



SENATE BILL No. 505

May 4, 1995, Introduced by Senators STEIL, GAST, GEAKE,
DUNASKISS, GOUGEON, CARL, STILLE and CISKY and referred
to the Committee on Government Operations.

A bill to amend section 61 of Act No. 3 of the Public Acts
of 1939, entitled as amended

"An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law therein on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to provide for a restructuring of rates for certain utilities; to encourage the utilization of resource recovery facilities; to provide for appeals; to provide appropriations; to declare the effect of this act; to prescribe penalties; and to repeal all acts contrary to this act,"

as added by Act No. 304 of the Public Acts of 1982, being
section 460.61 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 61 of Act No. 3 of the Public Acts of
2 1939, as added by Act No. 304 of the Public Acts of 1982, being

1 section 460.64 of the Michigan Compiled Laws, is amended to read
2 as follows:

3 Sec. 64. (1) For purposes of implementing sections 6h, 6i,
4 6j, and 6k, this section and section 6m shall provide means of
5 insuring equitable representation of the interests of energy
6 utility customers.

7 (2) As used in this section and section 6m:

8 (a) "Annual receipts" means the payments received by the
9 fund under section 6m(2)(a) and (b) during a calendar year.

10 (b) "Board" means the utility consumer participation board
11 created under subsection (3).

12 (c) "Department" means the department of ~~management and~~
13 ~~budget~~ COMMERCE.

14 (d) "Energy cost recovery proceeding" means any proceeding
15 to establish or implement a gas cost recovery clause or a power
16 supply cost recovery clause as provided in sections 6h, 6i, 6j,
17 or 6k, to set gas cost recovery factors pursuant to section
18 6h(17), or to set power supply cost recovery factors pursuant to
19 section 6j(18).

20 (e) "Energy utility" means each electric or gas company reg-
21 ulated by the public service commission.

22 (f) "Fund" means the utility consumer representation fund
23 created in section 6m.

24 (g) "Household" means a single-family home, duplex, mobile
25 home, seasonal dwelling, farm home, cooperative, condominium, or
26 apartment which has normal household facilities such as a
27 bathroom, individual cooking facilities, and kitchen sink

1 facilities. Household does not include a penal or corrective
2 institution, or a motel, hotel, or other similar structure if
3 used as a transient dwelling.

4 (h) "Jurisdictional" means subject to rate regulation by the
5 Michigan public service commission.

6 (i) "Net grant proceeds" means the annual receipts of the
7 fund less the amounts reserved for the attorney general's use and
8 the amounts expended for board expenses and operation.

9 (j) "Residential energy utility consumer" or "consumer"
10 means a customer of an energy utility who receives utility serv-
11 ice for use within an individual household or an improvement rea-
12 sonably appurtenant to and normally associated with an individual
13 household.

14 (k) "Residential tariff sales" means those sales by an
15 energy utility which are subject to residential tariffs on file
16 with the commission.

17 (l) "Utility consuming industry" means a person, sole pro-
18 prietorship, partnership, association, corporation, or other
19 entity which receives utility service ordinarily and primarily
20 for use in connection with the manufacture, sale, or distribution
21 of goods or the provision of services, but does not include a
22 nonprofit organization representing residential utility
23 customers.

24 (3) The utility consumer participation board is created
25 within the department and shall exercise its powers and duties
26 under this act independently of the department. The procurement
27 and related management functions of the commission shall be

1 performed under the direction and supervision of the department.
2 The board shall consist of 5 members appointed by the governor,
3 ~~4 of whom shall be chosen from 1 or more lists of qualified per-~~
4 ~~sons submitted by the Michigan consumer's council created under~~
5 ~~Act No. 277 of the Public Acts of 1966, being sections 445.821 to~~
6 ~~445.829 of the Michigan Compiled Laws, and 1 of whom shall be~~
7 chosen from 1 or more lists of qualified persons submitted by the
8 attorney general. ~~The Michigan consumer's council and the~~
9 ~~attorney general shall submit to the governor a list of as many~~
10 ~~qualified persons as the governor has vacancies to fill from that~~
11 ~~list. If the governor does not appoint all of those whose names~~
12 ~~are submitted, the Michigan consumer's council or the attorney~~
13 ~~general shall submit another list containing as many names of~~
14 ~~qualified persons as remain to be appointed. This process shall~~
15 ~~continue until all vacancies are filled by the governor.~~

16 (4) For the purposes of subsection (5) only, "utility" means
17 an electric or gas company located in or outside of this state.

18 (5) Each member of the board shall meet the following
19 requirements:

20 (a) Shall be an advocate for the interests of residential
21 utility consumers, as demonstrated by the member's knowledge of
22 and support for consumer interests and concerns in general or
23 specifically related to utility matters.

24 (b) Shall not be, or shall not have been within the 5 years
25 preceding appointment, a member of a governing body of, or
26 employed in a managerial or professional or consulting capacity
27 by a utility or an association representing utilities; an

1 enterprise or professional practice which received over \$1,500.00
2 in the year preceding the appointment as a supplier of goods or
3 services to a utility or association representing utilities; or
4 an organization representing employees of such a utility, associ-
5 ation, enterprise, or professional practice, or an association
6 which represents such an organization.

7 (c) Shall not have, or shall not have had within 1 year pre-
8 ceding appointment, a financial interest exceeding \$1,500.00 in a
9 utility, an association representing utilities, or an enterprise
10 or professional practice which received over \$1,500.00 in the
11 year preceding the appointment as a supplier of goods or services
12 to a utility or association representing utilities.

13 (d) Shall not be an officer or director of an applicant for
14 a grant under section 6m.

15 (e) Shall not be a member of the immediate family of a
16 person who would be ineligible under subdivisions (a), (b), (c),
17 or (d).

18 (6) The members of the board shall be appointed for 2-year
19 terms beginning with the first day of a legislative session in an
20 odd-numbered year and ending on the day before the first day of
21 the legislative session in the next odd-numbered year or when the
22 members' successors are appointed, whichever occurs later. The
23 governor shall not appoint a member to the board for a term com-
24 mencing after the governor's term of office has ended. A vacancy
25 shall be filled in the same manner as the original appointment.
26 If the vacancy is created other than by expiration of a term, the

1 member shall be appointed for the balance of the unexpired term
2 of the member to be succeeded.

3 (7) The governor shall remove a member of the board if that
4 member is absent for any reason from either 3 consecutive board
5 meetings or more than 50% of the meetings held by the board in a
6 calendar year. However, a person who is removed due to absentee-
7 ism is eligible for reappointment to fill a vacancy which occurs
8 in the board membership. The governor also shall remove a member
9 of the board if the member is subsequently determined to be inel-
10 ible under subsection (5).

11 (8) The board shall hold bimonthly meetings and additional
12 meetings as necessary. A quorum consists of 3 members. A major-
13 ity vote of the members appointed and serving is necessary for a
14 decision. At its first meeting following the appointment of new
15 members, or as soon as possible after the first meeting, the
16 board shall elect biennially from its membership a chairperson
17 and a vice-chairperson.

18 (9) The board shall not act directly to represent the inter-
19 ests of residential utility consumers except through administra-
20 tion of the fund and grant program under this section.

21 (10) The business which the board may perform shall be con-
22 ducted at a public meeting of the board held in compliance with
23 the open meetings act, Act No. 267 of the Public Acts of 1976,
24 being sections 15.261 to 15.275 of the Michigan Compiled Laws.
25 Public notice of the time, date, and place of the meeting shall
26 be given in the manner required by Act No. 267 of the Public Acts
27 of 1976.

1 (11) A writing prepared, owned, used, in the possession of,
2 or retained by the board in the performance of an official func-
3 tion shall be made available to the public in compliance with the
4 freedom of information act, Act No. 442 of the Public Acts of
5 1976, being sections 15.231 to 15.246 of the Michigan Compiled
6 Laws.

7 (12) A member of the board may be reimbursed for actual and
8 necessary expenses, including travel expenses to and from each
9 meeting held by the board, incurred in discharging the member's
10 duties under this section and section 6m. In addition to expense
11 reimbursement, a board member may receive remuneration from the
12 board of \$100.00 per meeting attended, not to exceed \$1,000.00 in
13 a calendar year. These limits shall be adjusted proportionately
14 to an adjustment in the remittance amounts under section 6m(4) to
15 allow for changes in the cost of living.

16 (13) Until the board certifies that it is operating and
17 ready to perform all duties under this act, the director of the
18 energy administration created by executive directives 1976-2 and
19 1976-5 shall serve as temporary administrator of the fund and
20 exercise all duties and powers of the board.

21 Section 2. This amendatory act shall not take effect unless
22 Senate Bill No. 502

23 of the 88th Legislature is enacted into law.