



# House of Representatives

General Assembly

**File No. 242**

February Session, 2006

Substitute House Bill No. 5261

*House of Representatives, March 30, 2006*

The Committee on Energy and Technology reported through REP. FONTANA of the 87th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING NATURAL GAS AND OIL CONSERVATION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-32f of the 2006 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective July 1, 2006*):

4 (a) On or before October first of each even-numbered year, a gas  
5 company, as defined in section 16-1, as amended, shall furnish a report  
6 to the Department of Public Utility Control containing a five-year  
7 forecast of loads and resources. The report shall describe the facilities  
8 and supply sources that, in the judgment of such gas company, will be  
9 required to meet gas demands during the forecast period. The report  
10 shall be made available to the public and shall be furnished to the chief  
11 executive officer of each municipality in the service area of such gas  
12 company, the regional planning agency which encompasses each such  
13 municipality, the Attorney General, the president pro tempore of the  
14 Senate, the speaker of the House of Representatives, the joint standing

15 committee of the General Assembly having cognizance of matters  
16 relating to public utilities, any other member of the General Assembly  
17 making a request to the department for the report and such other state  
18 and municipal entities as the department may designate by regulation.  
19 The report shall include: (1) A tabulation of estimated peak loads and  
20 resources for each year; (2) data on gas use and peak loads for the five  
21 preceding calendar years; (3) a list of present and projected gas supply  
22 sources; (4) specific measures to control load growth and promote  
23 conservation; and (5) such other information as the department may  
24 require by regulation. A full description of the methodology used to  
25 arrive at the forecast of loads and resources shall also be furnished to  
26 the department. The department shall hold a public hearing on such  
27 reports upon the request of any person. On or before August first of  
28 each odd-numbered year, the department may request a gas company  
29 to furnish to the department an updated report. A gas company shall  
30 furnish any such updated report not later than sixty days following the  
31 request of the department.

32 (b) Not later than October 1, 2005, and annually thereafter, a gas  
33 company, as defined in section 16-1, as amended, shall submit to the  
34 Department of Public Utility Control a gas conservation plan, in  
35 accordance with the provisions of this section, to implement cost-  
36 effective energy conservation programs and market transformation  
37 initiatives. All supply and conservation and load management options  
38 shall be evaluated and selected within an integrated supply and  
39 demand planning framework. Such plan shall be funded by annual  
40 revenue from the tax imposed by section 12-408 on the gross receipts  
41 of sales of gas that is in excess of said revenue collected during 2005,  
42 but not more than ten million dollars. Said funds shall be deposited  
43 into an account held by the Energy Conservation Management Board,  
44 established pursuant to section 16-245m, as amended by this act.  
45 Services provided under the plan shall be available to all gas company  
46 customers and the costs shall be collected as a portion of the delivery  
47 charges. The company shall apply to the Energy Conservation  
48 Management Board for reimbursement for expenditures pursuant to  
49 the plan. The department shall, in an uncontested proceeding during

50 which the department may hold a public hearing, approve, modify or  
51 reject the plan.

52 (c) (1) The Energy Conservation Management Board [, established  
53 pursuant to section 16-245m,] shall advise and assist each such gas  
54 company in the development and implementation of the plan  
55 submitted under subsection (b) of this section. Each program  
56 contained in the plan shall be reviewed by each such gas company and  
57 shall be either accepted, modified or rejected by the Energy  
58 Conservation Management Board before submission of the plan to the  
59 department for approval. The Energy Conservation Management  
60 Board shall, as part of its review, examine opportunities to offer joint  
61 programs providing similar efficiency measures that save more than  
62 one fuel resource or to otherwise coordinate programs targeted at  
63 saving more than one fuel resource. Any costs for joint programs shall  
64 be allocated equitably among the conservation programs.

65 (2) Programs included in the plan shall be screened through cost-  
66 effectiveness testing that compares the value and payback period of  
67 program benefits to program costs to ensure that the programs are  
68 designed to obtain gas savings whose value is greater than the costs of  
69 the program. Program cost-effectiveness shall be reviewed annually by  
70 the department, or otherwise as is practicable. If the department  
71 determines that a program fails the cost-effectiveness test as part of the  
72 review process, the program shall either be modified to meet the test  
73 or shall be terminated. On or before January 1, 2007, and annually  
74 thereafter, the board shall provide a report, in accordance with the  
75 provisions of section 11-4a, to the joint standing committees of the  
76 General Assembly having cognizance of matters relating to energy and  
77 the environment, that documents expenditures and funding for such  
78 programs and evaluates the cost-effectiveness of such programs  
79 conducted in the preceding year, including any increased cost-  
80 effectiveness owing to offering programs that save more than one fuel  
81 resource.

82 (3) Programs included in the plan may include, but are not limited

83 to: (A) Conservation and load management programs, including  
84 programs that benefit low-income individuals; (B) research,  
85 development and commercialization of products or processes that are  
86 more energy-efficient than those generally available; (C) development  
87 of markets for such products and processes; (D) support for energy use  
88 assessment, engineering studies and services related to new  
89 construction or major building renovations; (E) the design,  
90 manufacture, commercialization and purchase of energy-efficient  
91 appliances, air conditioning and heating devices; (F) program planning  
92 and evaluation; (G) joint fuel conservation initiatives and programs  
93 targeted at saving more than one fuel resource; and (H) public  
94 education regarding conservation. Such support may be by direct  
95 funding, manufacturers' rebates, sale price and loan subsidies, leases  
96 and promotional and educational activities. The plan shall also provide  
97 for expenditures by the Energy Conservation Management Board for  
98 the retention of expert consultants and reasonable administrative costs,  
99 provided such consultants shall not be employed by, or have any  
100 contractual relationship with, a gas company. Such costs shall not  
101 exceed five per cent of the total cost of the plan.

102 [(d) Nothing in this section shall be construed to require the  
103 Department of Public Utility Control to establish a conservation charge  
104 to support the programs in this section.]

105 Sec. 2. (NEW) (*Effective July 1, 2006*) (a) For purposes of this section,  
106 "fuel oil" means the product designated by the American Society for  
107 Testing and Materials as "Specifications for Heating Oil D396-69",  
108 commonly known as number 2 heating oil, and grade number 4, grade  
109 number 5 and grade number 6 fuel oil, provided such heating and fuel  
110 oil are used for purposes other than the generation of power to propel  
111 motor vehicles or for the generation of electricity.

112 (b) On or before November 1, 2006, the Energy Conservation  
113 Management Board, established pursuant to section 16-245m of the  
114 2006 supplement to the general statutes, as amended by this act, shall,  
115 after issuing a request for proposals, select an entity qualified to

116 administer and implement conservation and energy efficiency  
117 programs for fuel oil customers, as described in this section, to act as  
118 the program administrator for such programs and shall enter into a  
119 contract not to exceed three years in duration for such purpose. At the  
120 expiration of the contract, the board may renew the contract if it finds  
121 that the administrator's performance has been satisfactory, or it may  
122 issue a new request for proposals.

123 (c) On or before March 1, 2007, the program administrator shall  
124 submit to the Energy Conservation Management Board a fuel oil  
125 conservation plan in accordance with the provisions of this section for  
126 the balance of 2007. On or before October 1, 2007, and annually  
127 thereafter, the program administrator shall submit to the Energy  
128 Conservation Management Board a fuel oil conservation plan for the  
129 next calendar year in accordance with the provisions of this section.  
130 The board shall hold a public hearing on each such plan.

131 (d) (1) The Energy Conservation Management Board shall advise  
132 and assist the program administrator in the development and  
133 implementation of a comprehensive plan, which shall be approved by  
134 the board, that implements cost-effective fuel oil energy conservation  
135 programs and market transformation initiatives for residential,  
136 commercial and industrial fuel oil customers. The board shall, as part  
137 of its review, examine opportunities to offer joint programs providing  
138 similar efficiency measures that save more than one fuel resource or to  
139 otherwise coordinate programs targeted at saving more than one fuel  
140 resource. Any costs for joint programs shall be allocated equitably  
141 among the conservation programs.

142 (2) Program cost-effectiveness shall be reviewed annually by the  
143 Energy Conservation Management Board, or otherwise as practicable.  
144 Programs included in the plan shall be evaluated as to cost-  
145 effectiveness by comparing the value and payback period of the  
146 program benefits to the program costs to ensure that the programs are  
147 designed to obtain fuel oil savings, the value of which are greater than  
148 the costs of the program. If the board determines that a program fails

149 the cost-effectiveness test, the board shall modify the program to meet  
150 the test or terminate the program. On or before March 1, 2008, and  
151 annually thereafter, the board shall provide a report to the joint  
152 standing committees of the General Assembly having cognizance of  
153 matters relating to energy and the environment that documents  
154 expenditures and fund balances and evaluates the cost-effectiveness of  
155 such programs conducted in the preceding year, including any  
156 increased cost-effectiveness due to offering programs that save more  
157 than one fuel resource.

158 (3) Programs included in the plan may include, but not be limited  
159 to: (A) Conservation programs, including programs that benefit low-  
160 income persons; (B) research, development and commercialization of  
161 products or processes that are more energy-efficient than those  
162 generally available; (C) development of markets for such products and  
163 processes; (D) support for energy use assessment, engineering studies  
164 and services related to new construction or major building  
165 renovations; (E) the design, manufacture, commercialization and  
166 purchase of energy-efficient appliances and heating devices; (F)  
167 program planning and evaluation; (G) joint fuel conservation  
168 initiatives and programs targeted at saving more than one fuel  
169 resource; and (H) public education regarding conservation. Such  
170 support may be by direct funding, manufacturers' rebates, sale price  
171 and loan subsidies, leases and promotional and educational activities.  
172 The plan shall also provide for expenditures by the Energy  
173 Conservation Management Board for the retention of expert  
174 consultants and reasonable administrative costs, provided such  
175 consultants shall not be employed by, or have any contractual  
176 relationship with, a fuel oil company or the program administrator.  
177 Such costs shall not exceed five per cent of the total cost of the plan.

178 (e) There is established an account to be known as the "fuel oil  
179 conservation account" which shall be a separate, nonlapsing account  
180 within the General Fund. Any balance remaining in said account at the  
181 end of any fiscal year shall be carried forward in said account for the  
182 fiscal year next succeeding. The amount of tax collected annually

183 under section 12-587 of the general statutes, as amended by this act,  
184 that is in excess of the amount collected during 2005, but not more than  
185 ten million dollars, shall be deposited in said account.

186 (f) (1) There is established a Fuel Oil Conservation Board consisting  
187 of five members, including the Commissioner of Revenue of Services  
188 and the Attorney General, or their respective designees. The Governor  
189 shall appoint one member representing a retail fuel oil dealer, the  
190 president pro tempore of the Senate shall appoint one member  
191 representing a business organization, and the speaker of the House of  
192 Representatives shall appoint one member representing an  
193 environmental organization with experience in conservation programs,  
194 all of whom shall serve in accordance with section 4-1a of the general  
195 statutes.

196 (2) The Fuel Oil Conservation Board shall pay specific amounts  
197 from the fuel oil conservation account established pursuant to  
198 subsection (e) of this section to the program administrator selected to  
199 implement an improved plan under this section, upon authorization of  
200 the Energy Conservation Management Board.

201 (3) The Fuel Oil Conservation Board shall establish itself as a tax  
202 exempt organization in accordance with the provisions of Section  
203 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent  
204 corresponding internal revenue code of the United States, as from time  
205 to time amended. Not later than July 1, 2007, and biennially thereafter,  
206 a third party selected by the Attorney General shall audit the activities  
207 of the board. The results of such audit shall be submitted in a report to  
208 the joint standing committees of the General Assembly having  
209 cognizance of matters relating to energy and the environment.

210 Sec. 3. Subsection (c) of section 16-245m of the 2006 supplement to  
211 the general statutes is repealed and the following is substituted in lieu  
212 thereof (*Effective July 1, 2006*):

213 (c) The Department of Public Utility Control shall appoint and  
214 convene an Energy Conservation Management Board which shall

215 include representatives of: (1) An environmental group knowledgeable  
216 in energy conservation program collaboratives; (2) the Office of  
217 Consumer Counsel; (3) the Attorney General; (4) the Department of  
218 Environmental Protection; (5) the electric distribution companies in  
219 whose territories the activities take place for such programs; (6) a state-  
220 wide manufacturing association; (7) a chamber of commerce; (8) a  
221 state-wide business association; (9) a state-wide retail organization;  
222 (10) a representative of a municipal electric energy cooperative created  
223 pursuant to chapter 101a; (11) two representatives selected by the gas  
224 companies in this state; (12) a retail fuel oil dealers association in the  
225 state; and ~~[(12)]~~ (13) residential customers. Such members shall serve  
226 for a period of five years and may be reappointed. Representatives of  
227 the gas companies shall not vote on matters unrelated to gas  
228 conservation. Representatives of the electric distribution companies  
229 and the municipal electric energy cooperative shall not vote on matters  
230 unrelated to electricity conservation. The representative of the fuel oil  
231 dealers association shall not vote on matters unrelated to fuel oil  
232 conservation.

233 Sec. 4. Subsection (j) of section 16-19b of the 2006 supplement to the  
234 general statutes is repealed and the following is substituted in lieu  
235 thereof (*Effective July 1, 2006*):

236 (j) Any purchased gas adjustment clause or energy adjustment  
237 clause approved by the department may include a provision designed  
238 to allow the electric or gas company to charge or reimburse the  
239 customer for any under-recovery or over-recovery of overhead and  
240 fixed costs due solely to the deviation of actual retail sales of electricity  
241 or gas from projected retail sales of electricity or gas. The department  
242 shall include such provision in any energy adjustment clause approved  
243 for an electric company if it determines (1) that a significant cause of  
244 excess earnings by the electric company is an increase in actual retail  
245 sales of electricity over projected retail sales of electricity as  
246 determined at the time of the electric company's most recent rate  
247 amendment, and (2) that such provision is likely to benefit the  
248 customers of the electric company. Not later than January 1, 2008, the

249 department shall include such provision in any purchased gas  
 250 adjustment clause approved for a gas company on or after the issuance  
 251 of a final decision in a proceeding on amendments to rate schedules for  
 252 such company.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2006	16-32f
Sec. 2	July 1, 2006	New section
Sec. 3	July 1, 2006	16-245m(c)
Sec. 4	July 1, 2006	16-19b(j)

**Statement of Legislative Commissioners:**

In Subsec. (e) of section 2, duplicative language was deleted for purposes of clarity.

**ET**            *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 07 \$</b>	<b>FY 08 \$</b>
Energy Conservation Management Board	CC&PUCF - Cost	Potential	Potential
Energy Conservation Management Board	Fuel Oil Conservation Account - Revenue Gain	Up to \$10 Million	Up to \$10 Million
Department of Revenue Services	GF - Revenue Loss	Up to \$10 Million	Up to \$10 Million

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund; GF=General Fund

**Municipal Impact:** None

### **Explanation**

The bill requires the Energy Conservation Management Board (ECMB) to issue a request for proposal seeking an entity to administer and implement conservation and energy efficiency programs for fuel oil customers. The bill also adds a representative of a retail fuel oil dealers association to the Energy Conservation Management Board (ECMB). This could result in a cost to ECMB.

The bill also establishes a non-lapsing "fuel oil conservation account" within the General Fund to fund the heating oil conservation programs. The new account established under the bill is funded from petroleum products gross earnings tax revenue, with a limit of \$10 million a year. Therefore, this would result in up to a \$10 million revenue loss to the General Fund from the gas gross earnings tax revenue.

### **The Out Years**

The fiscal impact in the out years would be the same as the fiscal impact indicated in FY 07 and FY 08.

**OLR Bill Analysis  
sHB 5261*****AN ACT CONCERNING NATURAL GAS AND OIL CONSERVATION.*****SUMMARY:**

This bill establishes a process for developing and reviewing fuel oil conservation programs, which is similar to existing provisions for natural gas and electric conservation programs. Under the bill, the Energy Conservation Management Board (ECMB) must choose a contractor to develop and implement a comprehensive oil conservation plan, subject to ECMB approval. The bill specifies the types of fuel oil conservation programs that can be included in the plan. ECMB must review the programs annually to determine their cost effectiveness. It must report to the Energy and Technology and Environment committees by March 1, annually, starting in 2008, on program expenditures, cost-effectiveness, and fund balances for the previous year. The report also must include any increased cost-effectiveness due to offering programs that save more than one type of fuel.

The bill establishes a nonlapsing fuel oil conservation account in the General Fund to fund these programs. The money for this account comes from that part of the petroleum products gross earnings tax revenue that exceeds 2005 revenue, up to \$10 million per year. The bill establishes a Fuel Oil Conservation Board and specifies its membership. It requires the board to (1) establish itself as a 501(c)(3) tax-exempt organization and (2) pay specific amounts from the account to the program administrator, upon authorization of ECMB. By July 1, 2007, and biennially thereafter, a third party selected by the attorney general must audit the board's activities. The audit report must be submitted to the Energy and Technology and Environment committees.

The bill adds a representative of a retail fuel oil dealers association to ECMB, but specifies he can vote only on matters related to fuel oil conservation.

By law, natural gas companies must develop annual conservation plans. The bill funds the conservation programs developed under these plans by using that part of petroleum products gross earnings tax revenue that exceeds 2005 revenue, up to \$10 million per year. This money must be deposited in an ECMB account. Services provided under the plan must be available to all gas customers. The program costs must be collected as part of the company's delivery charges. The bill repeals an existing law that states that nothing in the existing planning requirements for gas conservation programs may be construed to require the Department of Public Utility Control (DPUC) to establish a conservation charge to support such programs.

By law, DPUC can approve a clause in natural gas rates adjusting them for the price of purchased gas. It also can include a provision in such clauses designed to allow the gas company to charge or reimburse its customers for over- or under-recovery of the company's fixed costs due solely to a deviation between projected and actual sales. (Rates are designed to recover a utility company's capital and other fixed costs and its variable costs, e.g. fuel, based on projected sales. If actual sales are higher or lower, the company can earn too much or too little.) The bill requires DPUC, by January 1, 2008, to include such a provision in any purchased gas adjustment clause approved for a gas company on or after its next rate case.

EFFECTIVE DATE: July 1, 2006

## **FUEL OIL CONSERVATION PROGRAM**

### ***Development***

The bill requires ECMB to issue a request for proposals seeking an entity to administer and implement conservation and energy efficiency programs for fuel oil customers. Fuel oil, under the bill, is Number 2 (home heating oil) and heavier oils (numbers 4, 5, and 6) used for

purposes other than moving vehicles or generating electricity. By November 1, 2006, ECMB must select a qualified entity as program administrator and enter into a contract for up to three years. ECMB can renew the contract if it finds that the administrator's performance has been satisfactory, or it can issue a new request for proposals when the contract ends.

By March 1, 2007, the program administrator must submit a conservation plan for the rest of 2007 to ECMB. By October 1, 2007, and every year thereafter, the administrator must submit a plan for the next calendar year. ECMB must hold a public hearing on each plan.

### ***Eligible Activities***

ECMB must advise and assist the program administrator in developing and implementing the plan. The plan must implement cost effective fuel oil conservation programs and market transformation initiatives for residential, commercial, and industrial oil customers. It can include the following types of programs:

1. conservation programs, including programs that benefit low income people;
2. research, development, and commercialization of products or processes that are more energy-efficient than those generally available;
3. development of markets for such products and processes;
4. support for energy use assessment, engineering studies, and services related to new construction or major building renovations;
5. the design, manufacture, commercialization, and purchase of energy-efficient appliances and heating devices;
6. program planning and evaluation;
7. joint fuel conservation initiatives and programs targeted at

saving more than one fuel resource; and

8. public education regarding conservation.

The programs in the plan can provide direct funding, manufacturers' rebates, sale price and loan subsidies, leases, and promotional and educational activities. The plan also must provide for ECMB expenditures for the retention of expert consultants and reasonable administrative costs. The consultants may not be employed by, or have any contractual relationship with, a fuel oil company or the program administrator. These costs cannot exceed 5% of the plan's total cost.

### ***ECMB Review***

The plan is subject to ECMB approval. ECMB must, as part of its review, examine opportunities for multi-fuel programs, e.g., programs that save oil and electricity. Any costs of multi-fuel programs must be allocated equitably among the conservation programs.

ECMB must review the program's cost-effectiveness annually or otherwise as practicable. It must compare the value and payback period of program benefits to the program costs to ensure that the programs are designed to obtain fuel oil savings greater than the costs of the program. If ECMB determines that a program fails the cost-effectiveness test, it must either modify or terminate the program.

By March 1, 2008, and annually thereafter, ECMB must provide a report to the Energy and Technology and Environment committees that documents expenditures and fund balances and evaluates the cost-effectiveness of the preceding year's programs, including any increased cost-effectiveness resulting from offering programs that save more than one fuel.

### **FUEL OIL CONSERVATION BOARD**

The board consists of five members: (1) the revenue services commissioner and the attorney general, or their designees, (2) a member representing retail fuel oil dealers, appointed by the governor,

(3) a representative of a business organization, appointed by the Senate president pro tempore, and (4) a representative of an environmental organization with experience in conservation programs, appointed by the House speaker.

**COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable Substitute

Yea 17 Nay 1