
HOUSE BILL 1335

State of Washington

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1991 Regular Session

By Representatives Nelson, Franklin, Ogden, Leonard, Wineberry, Mitchell, Winsley, Phillips, Jacobsen, Jones, Brekke, Spanel, Scott and Anderson.

Read first time January 25, 1991. Referred to Committee on Housing.

1 AN ACT Relating to low-income energy assistance; amending RCW
2 70.164.010, 70.164.020, and 70.164.040; adding new sections to chapter
3 70.164 RCW; adding a new section to chapter 43.63A RCW; adding a new
4 section to chapter 80.01 RCW; and adding a new section to chapter
5 43.21F RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 70.164.010 and 1987 c 36 s 1 are each amended to read
8 as follows:

9 (1) The legislature finds and declares:

10 (a) The health, welfare, and prosperity of the people of the state
11 of Washington require that all citizens receive essential levels of
12 heat and electric service regardless of economic circumstance;

13 (b) That weatherization of the residences of low-income households
14 will help conserve energy resources in this state and can reduce the

1 need to obtain energy from more costly conventional energy resources(~~(-~~
2 ~~The legislature also finds))i~~

3 (c) That rising energy costs have had a negative effect on the
4 affordability of housing for low-income citizens and have made it
5 difficult for low-income citizens of the state to afford adequate fuel
6 for residential space heat(~~(-~~))i

7 (d) Declining federal low-income energy assistance funding and
8 limited oil overcharge funds require a state response to ensure the
9 continuity and further development of energy assistance, energy
10 conservation, and related policies within the state of Washington;

11 (e) Weatherization of residences will lower energy consumption,
12 making space heat more affordable for persons in low-income
13 households(~~(-~~—It)), and will (~~(also))~~) reduce the uncollectible
14 accounts of fuel suppliers resulting from low-income customers not
15 being able to pay fuel bills;

16 (f) That the best time to make energy conservation improvements to
17 existing residential dwellings is during rehabilitation; and

18 (g) That energy conservation is an important component of housing
19 affordability.

20 (2) The legislature declares that it is the policy of the state:

21 (a) To establish a comprehensive, low-income energy assistance
22 policy and program that incorporates income assistance, energy
23 conservation, and other measures to ensure that citizens have access to
24 affordable energy services;

25 (b) That energy conservation improvements through the retrofit of
26 existing residential dwellings shall be coordinated with
27 rehabilitation activities funded with state resources or resources
28 administered through the state;

29 (c) To weatherize at least one-half of the existing low-income
30 households in the state by the year 2000.

1 (3) The program implementing the policy of this chapter is
2 necessary to support the poor and infirm and also to benefit the
3 health, safety, and general welfare of all citizens of the state.

4 **Sec. 2.** RCW 70.164.020 and 1987 c 36 s 2 are each amended to read
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Department" means the department of community development.

9 (2) "Energy assessment" means an analysis of a dwelling unit to
10 determine the need for cost-effective energy conservation measures as
11 determined by the department.

12 (3) "Energy supplier" means an electric utility or natural gas
13 utility, whether privately or publicly owned, a heating oil dealer, or
14 a propane dealer that receives ten thousand dollars or more from sales.

15 (4) "Fuel oil dealer" means a person who supplies fuel oil at
16 retail for space heating of dwellings.

17 (5) "Household" means an individual or group of individuals living
18 in a dwelling unit as defined by the department.

19 (~~(4)~~) (6) "Low income" means household income that is at or below
20 one hundred twenty-five percent of the federally established poverty
21 level.

22 (~~(5)~~) (7) "Nonutility sponsor" means any sponsor other than a
23 public service company, municipality, public utility district, mutual
24 or cooperative, furnishing gas or electricity used to heat low-income
25 residences.

26 (~~(6)~~) (8) "Propane dealer" means a person who supplies fuel oil
27 at retail for space heating of dwellings.

28 (9) "Residence" means a dwelling unit as defined by the department.

1 (~~(7)~~) (10) "Sponsor" means any entity that submits a proposal
2 under RCW 70.164.040, including but not limited to any local community
3 action agency, community service agency, or any other participating
4 agency or any public service company, municipality, public utility
5 district, mutual or cooperative, or any combination of such entities
6 that jointly submit(~~(8)~~) a proposal.

7 (~~(8)~~) (11) "Sponsor match" means the share, if any, of the cost
8 of weatherization to be paid by the sponsor.

9 (~~(9)~~) (12) "Weatherization" means materials or measures, and
10 their installation, that are used to improve the thermal efficiency of
11 a residence.

12 (~~(10)~~) (13) "Weatherizing agency" means any approved department
13 grantee or any public service company, municipality, public utility
14 district, mutual or cooperative, or other entity that bears the
15 responsibility for ensuring the performance of weatherization of
16 residences under this chapter and has been approved by the department.

17 **Sec. 3.** RCW 70.164.040 and 1987 c 36 s 4 are each amended to read
18 as follows:

19 (1) The department shall solicit proposals for low-income
20 weatherization programs to be funded by the low-income weatherization
21 assistance account from potential sponsors. A proposal shall state the
22 amount of the sponsor match, the amount requested from the low-income
23 weatherization assistance account, the name of the weatherizing agency,
24 and any other information required by the department.

25 (2)(a) A sponsor may use its own moneys, including corporate or
26 ratepayer moneys, or moneys provided by landlords, charitable groups,
27 government programs, the Bonneville Power Administration, or other
28 sources to pay the sponsor match.

1 (b) Moneys provided by a sponsor pursuant to requirements in this
2 section shall be in addition to and shall not supplant any funding for
3 low-income weatherization that would otherwise have been provided by
4 the sponsor or any other entity enumerated in (a) of this subsection.

5 (c) No proposal may require any contribution as a condition of
6 weatherization from any household whose residence is weatherized under
7 the proposal.

8 (d) Proposals shall provide that full levels of all cost-effective
9 structurally feasible measures, as determined by the department, shall
10 be installed when a low-income residence is weatherized.

11 (3) The department may in its discretion accept, accept in part, or
12 reject proposals submitted. The department shall allocate funds
13 appropriated from the low-income weatherization assistance account
14 among proposals accepted or accepted in part so as to achieve the
15 greatest possible expected monetary and energy savings by low-income
16 households and other energy consumers and shall, to the extent
17 feasible, ensure a balance of participation in proportion to population
18 among low-income households for: (a) Geographic regions in the state;
19 (b) types of fuel used for heating; (c) owner-occupied and rental
20 residences; and (d) single-family and multifamily dwellings. The
21 department may allocate funds to a nonutility sponsor without requiring
22 a sponsor match if the department determines that such an allocation is
23 necessary to provide the greatest benefits to low-income residents of
24 the state.

25 (4)(a) A sponsor may elect to: (i) Pay a sponsor match as a lump
26 sum at the time of weatherization, or (ii) make yearly payments to the
27 low-income weatherization assistance account over a period not to
28 exceed ten years. If a sponsor elects to make yearly payments, the
29 value of the payments shall not be less than the value of the lump sum
30 payment that would have been made under (i) of this subsection (4)(a).

1 (b) The department may permit a sponsor to meet its match
2 requirement in whole or in part through providing labor, materials, or
3 other in-kind expenditures.

4 (5) The department shall adopt rules to carry out this section.

5 NEW SECTION. **Sec. 4.** The department shall prepare a state
6 plan for the low-income energy assistance and energy conservation
7 programs to ensure the availability and affordability of heating and
8 electric service to low-income citizens. The state plan shall:

9 (1) Ensure that low-income households, regardless of the primary
10 energy source used for home heating, will receive energy assistance and
11 energy conservation;

12 (2) Establish uniform eligibility, verification, and documentation
13 requirements for the low-income energy assistance and energy
14 conservation program offered by the state;

15 (3) Require all energy suppliers to offer an energy conservation
16 and energy assistance program to all qualified customers;

17 (4) Require demonstration of the performance or of the installation
18 of no-cost or low-cost energy conservation measures, state measures,
19 energy conserving practices and other appropriate program requirements
20 during energy audits;

21 (5) Establish such registration, certification, training, and
22 inspection programs with respect to energy auditors, suppliers,
23 installers, lenders, and inspectors participating in the state plan as
24 may be necessary or desirable for the public health, safety, and
25 welfare;

26 (6) Establish and review goals for delivery of energy audits and
27 other program requirements to customers;

1 (7) Require all home heating energy suppliers, either individually
2 or cooperatively, to publicize the program through mailed program
3 announcements and paid radio and newspaper advertising;

4 (8) Establish a public advisory committee described in section 9 of
5 this act; and

6 (9) Coordinate the Washington low-income energy assistance and
7 energy conservation programs.

8 NEW SECTION. **Sec. 5.** (1) The department shall establish a
9 low-income energy assistance program to ensure the availability and
10 affordability of heating and electric services to low-income
11 households.

12 (2) The energy assistance program established by the department
13 shall contain the following elements:

14 (a) The customer shall be required to pay no more than six percent
15 of his or her monthly household income for home heating and electric
16 services;

17 (b) The customer shall not be required to pay utility deposits; and

18 (c) The customer shall be required to apply for any energy
19 conservation programs for which he or she may be eligible.

20 (3) An energy supplier may apply to the department for
21 authorization to offer an energy assistance program which differs from
22 the program established by the department but which meets the standards
23 in subsection (2) of this section. A utility-sponsored energy
24 assistance program may include a percentage-of-income payment plan,
25 provide for discounted rates, or include other plans approved by the
26 department.

27 (4) The department shall adopt rules for the program not later than
28 one hundred eighty days after the effective date of this section. The

1 rules shall be developed in consultation with the advisory committee
2 established by section 9 of this act.

3 (5) The department, to the maximum extent permitted under federal
4 law, shall use funds made available to the state under the low-income
5 heating energy assistance program for the state program and any
6 equivalent programs approved by the department pursuant to subsection
7 (3) of this section.

8 NEW SECTION. **Sec. 6.** (1) The department shall establish the
9 low-income energy conservation program. To the extent practicable, the
10 program shall provide for targeting use of both state and federal
11 weatherization and energy conservation funds to the households of
12 eligible applicants whose ratios of energy costs to income are the
13 highest. The program shall also provide that low-income households are
14 served in relatively the same proportion as the heating sources used by
15 the low-income households in the state. The program shall include, but
16 need not be limited to, the following:

17 (a) A description of the demographic characteristics and energy use
18 patterns of people eligible for assistance pursuant to this chapter;

19 (b) The methodology used by the department in targeting energy
20 conservation funds;

21 (c) A description of anticipated activity and results for the year
22 covered by the program, including an estimate of energy cost savings
23 expected to be realized by the energy conservation program; and

24 (d) An evaluation of results from the energy conservation program
25 in the year preceding the program year, including the effect of state
26 energy conservation program investments on energy consumption and cost
27 in the population eligible for assistance pursuant to this chapter, and
28 the effect of targeted energy conservation investments on the costs of

1 the energy assistance program established pursuant to section 5 of this
2 act.

3 (2) Allowable expenditures under the energy conservation program
4 include, but are not limited to, the following:

5 (a) Insulation;

6 (b) Windows;

7 (c) Furnace or wood stove repair or replacement;

8 (d) Caulking;

9 (e) Doors; and

10 (f) Labor.

11 (3) The low-income energy conservation program shall be developed
12 in consultation with the low-income energy assistance advisory
13 committee established pursuant to section 9 of this act.

14 NEW SECTION. **Sec. 7.** The energy conservation program
15 established pursuant to section 6 of this act shall provide for the
16 replacing of wood stoves as provided in this section. If the low-
17 income household is located in a nonattainment area for ambient air
18 quality, or in an area for which an air authority has prohibited the
19 installation of wood stoves in new construction, the program shall
20 require the wood stove to be replaced by the most cost-efficient source
21 of home heating other than wood or coal. If the household is located
22 in an attainment area and an air authority has not prohibited the
23 installation of wood stoves in new construction, a certified wood stove
24 shall be installed.

25 NEW SECTION. **Sec. 8.** The department shall develop model
26 energy education programs to be provided as a part of the low-income
27 energy assistance and energy conservation programs. The model energy
28 education programs shall include instruction and demonstration of

1 behavior and skills necessary to effectively use and preserve energy
2 conservation measures installed and necessary to adopt sound
3 conservation practices in daily lifestyle. The model energy education
4 programs shall also provide written educational materials,
5 instructional aids, and follow-up procedures.

6 NEW SECTION. **Sec. 9.** (1) The department shall establish the
7 low-income energy assistance advisory committee to be comprised of:

8 (a) The secretary of social and health services, the directors of
9 community development and the state energy office, and the chair of the
10 utilities and transportation commission, or their designees. The
11 director of community development or the director's designee shall
12 serve as chair of the advisory committee;

13 (b) Eleven persons appointed by the director of community
14 development to serve two-year terms and until their successors are
15 appointed and qualified. Three shall be persons who represent low-
16 income households or organizations which represent low-income
17 households; three shall be representatives of energy suppliers: One
18 from the natural gas industry, one from the electric industry, and one
19 from another energy supplier; three shall be representatives from local
20 agencies which contract with the department to provide energy
21 assistance or energy conservation services; and two shall represent
22 owners of low-income rental property, one representing owners of
23 single-family or multifamily units, and one representing owners of
24 mobile home rental units.

25 (2) The energy assistance advisory committee shall have the
26 following duties:

27 (a) To monitor the administration of this chapter to ensure
28 effective, efficient, and coordinated program development and
29 administration;

1 (b) To assist the department in developing and administering rules
2 required to be adopted under this chapter in a manner consistent with
3 the purpose and objectives of this chapter;

4 (c) To facilitate and coordinate the collection and exchange of all
5 program data and other information needed by the department and others
6 in fulfilling their duties pursuant to this chapter;

7 (d) To advise the department on the proper level of support
8 required for effective administration of this chapter;

9 (e) To review and comment on any energy assistance, energy
10 conservation, or related plan developed by the department or any energy
11 supplier pursuant to this chapter; and

12 (f) To prepare and submit not later than December 1 of each year to
13 the appropriate standing committees of the senate and the house of
14 representatives a report which describes the activities of the
15 department in development and implementation of energy assistance and
16 related policies and programs, which characterizes progress towards
17 meeting the objectives and requirements of this chapter, and which
18 recommends any statutory changes which might be needed to further such
19 progress.

20 NEW SECTION. **Sec. 10.** In addition to any other fees required
21 by law, each energy supplier annually shall pay to the department its
22 share of an assessment to fund the low-income energy assistance program
23 established by this chapter. The assessment shall be determined in the
24 following manner:

25 (1) Upon approval of the department's biennial budget by the
26 legislature in each odd-numbered year, the department shall promptly
27 enter an order establishing the amount of revenues required to be
28 derived from an assessment pursuant to this section in order to fund
29 the low-income energy assistance and energy conservation program for

1 the first fiscal year of the biennium at the level approved by the
2 legislature. Upon approval of a supplemental budget by the
3 legislature, the department shall enter an order for assessments for
4 the second fiscal year of the biennium to take into account any
5 revisions to the level authorized by the legislature. The order shall
6 allocate the aggregate assessment to energy suppliers in accordance
7 with subsection (2) of this section.

8 (2) The amount assessed to an energy supplier shall be based on the
9 ratio that the supplier's annual gross operating revenue derived within
10 this state in the preceding calendar year bears to the total gross
11 operating revenue derived within this state during the previous
12 calendar year by all energy suppliers. The department shall exempt
13 from payment of an assessment any individual energy supplier whose
14 calculated share of the annual assessment is less than two hundred
15 fifty dollars.

16 (3) The department shall send a copy of each order issued to each
17 energy supplier subject to assessment pursuant to this section.

18 (4) An energy supplier providing energy conservation and energy
19 assistance programs that meet the goals of the state energy
20 conservation and energy assistance program in an alternative manner
21 approved by the department may be eligible for credits against the
22 assessment imposed under this section. To establish eligibility for
23 the credit, a utility shall file with the department on or before
24 November 1 of each year a request for approval of credits based on the
25 utility's activities during the prior fiscal year. The department
26 shall make a determination of the amount of credit for each applicant
27 not later than April 1 of each year. The department shall authorize
28 credits equal to expenditures from the energy supplier's own funds on
29 a program approved by the department. A credit is not available for
30 funds passed through from any governmental entity.

1 (5) The amounts assessed to individual energy suppliers pursuant to
2 this section shall be paid to the department as follows:

3 (a) Amounts assessed for the first fiscal year shall be paid not
4 later than ninety days after the date the governor signs the biennial
5 budget; and

6 (b) Amounts assessed for the second fiscal year shall be paid not
7 later than July 1 of each even-numbered year.

8 (6) An energy supplier shall provide the department, on or before
9 May 1 of each year, a verified statement showing its gross operating
10 revenues derived within the state for the preceding calendar year. The
11 statement shall be in a form prescribed by the department and is
12 subject to audit by the department.

13 (7) As used in this section:

14 (a) "Energy supplier" means: An investor-owned electric or natural
15 gas utility; a publicly owned electricity or natural gas utility; or a
16 heating oil, propane, or coal wholesaler.

17 (b) "Gross operating revenue" means gross receipts from sales or
18 service made or provided within this state during the regular course of
19 the energy supplier's business, but does not include revenue derived
20 from interutility sales within the state.

21 (8) Funds collected pursuant to this section shall be deposited in
22 the low-income energy assistance and energy conservation account
23 created by section 11 of this act.

24 NEW SECTION. **Sec. 11.** The low-income energy assistance and
25 energy conservation account is created in the state treasury. The
26 funds collected from the assessments made pursuant to section 10 of
27 this act shall be deposited in the account. The department may also
28 accept gifts, grants, and endowments from public or private sources for
29 the low-income energy assistance and energy conservation program and

1 shall deposit such funds in the account. Moneys in the account may be
2 spent only after appropriation. Expenditures from the account may be
3 used only for the low-income energy assistance and energy conservation
4 program.

5 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.63A
6 RCW to read as follows:

7 The department shall require applicants requesting assistance to
8 rehabilitate either single-family or multifamily residential dwellings
9 to coordinate available energy conservation assistance with
10 rehabilitation activities funded through the Washington housing trust
11 fund under chapter 43.185 RCW and the community development block grant
12 program for states and small cities under the Title I housing and
13 community development act of 1974 (42 U.S.C. 5301 et seq.).

14 NEW SECTION. **Sec. 13.** A new section is added to chapter 80.01 RCW
15 to read as follows:

16 The commission shall allow a company to offer discounted rates to
17 low-income individuals.

18 NEW SECTION. **Sec. 14.** A new section is added to chapter 43.21F
19 RCW to read as follows:

20 The office, in consultation with the department of community
21 development, shall prepare proposals to sell low-income conservation to
22 utilities.

23 NEW SECTION. **Sec. 15.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 16.** Sections 4 through 11 of this act are
2 each added to chapter 70.164 RCW.