

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1591 Session of  
1975

INTRODUCED BY WAGNER, M. E. MILLER, JR., HASKELL, ANDERSON,  
SPENCER AND GLEASON, JULY 2, 1975

REFERRED TO COMMITTEE ON FINANCE, JULY 7, 1975

AN ACT

1 To provide for the levying of an emergency tax on electricity  
2 generated in the Commonwealth, creating the Electric Utility  
3 Service Assistance Fund and providing for electric utility  
4 service assistance to certain senior citizens and permanently  
5 disabled persons with limited income; establishing uniform  
6 standards and qualifications to receive assistance; and  
7 imposing powers and duties upon the Department of Revenue.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Short Title.--This act shall be known and may be  
11 cited as the "Emergency Electrical Energy Tax Act."

12 Section 2. Declaration of Policy.--In recognition of the  
13 severe economic plight of certain senior citizens and  
14 permanently disabled persons with limited incomes who are faced  
15 with rising living costs and increasing utility bills, there is  
16 hereby levied an emergency electric energy tax and enacted a  
17 concomitant program of electric service assistance which will  
18 relieve such citizens of a portion of their increased burden of  
19 electric utility charges.

20 Section 3. Definitions.--As used in this act:

"Claimant" means a person who files a claim for electric utility service assistance and who is:

(1) sixty-five years of age or over or whose spouse (if a member of the household) is 65 years of age or over; or

(2) a permanently disabled person, during a calendar year or part thereof in which bills for electric service were due and payable. Permanent disability shall be determined with reference to disability benefits received from an agency of the United States Government, the Commonwealth or a political subdivision of the Commonwealth, or by examination of a physician designated by the department and such status determined using the same standards used by the Federal Social Security Administration.

"Department" means the Pennsylvania Department of Revenue.

"Electricity" includes electrical energy and electrical power.

"Emergency" is considered to continue until the total price per kilowatt hour of electric energy returns to the level that prevailed in September, 1973.

"Generation" includes manufacture and production.

"Household income" means all income received by the claimant and his spouse.

"Income" means all income from whatever source derived, including but not limited to salaries, wages, bonuses, commissions, income from self-employment, alimony, support money, cash public assistance and relief, the gross amount of any pensions or annuities including railroad retirement benefits, all benefits received under the Federal Social Security Act (except Medicare benefits), all benefits received under State unemployment insurance laws and veterans' disability payments, all interest received from the Federal or any State

1 government, or any instrumentality or political subdivision  
2 thereof, realized capital gains, rentals, workmen's compensation  
3 and the gross amount of loss of time insurance benefits, life  
4 insurance benefits and proceeds (except the first \$5,000 of the  
5 total of death benefit payments), and gifts of cash or property  
6 (other than transfers by gift between members of a household) in  
7 excess of a total value of \$300, but shall not include surplus  
8 food or other relief in kind supplied by a governmental agency  
9 or real property tax assistance.

10 "Sale" means selling or transferring to any person for  
11 consumption, use or resale and includes barter and exchange.

12 Section 4. Imposition of Tax.--(a) For the privilege of  
13 generating electricity in this Commonwealth for the purpose of  
14 sale, whether the sale takes place in this State or outside the  
15 State, there is imposed on any person generating electricity an  
16 emergency tax of four tenths of one mill (\$.0004) on each net  
17 kilowatt hour of electricity generated in Pennsylvania.

18 (b) The tax imposed by this section shall be referred to as  
19 the electrical energy tax.

20 Section 5. Measurement and Recording of Kilowatt Hours of  
21 Electricity.--Persons subject to the imposition of the  
22 electrical energy tax shall maintain accurate measuring devices  
23 and records to measure and record the daily and cumulative  
24 monthly and yearly totals of kilowatt hours of electricity  
25 generated or distributed in this State.

26 Section 6. Reports; Remittances.--Every person subject to  
27 the imposition of the electrical energy tax shall file a return  
28 under oath or affirmation on forms provided by and with the  
29 information required by the department and shall pay the tax due  
30 annually on or before April 15 for the preceding calendar year.

1 The time for filing returns may be extended, estimated  
2 settlements may be made by the Department of Revenue if returns  
3 are not filed, and the penalties for failing to file returns  
4 and pay the tax shall be as prescribed by the laws defining the  
5 powers and duties of the Department of Revenue.

6 Section 7. Relief from other Taxes.--Unless otherwise  
7 specified by statute the imposition of the electrical energy tax  
8 shall not act to relieve any person from any other tax levied by  
9 the Commonwealth.

10 Section 8. Receipts; Disbursements; Distribution.--All money  
11 received by the department shall be deposited in a Electric  
12 Utility Service Assistance Fund which is hereby created. All  
13 moneys in the fund shall be allocated for the purpose of  
14 providing Electric Utility Service Assistance pursuant to  
15 subsequent provisions as provided in this act.

16 Section 9. Credit; Gross Receipts Tax.--(a) If on  
17 electricity generated outside the Commonwealth and consumed in  
18 the Commonwealth, an electrical energy tax or similar tax on  
19 such generation has been levied by another state on political  
20 subdivisions thereof, the tax paid may be credited against the  
21 gross receipts tax due the Commonwealth of Pennsylvania in an  
22 amount no more than the electrical energy tax levied in  
23 Pennsylvania.

24 (b) On electricity generated inside this Commonwealth and  
25 consumed inside this Commonwealth which is subject to the  
26 electrical energy tax, the amount of such tax paid may be  
27 credited against the gross receipts tax due the Commonwealth.

28 (c) The credit under subsections (a) and (b) is given to the  
29 person liable for the gross receipts tax.

30 Section 10. Electric Utility Service Assistance.--(a) The

amount of any claim for electric utility service assistance for electric energy bills due and payable during the six months beginning July 1, 1975 and thereafter for each calendar year shall be determined in accordance with the following schedule:

Household Income	Refund of Claim
0 to 2,995	100%
3,000 to 3,499	90%
3,500 to 3,999	80%
4,000 to 4,499	70%
4,500 to 4,999	60%
5,000 to 5,499	50%
5,500 to 5,999	40%
6,000 to 6,499	30%
6,500 to 6,999	20%
7,000 to 7,499	10%

(b) No claim paid under this act shall exceed the sum of \$200 in any given year.

(c) If the claimant is a surviving spouse who remarries, the department shall apportion the electric utility service assistance for which a claim has been filed, in accordance with the period of time the surviving spouse remained unmarried during the calendar year.

(d) If the claimant is a "permanently disabled person" who is no longer disabled, the department shall apportion the electric utility service assistance for which the claimant qualified as a "permanently disabled person" during the calendar year.

(e) For a claimant who has received public assistance during the calendar year for which the claim for electric service assistance is made, there shall be subtracted from the claim the

1 amount allowed in the assistance grant for electricity.

2 Section 11. Filing of Claim.--A claim for electric service  
3 assistance shall be filed with the department on or before June  
4 30 of the year next succeeding the end of the calendar year in  
5 which electric service bills were due and payable. No  
6 reimbursement on any such claim shall be made from the Electric  
7 Energy Assistance Fund earlier than September 15 of the same  
8 year. Only one claimant from a household each year shall be  
9 entitled to electric service assistance. If two or more persons  
10 are able to meet the qualifications for a claimant, they may  
11 determine who the claimant shall be. If they are unable to  
12 agree, the department shall determine to whom assistance is to  
13 be paid.

14 Section 12. Proof of claim.--(a) Each claim shall include  
15 reasonable proof of household income and the receipted bills for  
16 electric utility service during the calendar year, or other  
17 proof that the amounts billed for electric utility service have  
18 been paid.

19 (b) Proof that a claimant is eligible to receive disability  
20 benefits under the Federal Social Security Act shall constitute  
21 proof of disability under this act. It shall not be necessary  
22 that the bills for electric utility service were paid by the  
23 claimant provided that the bills have been paid when the claim  
24 is filed. The first claim filed shall include proof that the  
25 claimant or his spouse was age 65 or over during the calendar  
26 year in which the electric service bills were due and payable.

27 Section 13. Incorrect Claim.--Whenever on audit of any  
28 claim, the department finds the claim to have been incorrectly  
29 determined, it shall redetermine the correct amount of the claim  
30 and notify the claimant of the reason of the redetermination and

1 the amount of the corrected claim.

2 Section 14. Claim Forms; Rules and Regulations.--The  
3 department shall prescribe necessary rules and regulations and  
4 shall make available suitable forms for filing a claim.

5 Section 15. Fraudulent Claim; Conveyance to Obtain  
6 Benefits.--In any case in which a claim is excessive and was  
7 filed with fraudulent intent, the claim shall be disallowed in  
8 full and a penalty of 25% of the amount claimed shall be  
9 imposed. The penalty and the amount of the disallowed claim, if  
10 the claim has been paid, shall bear interest at the rate of one-  
11 half of one percent per month from the date of the claim until  
12 repaid. The claimant and any person who assisted in the  
13 preparation or filing of a fraudulent claim shall be guilty of a  
14 misdemeanor, and, upon conviction thereof, shall be sentenced to  
15 pay a fine not exceeding \$1,000 or undergo imprisonment not  
16 exceeding one year, or both.

17 Section 16. Petition for Redetermination.--(a) Any claimant  
18 whose claim for electric utility service assistance is either  
19 denied, corrected or otherwise adversely affected by the  
20 department, may file with the department a petition for  
21 redetermination on forms supplied by the department within 90  
22 days after the date of mailing of written notice by the  
23 department of such action. Such petition shall set forth the  
24 grounds upon which claimant alleges that such departmental  
25 action is erroneous or unlawful, in whole or part, and shall be  
26 accompanied by an affidavit or affirmation that the facts  
27 contained therein are true and correct. An extension of time for  
28 filing the petition may be allowed for cause but not to exceed  
29 120 days. The department shall hold such hearings as may be  
30 necessary for the purpose of redetermination, and each claimant

1 who has duly filed such petition for redetermination shall be  
2 notified by the department of the time when, and the place  
3 where, such hearing in his case will be held.

4 (b) It shall be the duty of the department, within six  
5 months after receiving a filed petition for redetermination, to  
6 dispose of the matters raised by such petition and mail notice  
7 of the department's decision to the claimant.

8 Section 17. Review by Board of Finance and Revenue.--Within  
9 90 days after the date of official receipt by the claimant of  
10 notice mailed by the department of its decision on any petition  
11 for redetermination filed with it, the claimant who is adversely  
12 affected by such decision may by petition request the Board of  
13 Finance and Revenue to review such action. The failure of the  
14 department to notify officially the claimant of a decision  
15 within the six-months' period provided for by section 10 shall  
16 act as a denial of such petition, and a petition for review may  
17 be filed with the Board of Finance and Revenue within 120 days  
18 after written notice is officially received by the claimant that  
19 the department has failed to dispose of the petition within the  
20 six-months' period prescribed by section 16. Every petition for  
21 redetermination filed hereunder shall state the reasons upon  
22 which the claimant relies, or shall incorporate by reference the  
23 petition for redetermination in which such reasons shall have  
24 been stated. The petition shall be supported by affidavit that  
25 the facts set forth therein are correct and true. The Board of  
26 Finance and Revenue shall act in disposition of such petitions  
27 filed with it within six months after they have been received,  
28 and in the event of failure of said board to dispose of any such  
29 petition within six months, the action taken by the department  
30 upon the petition for redetermination shall be deemed sustained.



1 The Board of Finance and Revenue may sustain the action taken by  
2 the department on the petition for redetermination or it may  
3 take such other action as it shall deem is necessary and  
4 consistent with provisions of this act. Notice of the action of  
5 the Board of Finance and Revenue shall be given by mail to the  
6 department and to the claimant.

7 Section 18. Appeal to the Commonwealth Court.--Any claimant,  
8 aggrieved by the decision of the Board of Finance and Revenue  
9 may, within 30 days, after receipt by claimant of official board  
10 notice appeal to the Commonwealth Court from the decision of the  
11 Board of Finance and Revenue, in the manner now or hereafter  
12 provided by law for appeals from decisions of said board in tax  
13 cases.

14 Section 19. Legislative Intent.--It is the intent of the  
15 legislature that this entire act be considered not severable,  
16 and should any part hereof be declared unconstitutional, the  
17 entire act shall be declared void.

18 Section 20. Effective Date.--This act shall take effect  
19 immediately and shall be retroactive to July 1, 1975.