
SUBSTITUTE HOUSE BILL 1335

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Housing (originally sponsored by Representatives Nelson, Franklin, Ogden, Leonard, Wineberry, Mitchell, Winsley, Phillips, Jacobsen, Jones, Brekke, Spanel, Scott and Anderson).

Read first time February 26, 1991.

1 AN ACT Relating to low-income energy assistance; amending RCW
2 70.164.010, 70.164.020, and 70.164.030; 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;

1 (b) That weatherization of the residences of low-income households
2 will help conserve energy resources in this state and can reduce the
3 need to obtain energy from more costly conventional energy resources((=
4 The legislature also finds))i

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

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

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

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

20 (g) That energy conservation is an important component of housing
21 affordability.

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

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

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

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

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

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

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

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

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

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

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

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

23 (6) "Household" means an individual or group of individuals living
24 in a dwelling unit as defined by the department.

25 ~~((4))~~ (7) "Low income" means household income that is at or below
26 one hundred twenty-five percent of the federally established poverty
27 level.

28 ~~((5))~~ (8) "Nonutility sponsor" means any sponsor other than a
29 public service company, municipality, public utility district, mutual

1 or cooperative, furnishing gas or electricity used to heat low-income
2 residences.

3 ~~((+6+))~~ (9) "Propane dealer" means a person who supplies liquefied
4 petroleum gas at retail for space heating of dwellings.

5 (10) "Residence" means a dwelling unit as defined by the
6 department.

7 ~~((+7+))~~ (11) "Sponsor" means any entity that submits a proposal
8 under RCW 70.164.040, including but not limited to any local community
9 action agency, community service agency, or any other participating
10 agency or any public service company, municipality, public utility
11 district, mutual or cooperative, or any combination of such entities
12 that jointly submit~~((s))~~ a proposal.

13 ~~((+8+))~~ (12) "Sponsor match" means the share, if any, of the cost
14 of weatherization to be paid by the sponsor.

15 ~~((+9+))~~ (13) "Weatherization" means materials or measures, and
16 their installation, that are used to improve the thermal efficiency of
17 a residence.

18 ~~((+10+))~~ (14) "Weatherizing agency" means any approved department
19 grantee or any public service company, municipality, public utility
20 district, mutual or cooperative, or other entity that bears the
21 responsibility for ensuring the performance of weatherization of
22 residences under this chapter and has been approved by the department.

23 **Sec. 3.** RCW 70.164.030 and 1987 c 36 s 3 are each amended to read
24 as follows:

25 (1) The low-income weatherization assistance account is created in
26 the state treasury. All moneys from the money distributed to the state
27 pursuant to *Exxon v. United States*, 561 F.Supp. 816 (1983), affirmed
28 773 F.2d 1240 (1985), or any other oil overcharge settlements or
29 judgments distributed by the federal government, that are allocated to

1 the low-income weatherization assistance account shall be deposited in
2 the account. The department may accept such gifts, grants, and
3 endowments from public or private sources as may be made from time to
4 time, in trust or otherwise, and shall deposit such funds in the
5 account. Any moneys received from sponsor match payments and funds
6 received under section 10 of this act shall be deposited in the
7 account. The legislature may also appropriate moneys to the account.
8 Moneys in the account shall be spent pursuant to appropriation and only
9 for the purposes and in the manner provided in RCW 70.164.040 and
10 sections 4 through 10 of this act. Any moneys appropriated that are
11 not spent by the department shall return to the account.

12 (2) Notwithstanding RCW 43.84.090, all earnings of investments of
13 balances in the low-income weatherization assistance account shall be
14 credited to the account.

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

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

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

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

27 (4) Require demonstration of the performance or of the installation
28 of no-cost or low-cost energy conservation measures, state measures,

1 energy conserving practices and other appropriate program requirements
2 during energy audits;

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

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

10 (7) Require all home heating energy suppliers to work, either
11 individually or cooperatively, with local community action agencies to
12 publicize the availability of low-income energy assistance and energy
13 conservation programs;

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

16 (9) Coordinate the Washington low-income energy assistance and
17 energy conservation programs.

18 NEW SECTION. **Sec. 5.** (1) The department shall establish a
19 low-income energy assistance program to ensure the availability and
20 affordability of heating and electric services to low-income
21 households.

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

24 (a) The customer shall pay a reduced rate for his or her home
25 heating and electric services. The goal of the program is that only
26 six percent of the customer's annual household income be used for home
27 heating and electric services;

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

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

3 (3) An energy supplier may apply to the department for
4 authorization to offer an energy assistance program which differs from
5 the program established by the department but which substantially meets
6 the standards in subsection (2) of this section. A utility-sponsored
7 energy assistance program may include a percentage-of-income payment
8 plan, provide for discounted rates, or include other plans approved by
9 the department.

10 (4) The department shall adopt rules for the program not later than
11 one hundred eighty days after the effective date of this section. The
12 rules shall be developed in consultation with the advisory committee
13 established by section 9 of this act.

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

19 NEW SECTION. **Sec. 6.** (1) The department shall establish the
20 low-income energy conservation program. To the extent practicable, the
21 program shall provide for targeting use of both state and federal
22 weatherization and energy conservation funds to the households of
23 eligible applicants whose ratios of energy costs to income are the
24 highest prior to any reduction in rates being applied. The program
25 shall also provide that low-income households are served in relatively
26 the same proportion as the heating sources used by the low-income
27 households in the state. The program shall include, but need not be
28 limited to, the following:

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

3 (b) The methodology used by the department in targeting energy
4 conservation funds;

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

8 (d) An evaluation of results from the energy conservation program
9 in the year preceding the program year, including the effect of state
10 energy conservation program investments on energy consumption and cost
11 in the population eligible for assistance pursuant to this chapter, and
12 the effect of targeted energy conservation investments on the costs of
13 the energy assistance program established pursuant to section 5 of this
14 act.

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

17 (a) Insulation;

18 (b) Windows;

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

20 (d) Caulking;

21 (e) Doors; and

22 (f) Labor.

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

26 NEW SECTION. **Sec. 7.** The energy conservation program
27 established pursuant to section 6 of this act shall provide for the
28 replacing of wood stoves as provided in this section. If the low-
29 income household is located in a nonattainment area for ambient air

1 quality, or in an area for which an air authority has prohibited the
2 installation of wood stoves in new construction, the program shall
3 require the wood stove to be replaced by the most cost-efficient source
4 of home heating other than wood or coal. If the household is located
5 in an attainment area and an air authority has not prohibited the
6 installation of wood stoves in new construction, a certified wood stove
7 shall be installed.

8 NEW SECTION. **Sec. 8.** The department shall develop model
9 energy education programs to be provided as a part of the low-income
10 energy assistance and energy conservation programs. The model energy
11 education programs shall include, but are not limited to, necessary
12 instruction and demonstration of energy conservation measures and money
13 management techniques that the household can adopt to effectively use
14 and preserve energy resources. The model energy education programs
15 shall also provide written educational materials, instructional aids,
16 and follow-up procedures.

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

19 (a) The secretary of social and health services, the directors of
20 community development and the state energy office, and the chair of the
21 utilities and transportation commission, or their designees, who shall
22 serve as ex-officio, nonvoting members of the advisory committee;

23 (b) Fourteen persons appointed by the director of community
24 development to serve two-year terms and until their successors are
25 appointed and qualified. Three shall be persons who represent low-
26 income households or organizations which represent low-income
27 households; seven shall be representatives of energy suppliers: One
28 from the natural gas industry, one from the investor-owned electric

1 industry, one from the publicly owned electric industry, one from the
2 municipal electric industry, one from the oil heat industry, one from
3 the liquefied petroleum gas industry, and one representing the
4 Washington wood heat association; two shall be representatives from
5 local agencies which contract with the department to provide energy
6 assistance or energy conservation services; and two shall represent
7 owners of low-income rental property, one representing owners of
8 single-family or multifamily units, and one representing owners of
9 mobile home rental units. The chairperson shall be elected from the
10 voting members of the advisory committee.

11 (2) The energy assistance advisory committee shall have the
12 following duties:

13 (a) To monitor the administration of this chapter to ensure
14 effective, efficient, and coordinated program development and
15 administration;

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

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

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

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

27 (f) To prepare and submit not later than December 1 of each year to
28 the appropriate standing committees of the senate and the house of
29 representatives a report which describes the activities of the
30 department in development and implementation of energy assistance and

1 related policies and programs, which characterizes progress towards
2 meeting the objectives and requirements of this chapter, and which
3 recommends any statutory changes which might be needed to further such
4 progress.

5 NEW SECTION. **Sec. 10.** In addition to any other fees required
6 by law, each energy supplier shall pay to the department of revenue,
7 for deposit in the low-income weatherization assistance account, its
8 share of an assessment to fund the low-income energy assistance program
9 established by this chapter. The total assessment shall not exceed
10 twenty million dollars per biennium and shall be determined in the
11 following manner:

12 (1) Upon approval of the department's biennial budget by the
13 legislature in each odd-numbered year, the department shall promptly
14 enter an order establishing the amount of revenues required to be
15 derived from an assessment pursuant to this section in order to fund
16 the low-income energy assistance and energy conservation program for
17 the first fiscal year of the biennium at the level approved by the
18 legislature. Upon approval of a supplemental budget by the
19 legislature, the department shall enter an order for assessments for
20 the second fiscal year of the biennium to take into account any
21 revisions to the level authorized by the legislature. The order shall
22 allocate the aggregate assessment to energy suppliers in accordance
23 with subsection (2) of this section.

24 (2) The amount assessed to an energy supplier shall be based on the
25 ratio that the supplier's annual gross operating revenue derived within
26 this state in the preceding calendar year bears to the total gross
27 operating revenue derived within this state during the previous
28 calendar year by all energy suppliers. The department shall exempt
29 from payment of an assessment any individual energy supplier whose

1 calculated share of the annual assessment is less than two hundred
2 fifty dollars.

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

5 (4) An energy supplier providing energy conservation and energy
6 assistance programs that meet the goals of the state energy
7 conservation and energy assistance program in an alternative manner
8 approved by the department may be eligible for credits against the
9 assessment imposed under this section. To establish eligibility for
10 the credit, a utility shall file with the department on or before
11 November 1 of each year a request for approval of credits based on the
12 utility's activities during the prior fiscal year. The department
13 shall make a determination of the amount of credit for each applicant
14 not later than April 1 of each year. The department shall authorize
15 credits equal to expenditures from the energy supplier's own funds on
16 a program approved by the department.

17 (5) The amounts assessed to individual energy suppliers pursuant to
18 this section shall be paid to the department on a pro-rated quarterly
19 basis starting not later than ninety days after the date the governor
20 signs the biennial budget.

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

26 (7) Funds collected pursuant to this section, minus three percent
27 for administrative costs of the department of community development,
28 shall be deposited in the low-income weatherization assistance account.

29 (8) This section shall expire July 1, 2001.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.63A
2 RCW to read as follows:

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

10 NEW SECTION. **Sec. 12.** A new section is added to chapter 80.01 RCW
11 to read as follows:

12 The commission shall allow a company to offer discounted rates to
13 low-income individuals.

14 NEW SECTION. **Sec. 13.** A new section is added to chapter 43.21F
15 RCW to read as follows:

16 The office, in consultation with the department of community
17 development, shall prepare proposals to sell low-income conservation to
18 utilities.

19 NEW SECTION. **Sec. 14.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 15.** Sections 4 through 10 of this act are
24 each added to chapter 70.164 RCW.