

# HOUSE BILL No. 4789

May 29, 2013, Introduced by Rep. Nesbitt and referred to the Committee on Energy and Technology.

A bill to amend 1939 PA 3, entitled

"An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; 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 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 certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,"

(MCL 460.1 to 460.11) by adding section 9t.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 9T. (1) THE LOW-INCOME ENERGY ASSISTANCE AND  
2 WEATHERIZATION FUND IS CREATED WITHIN THE STATE TREASURY.

3           (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM  
4 ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL  
5 DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT  
6 TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

7           (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL  
8 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

9           (4) THE COMMISSION SHALL BE THE ADMINISTRATOR OF THE FUND FOR  
10 AUDITING PURPOSES.

11           (5) THE COMMISSION SHALL EXPEND MONEY FROM THE FUND, UPON  
12 APPROPRIATION, ONLY AS PROVIDED IN THIS SECTION.

13           (6) NO LATER THAN JUNE 30, 2013, A UTILITY MAY FILE WITH THE  
14 COMMISSION AN APPLICATION TO RECOVER FUNDING TO OPERATE A 12-MONTH  
15 LOW-INCOME ENERGY ASSISTANCE AND WEATHERIZATION PROGRAM FOR THAT  
16 UTILITY. A UTILITY SHALL INCLUDE IN ITS APPLICATION THE NUMBER OF  
17 ELIGIBLE LOW-INCOME HOUSEHOLDS TO BE SERVED BY THE PROGRAM. THE  
18 COMMISSION SHALL, AFTER NOTICE AND HEARING, APPROVE FUNDING FOR A  
19 LOW-INCOME ENERGY ASSISTANCE AND WEATHERIZATION PROGRAM NO LATER  
20 THAN AUGUST 31, 2013 FOR A FUTURE 12-MONTH PERIOD. A UTILITY THAT  
21 COLLECTS MONEY UNDER THIS SUBSECTION SHALL REMIT THAT MONEY TO THE  
22 STATE TREASURER FOR DEPOSIT IN THE FUND ON A MONTHLY BASIS NO LATER  
23 THAN 30 DAYS AFTER THE LAST DAY IN EACH CALENDAR MONTH.

24           (7) BEGINNING IN 2014, A UTILITY MAY FILE WITH THE COMMISSION  
25 NO LATER THAN MARCH 31 OF EACH YEAR AN APPLICATION TO RECOVER  
26 FUNDING FOR A 3-YEAR LOW-INCOME ENERGY ASSISTANCE AND  
27 WEATHERIZATION PROGRAM FOR THAT UTILITY. A UTILITY SHALL INCLUDE IN

1 ITS APPLICATION THE NUMBER OF ELIGIBLE LOW-INCOME HOUSEHOLDS TO BE  
2 SERVED BY THE PROGRAM. THE COMMISSION SHALL, AFTER NOTICE AND  
3 HEARING, APPROVE FUNDING FOR A LOW-INCOME ENERGY ASSISTANCE AND  
4 WEATHERIZATION PROGRAM NO LATER THAN AUGUST 31 FOR A FUTURE 3-YEAR  
5 PERIOD. A UTILITY THAT COLLECTS MONEY UNDER THIS SUBSECTION SHALL  
6 REMIT THAT MONEY TO THE STATE TREASURER FOR DEPOSIT IN THE FUND ON  
7 A MONTHLY BASIS NO LATER THAN 30 DAYS AFTER THE LAST DAY IN EACH  
8 CALENDAR MONTH.

9 (8) A UTILITY MAY NOT REQUEST AND THE COMMISSION SHALL NOT  
10 APPROVE AN AMOUNT UNDER SUBSECTION (6) OR (7) THAT EXCEEDS 100% OF  
11 THE UNCOLLECTIBLE EXPENSES ANTICIPATED FOR A UTILITY'S RESIDENTIAL  
12 CUSTOMERS OVER THE PERIOD.

13 (9) THE COMMISSION SHALL COMMENCE A PROCEEDING 1 YEAR AFTER A  
14 PROCEEDING UNDER SUBSECTION (6) OR 3 YEARS AFTER A PROCEEDING UNDER  
15 SUBSECTION (7), TO BE KNOWN AS A LOW-INCOME ENERGY ASSISTANCE AND  
16 WEATHERIZATION PROGRAM FUNDING RECONCILIATION, AS A CONTESTED CASE  
17 PURSUANT TO CHAPTER 4 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969,  
18 1969 PA 306, MCL 24.271 TO 24.287. AT THE RECONCILIATION, THE  
19 COMMISSION SHALL RECONCILE THE FUNDING COLLECTED UNDER THE FUNDING  
20 FOR A LOW-INCOME ENERGY ASSISTANCE AND WEATHERIZATION PROGRAM AND  
21 THE UTILITY'S ACTUAL UNCOLLECTIBLE EXPENSES OVER THE PERIOD. IF A  
22 UTILITY COLLECTS MORE THAN THE ACTUAL UNCOLLECTIBLE EXPENSES OVER  
23 THAT PERIOD, THE COMMISSION SHALL ORDER THE UTILITY TO REFUND THE  
24 AMOUNT EACH CUSTOMER OVERPAID, AS REASONABLY AND COST EFFECTIVELY  
25 AS POSSIBLE.

26 (10) THE COMMISSION SHALL USE MONEY FROM THE FUND ONLY FOR  
27 LOW-INCOME ENERGY ASSISTANCE AND WEATHERIZATION PROGRAMS.

1           (11) FOR EACH UTILITY THAT FILES AN APPLICATION UNDER  
2 SUBSECTION (6) OR (7), OR FOR A MUNICIPALLY OWNED UTILITY OR  
3 MEMBER-REGULATED COOPERATIVE ELECTRIC UTILITY THAT DEPOSITS MONEY  
4 INTO THE FUND, THE COMMISSION SHALL CONTRACT WITH PUBLIC OR PRIVATE  
5 ENTITIES TO PROVIDE LOW-INCOME ENERGY ASSISTANCE AND WEATHERIZATION  
6 PROGRAMS. THE COMMISSION SHALL COMPETITIVELY BID ANY CONTRACT TO  
7 PROVIDE LOW-INCOME ENERGY ASSISTANCE AND WEATHERIZATION PROGRAMS  
8 UNDER THIS SECTION. A UTILITY, MUNICIPALLY OWNED UTILITY, OR  
9 MEMBER-REGULATED COOPERATIVE ELECTRIC UTILITY MAY PARTICIPATE IN  
10 THE COMPETITIVE BIDDING TO PROVIDE LOW-INCOME ENERGY ASSISTANCE AND  
11 WEATHERIZATION PROGRAMS UNDER THIS SECTION.

12           (12) A LOW-INCOME ENERGY ASSISTANCE AND WEATHERIZATION PROGRAM  
13 UNDER THIS SECTION SHALL DO ALL OF THE FOLLOWING:

14           (A) DESCRIBE THE NUMBER OF ELIGIBLE LOW-INCOME HOUSEHOLDS TO  
15 BE SERVED BY THE PROGRAM.

16           (B) DESCRIBE THE METHOD BY WHICH ELIGIBLE LOW-INCOME  
17 HOUSEHOLDS ARE TO BE IDENTIFIED AS LIKELY TO BE IN CRISIS AND  
18 ELIGIBLE FOR ENROLLMENT IN THE PROGRAM.

19           (C) DESCRIBE THE TOTAL NUMBER OF ELIGIBLE LOW-INCOME  
20 HOUSEHOLDS ENROLLED IN THE PROGRAM.

21           (D) DESCRIBE HOW THE PROGRAM WILL REDUCE THE INCIDENCES OF  
22 DISCONNECTION AND SHUTOFFS, INCREASE THE PERCENTAGE OF RESIDENTIAL  
23 CUSTOMERS WHO PAY THEIR MONTHLY BILL, REDUCE THE NUMBER OF REQUESTS  
24 FOR ENERGY ASSISTANCE BY CUSTOMERS, AND REDUCE ENERGY CONSUMPTION.

25           (E) ENSURE THAT NO MORE THAN 30% OF THE MONEY RECEIVED FOR THE  
26 PROGRAM IS SPENT OUTSIDE OF THE CRISIS SEASON.

27           (F) PROVIDE PARTIAL PAYMENT OF AN ELIGIBLE LOW-INCOME

1 HOUSEHOLD'S BILL OR ARREARAGE, REQUIRE ELIGIBLE LOW-INCOME  
2 HOUSEHOLDS TO MAKE A CONTRIBUTION TO THE PAYMENT OF THEIR BILL OR  
3 ARREARAGE, AND ATTEMPT TO REDUCE THE AMOUNT OF LEAD-BASED  
4 SUBSTANCES IN ELIGIBLE LOW-INCOME HOUSEHOLDS.

5 (G) ENSURE THAT NOT LESS THAN 92% OF THE MONEY COLLECTED FROM  
6 EACH UTILITY, MUNICIPALLY OWNED UTILITY, OR MEMBER-REGULATED  
7 COOPERATIVE ELECTRIC UTILITY IS SPENT ON ENERGY ASSISTANCE FOR THAT  
8 ENTITY'S ELIGIBLE LOW-INCOME HOUSEHOLDS.

9 (13) THIS SECTION DOES NOT PROHIBIT A UTILITY FROM UTILIZING  
10 AN UNCOLLECTIBLE TRUE-UP MECHANISM UNDER THE COMMISSION'S GENERAL  
11 RATE-MAKING AUTHORITY.

12 (14) AS USED IN THIS SECTION:

13 (A) "CRISIS" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE  
14 MICHIGAN ENERGY ASSISTANCE ACT, 2012 PA 615, MCL 400.1232.

15 (B) "CRISIS SEASON" MEANS NOVEMBER 1 TO MAY 31.

16 (C) "ELIGIBLE LOW-INCOME HOUSEHOLD" MEANS A HOUSEHOLD WITH A  
17 HOUSEHOLD INCOME OF NOT MORE THAN 150% OF THE FEDERAL POVERTY  
18 GUIDELINES.

19 (D) "FUND" MEANS THE LOW-INCOME ENERGY ASSISTANCE AND  
20 WEATHERIZATION FUND CREATED IN SUBSECTION (1).

21 (E) "UTILITY" MEANS AN ELECTRIC UTILITY, A COOPERATIVE  
22 ELECTRIC UTILITY, OR A NATURAL GAS UTILITY.