

HOUSE No. 03897

By Mr. Keenan of Salem, for the committee on Telecommunications, Utilities and Energy, on House, No. 879, a Bill further promoting energy efficiency and green jobs (House, No. 3897).

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act further promoting energy efficiency and green jobs.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after section
2 3500 the following section:

3 Section 35PP: There shall be established and set up on the books of the commonwealth a
4 separate fund to be known as the Oil Heat Energy Efficiency Fund. The fund shall consist of
5 amounts credited to the fund in accordance with sections 11J of chapter 25A and expended
6 exclusively for the purposes of said section 11J of said chapter 25A. The fund shall be
7 administered by the commissioner of energy resources, pursuant to section 11J(b) of chapter
8 25A, in coordination with the secretary of administration and finance. The fund shall be an
9 expendable trust fund and shall not be subject to appropriation or allotment. The commissioner
10 shall report monthly by source all amounts credited to the fund and all expenditures by
11 subsidiary made from the fund on the Massachusetts management and accounting reporting

12 system. Amounts remaining in the fund at the end of a fiscal year shall not revert to the General
13 Fund and shall be available for expenditure by the fund in the next fiscal year and thereafter.

14 SECTION 2. Chapter 25A of the General Laws is hereby amended by adding after section 11I
15 the following new sections:

16 Section 11J. (a) For the purposes of section 11J, the following terms shall have the following
17 meanings:

18 “Fuel oil industry” or “oil heat industry,” persons in the production, transportation, or sale of oil
19 heat fuel; and persons engaged in the manufacture or distribution of oil heat fuel utilization
20 equipment; provided that “fuel oil industry” or “oil heat industry” shall not include ultimate
21 consumers of oil heat fuel.

22 “No. 1 distillate,” fuel oil classified as No. 1 distillate by the American Society for Testing and
23 Materials (ASTM).

24 “No. 2 dyed distillate,” fuel oil classified as No. 2 distillate by the American Society for Testing
25 and Materials (ASTM) that is indelibly dyed in accordance with regulations prescribed by the
26 Secretary of the Treasury under section 4082(a) (2) of the Internal Revenue Code of 1986.

27 “Cost Effective,” with respect to an energy efficiency program, means that the program meets a
28 cost-benefit test, which requires that the net present value of economic benefits over the life of
29 the program or measure, including avoided supply and delivery costs and deferred or avoided
30 investments, environmental benefits and avoided environmental costs, avoided operation and
31 maintenance costs and other appropriate energy and non-energy benefits as determined by the
32 department, is greater than the net present value of the costs over the life of the program.

33 “Energy Efficiency Advisory Council (EEAC),” refers to the energy efficiency advisory council
34 established pursuant to section 22 of chapter 25 of the general laws.

35 “Oil heat fuel,” No.1 distillate and No.2 dyed distillate that is used as a fuel for residential or
36 commercial space or hot water heating.

37 “Retail marketer,” a person engaged primarily in the sale of oil heat fuel to ultimate consumers.

38 “Wholesale distributor,” a person or business entity that produces No. 1 distillate or No. 2 dyed
39 distillate; imports No. 1 distillate or No. 2 dyed distillate; blends No. 1 distillate or No. 2 dyed
40 distillate with biodiesel or biofuels; or transports No. 1 distillate or No. 2 dyed distillate across
41 state boundaries or among local marketing areas; and sells the products to retail home or
42 commercial heating oil companies for resale.

43 (b)(1) Beginning , June 1, 2013, the department shall require a systems benefit assessment of
44 two and one-half cents (\$.025) per gallon be placed on all gallons of oil heat fuel sold for
45 residential or commercial use in Massachusetts in order to establish oil heat energy efficiency
46 programs. The assessment shall be collected at the point of sale of oil heat fuel by a wholesale
47 distributor to a person other than a wholesale distributor, including a sale made pursuant to an
48 exchange. A wholesale distributor shall be responsible for payment of the assessment to the
49 Commonwealth on a quarterly basis; and shall provide to the Commonwealth certification of the
50 volume of fuel sold. No. 1 distillate and No. 2 dyed distillate fuel sold for uses other than as oil
51 heat fuel are excluded from the assessment. Distillate fuel used by vessels, railroad, utilities,
52 farmers and the military are exempt from the assessment.

53 (2) Such funds shall be deposited by the secretary of administration and finance into the Oil
54 Heat Energy Efficiency Fund pursuant to section 35PP of chapter 10. The Fund shall be

55 expended by the commissioner of energy resources, pursuant to this section, and subject to the
56 approval of the energy efficiency advisory council (EEAC) for the sole purpose of designing,
57 marketing and providing cost-effective energy efficiency programs through financial incentives
58 and services for residential and small business demand-side management programs that improve
59 energy efficiency and reduce consumption for residential and commercial customers who utilize
60 oil heat fuel for space heat or domestic hot water heating, including but not limited to: replacing
61 or upgrading older, inefficient oil heating or domestic hot watersystems; duct sealing and
62 insulation, pipe insulation, building envelope sealing and insulation; storm windows; blower
63 door air sealing services; research and design; and marketing of oil heat efficiency products or
64 services. Program design for envelope measures and measures that will save electricity or
65 natural gas, in addition to oil heat, shall be conducted by the EEAC and the program
66 administrator(s), and result in integrated programs that serve all customers, regardless of heating
67 fuel type. Program design elements that result in savings of multiple fuels shall be funded from
68 the oil heat efficiency trust in an equitable manner and in proportion to the oil heat savings
69 generated. No more than one percent (1%) of such funds may be used for training. No more than
70 one percent (1%) of such funds may be allocated to the department for administration of the fund
71 and coordination of the programs. Program design for heating system programs shall be
72 conducted by EEAC and the program administrator(s), provided, however, that under the
73 programs, an oil heating system shall be replaced with a new oil heating system. The
74 commissioner shall act as the fiscal agent responsible with ensuring these services are delivered
75 as approved by the EEAC and in a cost effective manner that is coordinated with other energy
76 efficiency programs.

77 At least 20 percent of the funds collected shall be spent on comprehensive low-income
78 residential oil heat energy efficiency and education programs. The commissioner shall designate
79 that these programs be implemented through the low income weatherization and fuel assistance
80 program network administered by the department of housing and community development.

81 (c) (1) The EEAC shall advise the department on all aspects of oil energy efficiency funds and
82 programs in the commonwealth. Actions of the EEAC pertaining to disbursement of the oil heat
83 efficiency funds and programs shall require a majority vote.

84 The EEAC shall establish a target budget designed to ramp-up over time to capture cost-effective
85 energy efficiency for heating oil, and a corresponding annual assessment designed to recover
86 enough money to fund the programs.

87 (2) To implement this section, the commissioner, with the approval of the EEAC and, is hereby
88 directed and authorized to enter into contracts with appropriate organization(s) to serve as energy
89 efficiency program administrator(s), selected through a competitive procurement process, to
90 deliver and operate, in a cost-effective manner, oil heat energy efficiency programs to be
91 provided by retail heating oil dealers and other business entities, organizations and agencies with
92 qualified technical personnel including oil heat technicians in good standing with the
93 Commonwealth in possession of a certificate of competency as defined by Code of
94 Massachusetts Regulation (CMR) 527 CMR 4.00. Programs shall be approved by the EEAC and
95 shall be delivered in a cost effective manner that is coordinated with other energy efficiency
96 programs.

97 (3) Every 3 years, in a manner consistent with natural gas and electric efficiency plans set forth
98 in section 21 of chapter 25, on or before April 30, the program administrators shall jointly

99 prepare an oil heat efficiency investment plan for approval by the department and the EEAC.
100 Each plan shall provide for the acquisition of energy efficiency resources that are cost effective
101 or less expensive than supply and shall be prepared in coordination with the energy efficiency
102 advisory council established by section 22 of chapter 25. A program included in the plan shall be
103 screened through cost-effectiveness testing which compares the value of program benefits to the
104 program costs to ensure that the program is designed to obtain energy savings and system
105 benefits with value greater than the costs of the program. Program cost effectiveness shall be
106 reviewed periodically by the department and by the EEAC. If a program fails the cost-
107 effectiveness test as part of the review process, it shall either be modified to meet the test or shall
108 be terminated. The EEAC may allow for transitional, one year plans in order to achieve
109 consistency with section 21 of chapter 25.

110 An investment plan shall include: (i) an assessment of the estimated lifetime cost, reliability and
111 magnitude of all available energy efficiency resources that are cost effective or less expensive
112 than supply; (ii) the estimated energy cost savings that the acquisition of such resources will
113 provide to oil heat consumers, including, but not limited to, reductions in energy costs and
114 increases in price stability and affordability for low-income customers; (iii) a description of
115 programs, which may include, but which shall not be limited to: (A) efficiency programs; (B)
116 programs for research, development and commercialization of products or processes which are
117 more energy-efficient than those generally available; (C) programs for development of markets
118 for such products and processes, including recommendations for new appliance and product
119 efficiency standards; (D) programs providing support for energy use assessment, real time
120 monitoring systems, engineering studies and services related to new construction or major
121 building renovation, including integration of such assessments, systems, studies and services

122 with building energy codes programs and processes, or those regarding the development of high
123 performance or sustainable buildings that exceed code; (E) programs for planning and
124 evaluation; and (F) programs for public education regarding energy; provided, however, that not
125 more than 1 per cent of the fund shall be expended for items (B) and (C) collectively, without
126 authorization from the advisory council; (iv) a proposed mechanism which provides performance
127 incentives to the program administrator(s) based on their success in meeting or exceeding the
128 goals in the plan; (v) the budget that is needed to support the programs; (vi) data showing the
129 percentage of all monies collected that will be used for direct consumer benefit, such as
130 incentives and technical assistance to carry out the plan.

131 (4) The program administrator(s) shall submit the investment plan to the EEAC. Not later than
132 90 days after the submission of a plan, the department and EEAC shall approve, modify and
133 approve, or reject and require the resubmission of the plan accordingly.

134 (5) Programs shall be designed to treat all energy use in a building in a comprehensive and
135 coordinated fashion across the state with maximum use of common program designs, integrated
136 programs, and a common pool of energy efficiency vendors and contractors who can treat all
137 energy use in a building comprehensively.

138 The financial incentives used in said programs may be a combination of low or zero interest
139 loans or direct rebates and other financial incentives. The EEAC shall solicit input from the oil
140 heat industry, consumer groups, and low income advocacy groups regarding the implementation
141 of this section and delivery of all program services.

142 (6) The department shall issue regulations implementing this section within 1 year of enactment
143 of this section and the commissioner shall enter into contracts within 6 months after such
144 regulations have been made final.

145 (7) From time to time, the EEAC shall undertake, or cause to be undertaken, an assessment of
146 cost effective oil heat energy efficiency resource potential in the commonwealth.

147 (8) Evaluation, monitoring, and verification of the efficiency programs shall be conducted by an
148 independent third-party selected by the EEAC. Said independent third party shall report its
149 findings to the EEAC, the joint committee on telecommunications, utilities, and energy, and the
150 public through the department of energy resources. Allocations for independent third-party
151 monitoring and other consulting services shall not exceed 1 per cent of the fund on an annual
152 basis

153 (9) The EEAC, in collaboration with the program administrator(s), shall prepare an annual report
154 for submission to the joint committee on telecommunications, utilities, and energy and the public
155 through the department of energy resources that includes, but is not limited to: a description of
156 the amount and use of proceeds of the Oil Heat Energy Efficiency Fund collected under this
157 section; a description of the cost effective energy efficiency programs funded through such
158 proceeds; the demonstration of consumer savings, cost-effectiveness, and the lifetime and annual
159 energy savings achieved by the energy efficiency programs funded; and the lifetime and annual
160 greenhouse gas emissions benefits achieved by energy efficiency programs funded.

161 SECTION 3. Chapter 25 of the General Laws is amended by in Section 21 by inserting after
162 subsection (e) the following new subsections:-

163 (f) In implementing its energy efficiency plan, each electric and natural gas distribution company
164 Program Administrator, the Oil Heat Energy Efficiency Program Administrator, and any other
165 entity that receives public subsidy and provides energy efficiency services shall, in consultation
166 with the Energy Efficiency Advisory Council, as defined by section 22 of chapter 25 of the
167 General Laws, and subject to the approval of the Department of Public Utilities:

168 (1) Report aggregate residential and commercial ratepayer data for those who receive energy
169 efficiency program benefits to the Department Of Energy Resources. The report shall specify for
170 each zip code the number of participants served; energy efficiency measures provided; program
171 and participant dollars spent per measure; energy savings per measure; and the number of
172 participants that reside in rental units.

173 (2) Not later than January 1, 2013 and every January 1 and July 1 of each year thereafter, each
174 electric, natural gas distribution company, and oil heat energy efficiency Program Administrator,
175 and any other entity that receives public subsidy and provides energy efficiency services shall
176 submit the data identified in Section (f)(1) to the Department Of Energy Resources.

177 (g) The Department Of Energy Resources shall establish and maintain a database to store and
178 manage all energy efficiency program data collected under section (f) of chapter 25.

179 (h) The Department Of Energy Resources shall establish annual benchmarks for reaching the
180 statewide goals and providing equitable access to historically harder-to-reach segments,
181 including, but not limited to, residential rental properties, low and moderate-income homeowners
182 and renters (those earning up to 120% state median income), communities whose primary
183 language is not English, and small commercial businesses, which may not be participating at
184 rates commensurate with the funds that they are paying into the programs as ratepayers.

185 (i) Not later than January 1, 2014 and every January 1 of each year thereafter, the Department Of
186 Energy Resources shall provide a report to the Joint Committee on Telecommunications,
187 Utilities and Energy, and the public through the department, demonstrating whether energy
188 efficiency programs are reaching ratepayers and buildings equitably.

189 (j) The Department Of Energy Resources shall promulgate regulations to implement the
190 requirements of this legislation within one year of enactment.

191 SECTION 4. Chapter 23J of the General Laws, as so appearing, is hereby amended in Section 5
192 by inserting at the end the following new paragraph:-

193 The center shall annually, no later than April 1, submit to the governor, the joint committee on
194 telecommunications, utilities and energy, energy efficiency advisory council a report detailing
195 the energy efficiency and green industry workforce development needs in the State. The report
196 shall include:

197 (A) data on jobs created and demographic information about who is hired;

198 (B) recommended target hiring goals;

199 (C) average salaries and benefits information;

200 (C) recommended legislation to implement the proposed plan on a long-term basis.

201 SECTION 5. Section 7 of chapter 465 of the acts of 1980 is hereby amended by inserting after
202 subsection (g) the following subsections:-

203 (h) A utility shall be exempt from the requirements of subsection (b) if said utility includes the
204 Massachusetts residential conservation service as part of an efficiency investment plan prepared

205 and submitted to the department in accordance with Section 21 of Chapter 25 of the General
206 Laws.

207 (i) The department shall be exempt from the requirements of subsection (f) for any utility that
208 includes the Massachusetts residential conservation service as part of an efficiency investment
209 plan prepared and submitted to the department in accordance with Section 21 of Chapter 25 of
210 the General Laws.