

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1991 Session of 2011

INTRODUCED BY CUTLER, WATERS, AUMENT, BAKER, BOBACK, V. BROWN, CLYMER, CREIGHTON, DALEY, FARRY, FLECK, GABLER, GEIST, GINGRICH, GROVE, HARHAI, HELM, HESS, HICKERNELL, KAUFFMAN, KILLION, MAJOR, MILLARD, MILLER, MULLERY, PICKETT, PYLE, REED, REICHLEY, SAYLOR, SONNEY, STERN, SWANGER, TOEPEL, VULAKOVICH AND WATSON, NOVEMBER 16, 2011

REFERRED TO COMMITTEE ON HEALTH, NOVEMBER 16, 2011

AN ACT

1 Amending the act of July 10, 1986 (P.L.1398, No.122), entitled  
2 "An act establishing a special fund for moneys received by  
3 the Commonwealth from resolution of oil overcharge matters;  
4 designating certain low-income energy conservation and  
5 assistance programs for funding from this special fund; and  
6 making appropriations," further providing for definitions;  
7 providing for verification and assistance amounts and for  
8 fraud reporting to Inspector General; further providing for  
9 weatherization and energy conservation; providing for  
10 performance audits by the Auditor General; and making  
11 editorial changes.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. The definition of "energy conservation and  
15 assistance programs" in section 3 of the act of July 10, 1986  
16 (P.L.1398, No.122), known as the Energy Conservation and  
17 Assistance Act, amended July 9, 1987 (P.L.235, No.42), is  
18 amended to read:

19 Section 3. Definitions.

20 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Energy conservation and assistance programs." Includes any  
4 of the following:

5 (1) The programs established under Part D of Title III  
6 of the Energy Policy and Conservation Act (Public Law 94-163,  
7 42 U.S.C. § 6321 et seq.), providing for state energy  
8 conservation programs.

9 (2) The programs established under Part G of Title III  
10 of the Energy Policy and Conservation Act, providing for  
11 energy conservation investments in schools and hospitals.

12 (3) The programs established under the National Energy  
13 Extension Service Act (Public Law 95-39, 42 U.S.C. § 7001 et  
14 seq.), providing for, inter alia, energy conservation  
15 outreach programs to small businesses and individual  
16 consumers.

17 (4) The programs established under the Low-Income Home  
18 Energy Assistance Act of 1981 (Public Law 97-35, 42 U.S.C. §  
19 8621 et seq.), providing for energy assistance and  
20 weatherization assistance to low-income households.

21 (5) The programs established under Part A of the Energy  
22 Conservation in Existing Buildings Act of 1976 (Public Law  
23 94-385, 42 U.S.C. § 6851 et seq.), establishing the Low  
24 Income Weatherization Program.

25 (6) The programs established by the Governor's Energy  
26 Council [which] and now administered by the Department of  
27 Environmental Protection to promote energy conservation and  
28 energy development, in compliance with the terms and  
29 conditions of oil overcharge settlement agreements, oil  
30 overcharge orders issued by the courts or the Department of

1 Energy or fund distribution requirements of the Department of  
2 Energy.

3 \* \* \*

4 Section 2. Section 5(c) of the act, amended July 9, 1987  
5 (P.L.235, No.42), is amended to read:

6 Section 5. Supplemental low-income energy conservation and  
7 assistance programs.

8 \* \* \*

9 (c) Administration of programs.--The programs established in  
10 subsection (a) shall be administered as follows:

11 (1) The Pennsylvania Supplemental Low-Income  
12 Weatherization Program established in subsection (a)(1) shall  
13 be administered by the Department of Community [Affairs] and  
14 Economic Development as a part of the programs authorized  
15 under the Low-Income Home Energy Assistance Act of 1981  
16 (Public Law 97-35, 42 U.S.C. § 8621 et seq.) or the Energy  
17 Conservation in Existing Buildings Act of 1976 (Public Law  
18 94-385, 42 U.S.C. § 6851 et seq.). Community action agencies,  
19 existing low-income weatherization providers or other county,  
20 municipal or nonprofit corporations may apply for a portion  
21 of these funds. The Department of Community [Affairs] and  
22 Economic Development shall establish regulations necessary  
23 for administering this program consistent with the  
24 requirements of section 6.

25 (2) (i) The Pennsylvania Supplemental Low-Income Energy  
26 Assistance Program established in subsection (a)(2) shall  
27 be administered by the Department of Public Welfare as  
28 part of the program authorized under the Low-Income Home  
29 Energy Assistance Act of 1981. The Department of Public  
30 Welfare shall establish regulations necessary for

administering this program.

(ii) The Department of Public Welfare shall provide the General Assembly with an annual report, which shall include an independent audit, not later than September 30 of each year, covering all expenditures made in administering this program.

Section 3. The act is amended by adding sections to read:

Section 5.1. Verification and assistance amounts.

(a) Energy assistance.--The Department of Public Welfare shall verify the income eligibility of recipients receiving energy assistance through the programs set forth in paragraph (4) of the definition of "energy conservation and assistance programs" in section 3 and the program established in section 5(a)(2) in accordance with the verification procedures in sections 432.19 and 432.23 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, unless otherwise prohibited by Federal law.

(b) Weatherization services.--The Department of Community and Economic Development shall verify the income eligibility of recipients receiving weatherization services through the programs set forth in paragraphs (4) and (5) of the definition of "energy conservation and assistance programs" in section 3 and the program established in section 5(a)(1) in accordance with the verification procedures in sections 432.19 and 432.23 of the Public Welfare Code, unless otherwise prohibited by Federal law.

(c) Offset.--The Department of Community and Economic Development shall determine the increased efficiency gained from weatherization services provided to an individual eligible for energy assistance who has previously received weatherization

1 services. The Department of Public Welfare shall reduce the  
2 individual's energy assistance amount accordingly.

3 Section 5.2. Fraud reporting to the Office of Inspector  
4 General.

5 (a) Duty of employee and contractor.--If an employee or  
6 contractor of an energy conservation and assistance program has  
7 reason to believe a recipient of or applicant for weatherization  
8 services or energy assistance is committing fraud or providing  
9 false information in order to receive weatherization services or  
10 energy assistance, the employee or contractor shall make a fraud  
11 report directly to the Office of Inspector General.

12 (b) Duty of applicant and recipient.--If a recipient of or  
13 applicant for energy assistance or weatherization services has  
14 reason to believe an employee or contractor of an energy  
15 conservation and assistance program is committing fraud, the  
16 applicant or recipient shall make a fraud report directly to the  
17 Office of Inspector General.

18 (c) Sanctions.--The employee, contractor, applicant or  
19 recipient shall not be subject to any sanctions for making a  
20 fraud report.

21 Section 4. Section 6 of the act is amended to read:

22 Section 6. Weatherization and energy conservation.

23 (a) Establishment of Statewide Weatherization and Energy  
24 Conservation Policy Council.--A Statewide Weatherization and  
25 Energy Conservation Policy Council is hereby created and shall  
26 have the responsibility of advising the Department of Community  
27 [Affairs] and Economic Development on matters of policy related  
28 to the development and implementation of this program. The  
29 council shall establish bylaws governing its activities and  
30 shall assume all responsibilities associated with the existing

1 Policy Advisory Council required by the Department of Energy.  
2 Members of the council shall be appointed by the Secretary of  
3 the Department of Community [Affairs] and Economic Development.

4 (b) Approval of Statewide plan.--The council must approve  
5 the Statewide plan each year prior to the expenditure of any  
6 funds under this section.

7 (c) Members of council.--The council shall include  
8 representatives of gas and electric utilities, rural electric  
9 cooperatives, municipal electric systems, heating oil dealers,  
10 eligible participants in the program, weatherization providers,  
11 energy advocacy groups, social service agencies and senior  
12 citizen organizations. Representatives serving on the council  
13 shall constitute a reasonable and fair geographic distribution  
14 of utility, service agency and other members.

15 (d) Annual report to General Assembly.--The Statewide  
16 Weatherization and Energy Conservation Policy Council shall  
17 submit an annual report to the General Assembly on or before  
18 September 30 of each year summarizing and evaluating the  
19 expenditure of funds under this section during the previous  
20 State fiscal year. Such a report shall include, but not be  
21 limited to, a summary of program and administrative  
22 expenditures, the number of households served, the average  
23 investment per home, an estimate of energy savings, the number  
24 of applicants and any other relevant information the council  
25 deems appropriate. All such information shall be by county,  
26 where appropriate. In addition, the report shall contain  
27 recommendations to the General Assembly for improvements in the  
28 weatherization program.

29 (e) Coordination of activities.--Activities supported under  
30 this act shall be coordinated with other Federal, State, local

1 and privately funded programs in order to avoid duplication of  
2 effort and promote integration with other conservation and  
3 energy assistance programs. Such coordination shall include, but  
4 not be limited to, the establishment, by interagency agreement  
5 or otherwise, of a joint policy advisory council to ensure that  
6 energy assistance and weatherization assistance benefits are  
7 delivered in an effective manner.

8 (f) Administrative and program efficiency.--All  
9 administrative and programmatic requirements shall be  
10 streamlined to the greatest extent possible and shall be  
11 structured so as to reinforce the quality and productivity of  
12 conservation work performed.

13 (g) Energy education.--Up to 5% of the allocation to each  
14 grantee may be utilized for energy education, which shall  
15 include the instruction and demonstration in the home, at the  
16 time the work is performed, of behavior and skills necessary to  
17 effectively utilize and preserve the energy conservation  
18 measures involved and adopt sound conservation practices in  
19 daily lifestyle, as well as the provision of written educational  
20 materials and the development of instructional aids and  
21 followup.

22 (h) Program support cost.--No more than 150% of the  
23 Statewide average in any fiscal year of the cost of materials  
24 shall be provided for program support costs, including, but not  
25 limited to, labor, tools, insurance, supervision, eligibility  
26 determinations, recordkeeping, audit, rent and utilities.  
27 Grantees may request waivers of this subsection from the  
28 Statewide Weatherization and Energy Conservation Policy Council  
29 in appropriate circumstances, including, but not limited to,  
30 programmatic and administrative expenditures attributed to cost-

1 effective and innovative weatherization and conservation  
2 technologies.

3 (i) Advance payment.--An advance payment of one-sixth of the  
4 total contract shall be provided on the effective date of each  
5 contract. This amount shall be reduced by deducting one-twelfth  
6 of the advanced amount from each monthly invoice. All funds  
7 shall be disbursed to grantees and their subcontractors in a  
8 timely fashion so as to promote continuity and productivity of  
9 program and staff.

10 (j) Inventory.--Each local program operator shall be allowed  
11 funds to enable the maintenance of an inventory equal to 5% of  
12 the total contract throughout the period of the contract.

13 (k) Reallocation of funds.--In order to ensure the maximum  
14 utilization of all funds, the Department of Community [Affairs]  
15 and Economic Development shall conduct and complete an  
16 evaluation of all grantee spending by [December 1] May 15 of  
17 each year and submit its evaluation to the Auditor General.  
18 Grantees which are spending at a level of at least 10% less than  
19 projected shall have such underexpenditures in excess of 10%  
20 deducted from the annual contract. Such funds shall be  
21 reallocated, forthwith, to other grantees able to utilize the  
22 funds during the contract period.

23 (l) Quality control monitoring and evaluation.--The  
24 department shall institute regulations, procedures and studies  
25 to the following ends:

26 (1) To ensure that only measures of high cost  
27 effectiveness consistent with priorities established by an  
28 energy audit have been installed.

29 (2) To ensure that the material quality and labor  
30 associated with the installation of all measures equals or



1 exceeds, where applicable, prevailing industry standards and  
2 is sufficiently high to make the measures fully effective.

3 (3) To evaluate, with the cooperation of utilities and  
4 fuel vendors, and with the consent of the recipient  
5 household, fuel consumption before and after treatment in a  
6 minimum of 5% of the buildings weatherized with major  
7 measures by each contractor. In addition to fuel savings, the  
8 household shall be evaluated with respect to any enhanced  
9 ability to pay or increased comfort. Local grantees shall be  
10 required to conduct an independent review of any household  
11 which does not show reduced usage or increased comfort and  
12 provide an explanation to the department. Any evaluations  
13 conducted pursuant to this paragraph shall be performed by a  
14 qualified independent organization which shall be chosen by  
15 the Statewide Weatherization and Energy Conservation Policy  
16 Council in accordance with bidding and selection criteria  
17 developed by the Department of Community [Affairs] and  
18 Economic Development. Any evaluation shall also include the  
19 effectiveness of any energy education component associated  
20 with the weatherization activity.

21 (4) To ensure that an independent audit is performed  
22 annually for each grantee organization.

23 (5) To ensure that sufficient funds for research and  
24 development shall be available to review and evaluate  
25 specific technologies, installation procedures or other  
26 aspects of the program, including training and technical  
27 assistance, as may be necessary to ensure maximum energy  
28 savings and to improve the cost-effectiveness of the program.

29 (m) Audit.--The Legislative Budget and Finance Committee  
30 shall conduct a performance audit of the Pennsylvania

1 Weatherization Program as administered prior to the effective  
2 date of this act by the Department of Community Affairs. The  
3 committee shall conduct such inquiries as it deems necessary,  
4 including, but not limited to, obtaining interviews with  
5 provider agencies and program recipients, with administrators  
6 within the Department of Public Welfare, the Department of  
7 Community Affairs, the Pennsylvania Public Utility Commission  
8 and the Weatherization Policy Advisory Council of the Department  
9 of Community Affairs, and with such other persons and entities  
10 as it deems necessary. The committee shall present to the  
11 General Assembly findings and recommendations for programmatic  
12 improvements within one year of the effective date of this act.

13 Section 5. The act is amended by adding a section to read:

14 Section 6.1. Powers and duties of Auditor General.

15 (a) Conduct of performance audit.--The Auditor General shall  
16 conduct a thorough performance audit of the programs set forth  
17 in paragraphs (4) and (5) of the definition of "energy  
18 conservation and assistance programs" in section 3 and the  
19 programs created in section 5(a)(1) and (2) which shall be  
20 completed within one year after the effective date of this  
21 section. Thereafter, the Auditor General shall conduct such  
22 performance audits at intervals of not greater than five years  
23 from the date of completing the immediately preceding  
24 performance audit required under this subsection. The  
25 departments and individuals administering the programs being  
26 audited under this section shall make all records, documents and  
27 other information available for the inspection of the Auditor  
28 General that reasonably relate to the conduct of the performance  
29 audit prescribed in this section.

30 (b) Content of audit.--The audit shall address in detail the

1 adequacy of the performance with respect to each of the  
2 administrative and regulatory activities and shall make detailed  
3 recommendations to the department, each local office,  
4 contractors, the Governor and the General Assembly for remedial  
5 and regulatory changes in the program that will further the  
6 purposes of this act.

7 (c) Transmission of audit reports and public access.--A copy  
8 of each performance audit conducted pursuant to subsection (a)  
9 shall be transmitted to the Department of Public Welfare, the  
10 Department of Community and Economic Development, the Governor,  
11 the Office of Inspector General, the Attorney General, the  
12 chairman and minority chairman of the Appropriations Committee  
13 of the Senate, the chairman and minority chairman of the  
14 Appropriations Committee of the House of Representatives, the  
15 chairman and minority chairman of the Public Health and Welfare  
16 Committee of the Senate and the chairman and minority chairman  
17 of the Health Committee of the House of Representatives. A copy  
18 of the performance audit shall be published as a notice in the  
19 Pennsylvania Bulletin.

20 (d) Transmission of information related to fraudulent  
21 activities.--The Auditor General shall transmit any information  
22 uncovered during the conduct of the performance audit relating  
23 to fraud to the Department of Public Welfare, each local office,  
24 the Attorney General and the Office of Inspector General.

25 Section 6. Section 7(a) of the act, amended July 9, 1987  
26 (P.L.235, No.42), is amended to read:  
27 Section 7. Administration of certain energy conservation and  
28 assistance programs.

29 (a) [Governor's Energy Council] Duties of Department of  
30 Environmental Protection.--The energy conservation and

1 assistance programs set forth in paragraphs (1), (2), (3) and  
2 (6) of the definition of "energy conservation and assistance  
3 programs" in section 3 shall be administered by the [Governor's  
4 Energy Council] Department of Environmental Protection. The  
5 [council] Department of Environmental Protection shall establish  
6 regulations necessary for administering these programs.

7 \* \* \*

8 Section 7. Section 8.1 of the act, added December 12, 1986  
9 (P.L.1583, No.173), is amended to read:

10 Section 8.1. Limited grants for resource recovery projects.

11 (a) General rule.--Pursuant to the programs set forth in  
12 section 3(1), there is hereby established within the Department  
13 of Environmental [Resources] Protection a limited grant program  
14 as part of the State Energy Conservation Plan to assist  
15 municipalities in developing resource recovery projects.  
16 Consistent with Federal law and regulations, including those  
17 governing State energy conservation plans, and departmental  
18 regulations, the program shall provide grants which cover up to  
19 75% of the following:

20 (1) Costs associated with feasibility studies.

21 (2) Costs associated with project development activity.

22 No grant funds shall be used to cover in any manner any  
23 construction costs incurred for resource recovery projects.

24 (b) Funding.--Money for the grant program shall be derived  
25 from the appropriation in section 9(c.1).

26 (c) Duration.--This grant program shall continue until June  
27 30, 1988, at which time the program shall expire, and any  
28 unexpended funds shall lapse back to the Energy Conservation and  
29 Assistance Fund.

30 (d) [Governor's Energy Council] Duties of Department of

1 Environmental Protection.--In administering this program, the  
2 Department of Environmental [Resources] Protection shall comply  
3 with such procedures and restrictions and submit such reports as  
4 may be required [by the Governor's Energy Council] in order to  
5 fulfill its federally mandated responsibilities regarding the  
6 State Energy Conservation Plan.

7 Section 8. This act shall take effect immediately.