next fiscal year. On or before the first day of October in each year, the consumers' counsel shall make a final determination of the sum of the assessment against each public utility and shall notify each public utility of the sum assessed against it. The consumers' counsel shall deduct from the assessment for each public utility any initial payment received. Payment of the assessment shall be made to the consumers' counsel by the first day of November of that year. The consumers' counsel shall deposit the payments received into the state treasury to the credit of the consumers' counsel operating fund. Any such amounts paid into the fund but not expended by the office shall be credited ratably by the office to the public utilities that pay more than the minimum assessment, according to the respective portions of such sum assessable against them for the ensuing fiscal year, after first deducting any deficits accumulated



from prior years. The assessments for such fiscal year shall be reduced correspondingly.

(C) Within five days after the beginning of each fiscal year through fiscal year 2006, the director of budget and management shall transfer from the general revenue fund to the consumers' counsel operating fund an amount sufficient for maintaining and administering the office of the consumers' counsel and exercising the powers of the consumers' counsel under this chapter during the first four months of the fiscal year. Not later than the thirty-first day of December of the fiscal year, the same amount shall be transferred back to the general revenue fund from the consumers' counsel operating fund.

(D) As used in this section, "public utility" includes:

(1) In addition to an electric utility as defined in section 4928.01 of the Revised Code, an electric services company, an electric cooperative, or a governmental aggregator subject to certification under section 4928.08 of the Revised Code, to the extent of the company's, cooperative's, or aggregator's engagement in the business of supplying or arranging for the supply in this state of any retail electric service for which it must be so certified;

(2) In addition to a natural gas company as defined in section 4929.01 of the Revised Code, a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code, to the extent of the supplier's or aggregator's engagement in the business of supplying or arranging for the supply in this state of any competitive retail natural gas service for which it must be certified.