

No. 1986-122

AN ACT

SB 1277

Establishing a special fund for moneys received by the Commonwealth from resolution of oil overcharge matters; designating certain low-income energy conservation and assistance programs for funding from this special fund; and making appropriations.

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

Section 1. Short title.

This act shall be known and may be cited as the Energy Conservation and Assistance Act.

Section 2. Legislative findings.

The General Assembly hereby finds and declares that:

(1) There are and will be funds available to the Commonwealth due to resolution of litigation and administrative proceedings brought by the United States Department of Energy against the petroleum industry for alleged violations of the Federal Petroleum Price and Allocation Regulations.

(2) Where permissible under the terms and conditions of the documents or orders controlling resolution, these moneys are to be distributed to the states for specific energy conservation and assistance programs.

(3) In recognition of the economic plight of low-income persons in this Commonwealth, the high and rising costs of energy, and the substantial reduction in energy consumption which is known to result from effective weatherization, the General Assembly considers it sound public policy to provide additional funding for weatherization for low-income persons, energy assistance for low-income persons and other conservation programs as specified in this act, and further declares that oil overcharge funds shall be utilized to pay the costs of such programs so long as such uses are permissible under the terms and conditions of the documents or orders controlling resolution of the particular oil overcharge matter for which money is received.

(4) By emphasizing assistance for low-income persons with these oil overcharge funds, all of the citizens of this Commonwealth benefit since such assistance will reduce the burden of providing for these low-income persons with tax dollars.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Energy conservation and assistance programs.” Includes any of the following:

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

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

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

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

“Fund.” The Energy Conservation and Assistance Fund established in section 4.

“Household.” Any individual or group of individuals who are living together as one economic unit and whose residential energy is customarily purchased in common or who make undesignated payments for energy as part of a rental payment. A roomer and boarder who is related to any member of the applicant household is considered to be a member of the household.

Section 4. Establishment of special fund.

There is hereby created an Energy Conservation and Assistance Fund. All funds made available to the Commonwealth after December 1, 1985, due to resolution of litigation or administrative proceedings brought by the United States Department of Energy against the petroleum industry for alleged violations of the Federal Petroleum Price and Allocation Regulations shall be credited by the Treasury Department to this fund. Interest earned by investment of moneys in this fund by the Treasury Department shall also be credited by the Treasury Department to this fund. All moneys remaining in any special accounts for oil overcharge funds which are unexpended, uncommitted and unencumbered as of June 30, 1986, shall lapse and shall be transferred into the fund created by this section. No funds may be expended from this fund, except by annual appropriation by the General Assembly. At least 75% of the annual appropriations made from the fund shall be for the supplemental programs established in section 5.

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

(a) Establishment of programs.—The following supplemental low-income energy conservation and assistance programs are hereby established:

(1) Pennsylvania Supplemental Low-Income Weatherization Program. This program shall supplement the programs set forth in paragraph (4) of the definition of “energy conservation and assistance programs” in section 3.

(2) Pennsylvania Supplemental Low-Income Energy Assistance Program. This program shall supplement the programs set forth in para-

graph (4) of the definition of "energy conservation and assistance programs" in section 3.

(b) Eligibility requirements.—Households applying for benefits under the programs established in subsection (a) shall meet the following eligibility requirements:

(1) Households to be eligible will be those dwelling units which are occupied by persons with annual income at or below 150% of the Federal poverty guidelines or contain a member who has, during the past 12 months, received cash assistance under Title IV or XVI of the Social Security Act (Public Law 74-271, 42 U.S.C. §§ 601-662) and section 2605(b)(2) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 357).

(2) In addition to the income eligibility requirements specified in paragraph (1), households applying for benefits under this act shall meet the eligibility requirements for energy assistance as provided for by the Omnibus Budget Reconciliation Act of 1981, pursuant to the authority of section 201(2) of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

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

(1) The Pennsylvania Supplemental Low-Income Weatherization Program established in subsection (a)(1) shall be administered by the Department of Community Affairs as a part of the programs authorized under the Low-Income Home Energy Assistance Act of 1981 (Public Law 97-35, 42 U.S.C. § 8621 et seq.). Community action agencies, existing low-income weatherization providers or other county, municipal or nonprofit corporations may apply for a portion of these funds. The Department of Community Affairs shall establish regulations necessary for administering this program consistent with the requirements of section 6.

(2) (i) The Pennsylvania Supplemental Low-Income Energy Assistance Program established in subsection (a)(2) shall be administered by the Department of Public Welfare as part of the program authorized under the Low-Income Home Energy Assistance Act of 1981. The Department of Public 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 6. Weatherization and energy conservation.

(a) Establishment of Statewide Weatherization and Energy Conservation Policy Council.—A Statewide Weatherization and Energy Conservation Policy Council is hereby created and shall have the responsibility of advising the Department of Community Affairs on matters of policy related to the development and implementation of this program. The council shall establish bylaws governing its activities and shall assume all responsibilities associated with the existing Policy Advisory Council required by the Department

of Energy. Members of the council shall be appointed by the Secretary of the Department of Community Affairs.

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

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

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

(e) Coordination of activities.—Activities supported under this act shall be coordinated with other Federal, State, local and privately funded programs in order to avoid duplication of effort and promote integration with other conservation and energy assistance programs. Such coordination shall include, but not be limited to, the establishment, by interagency agreement or otherwise, of a joint policy advisory council to ensure that energy assistance and weatherization assistance benefits are delivered in an effective manner.

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

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

(h) Program support cost.—No more than 150% of the Statewide average in any fiscal year of the cost of materials shall be provided for program support costs, including, but not limited to, labor, tools, insurance, supervision, eligibility determinations, recordkeeping, audit, rent and utilities. Grantees may request waivers of this subsection from the Statewide Weatherization and Energy Conservation Policy Council in appropriate cir-

cumstances, including, but not limited to, programmatic and administrative expenditures attributed to cost-effective and innovative weatherization and conservation technologies.

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

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

(k) Reallocation of funds.—In order to ensure the maximum utilization of all funds, the Department of Community Affairs shall conduct and complete an evaluation of all grantee spending by December 1 of each year. Grantees which are spending at a level of at least 10% less than projected shall have such underexpenditures in excess of 10% deducted from the annual contract. Such funds shall be reallocated, forthwith, to other grantees able to utilize the funds during the contract period.

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

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

(2) To ensure that the material quality and labor associated with the installation of all measures equals or exceeds, where applicable, prevailing industry standards and is sufficiently high to make the measures fully effective.

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

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

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

(m) **Audit.**—The Legislative Budget and Finance Committee shall conduct a performance audit of the Pennsylvania Weatherization Program as administered prior to the effective date of this act by the Department of Community Affairs. The committee shall conduct such inquiries as it deems necessary, including, but not limited to, obtaining interviews with provider agencies and program recipients, with administrators within the Department of Public Welfare, the Department of Community Affairs, the Pennsylvania Public Utility Commission and the Weatherization Policy Advisory Council of the Department of Community Affairs, and with such other persons and entities as it deems necessary. The committee shall present to the General Assembly findings and recommendations for programmatic improvements within one year of the effective date of this act.

Section 7. Administration of certain energy conservation and assistance programs.

(a) **Governor's Energy Council.**—The energy conservation and assistance programs set forth in paragraphs (1), (2) and (3) of the definition of "energy conservation and assistance programs" in section 3 shall be administered by the Governor's Energy Council. The council shall establish regulations necessary for administering these programs.

(b) **Priority.**—Priority funding from moneys appropriated to the council shall be for the continued operation of the Pennsylvania Energy Center Program; operation of institutional conservation programs which include programs under paragraph (1) of the definition of "energy conservation and assistance programs" in section 3, programs for conservation measures at State-owned and locally owned facilities and programs for conservation measures at nonprofit facilities; and funding of waste-to-energy projects, including, but not limited to, the funding of feasibility studies. The council shall, not later than September 30 of each year, provide a report to the General Assembly which includes, at a minimum, a list of all projects funded, an explanation of how project selection was accomplished and an explanation of how funds were used to further the priorities listed in this section.

Section 8. Administrative costs.

To the extent permitted by applicable court orders, no more than 10% of the annual appropriation for each of the energy conservation and assistance programs, including the supplemental programs established in section 5, shall be used for the planning and administrative costs of these programs.

Section 9. Appropriations.

(a) **Department of Community Affairs.**—The sum of \$20,000,000, or as much thereof as may be necessary, is hereby appropriated from the fund to the Department of Community Affairs for the fiscal year July 1, 1986, to June 30, 1987, for the purposes set forth in this act.

(b) **Department of Public Welfare.**—The sum of \$10,000,000, or as much thereof as may be necessary, is hereby appropriated from the fund to the Department of Public Welfare for the fiscal year July 1, 1986, to June 30, 1987, for the purposes set forth in this act.

(c) Governor's Energy Council.—

(1) The sum of \$5,000,000, is hereby transferred from the fund to the Pennsylvania Solid Waste - Resource Recovery Development Fund for the fiscal year July 1, 1986, to June 30, 1987, to be used for recycling programs, solid waste disposal projects, waste-to-energy projects, including agricultural waste-to-energy projects and other projects permissible under State and Federal law.

(2) The sum of \$5,000,000, or as much thereof as may be necessary, is hereby appropriated to the Governor's Energy Council for the fiscal year July 1, 1986, to June 30, 1987, for the programs set forth in section 7. At least 75% of these funds must be used to fund those programs listed as priorities in section 7(b).

(d) Lapse.—Any funds unexpended, uncommitted and unencumbered as of June 30, 1987, shall lapse and shall be available for appropriation from the fund for future fiscal years.

Section 10. Effective date.

This act shall take effect immediately.

APPROVED—The 10th day of July, A. D. 1986.

DICK THORNBURGH