



# Senate

General Assembly

**File No. 82**

January Session, 2009

Senate Bill No. 776

*Senate, March 16, 2009*

The Committee on Energy and Technology reported through SEN. FONFARA, J. of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## **AN ACT CONCERNING THE FUEL OIL CONSERVATION BOARD.**

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

1 Section 1. Section 16a-22l of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) For purposes of this section, "fuel oil" means the product  
4 designated by the American Society for Testing and Materials as  
5 "Specifications for Heating Oil D396-69", commonly known as number  
6 2 heating oil, and grade number 4, grade number 5 and grade number  
7 6 fuel oil, provided such heating and fuel oil are used for purposes  
8 other than the generation of power to propel motor vehicles or for the  
9 generation of electricity.

10 (b) On or before November 1, 2007, the Fuel Oil Conservation Board  
11 shall, after issuing a request for proposals, select an entity qualified to  
12 administer and implement conservation and energy efficiency  
13 programs for fuel oil customers, as described in this section, to act as  
14 the program administrator for such programs and shall enter into a

15 contract not to exceed three years in duration for such purpose. At the  
16 expiration of the contract, the board may renew the contract if it finds  
17 that the administrator's performance has been satisfactory, or the  
18 board may issue a new request for proposals.

19 (c) On or before March 1, 2008, the program administrator shall  
20 submit to the Energy Conservation Management Board a fuel oil  
21 conservation plan in accordance with the provisions of this section for  
22 the balance of 2008. On or before October 1, 2008, and annually  
23 thereafter, the program administrator shall submit to the Fuel Oil  
24 Conservation Board and the Energy Conservation Management Board  
25 a fuel oil conservation plan for the next calendar year in accordance  
26 with the provisions of this section. The board shall hold a public  
27 hearing on each such plan.

28 (d) (1) The Fuel Oil Conservation Board shall advise and assist the  
29 program administrator in the development and implementation of a  
30 comprehensive plan, which shall be approved by the board, that  
31 implements cost-effective fuel oil energy conservation programs and  
32 market transformation initiatives for residential, commercial and  
33 industrial fuel oil customers. The board shall, as part of its review,  
34 examine opportunities to offer joint programs providing similar  
35 efficiency measures that save more than one fuel resource or to  
36 otherwise coordinate programs targeted at saving more than one fuel  
37 resource.

38 (2) [Program] The Fuel Oil Conservation Board shall review  
39 program cost-effectiveness [shall be reviewed] annually, [by the Fuel  
40 Oil Conservation Board,] or otherwise as practicable. Programs  
41 included in the plan shall be evaluated as to cost-effectiveness by  
42 comparing the value and payback period of the program benefits to  
43 the program costs to ensure that the programs are designed to obtain  
44 fuel oil savings, the value of which are greater than the costs of the  
45 program. If the board determines that a program fails such cost-  
46 effectiveness test, the board shall modify the program to meet the test  
47 or terminate the program. On or before January 1, 2009, and annually

48 thereafter, the Fuel Oil Conservation Board shall provide a report to  
49 the joint standing committees of the General Assembly having  
50 cognizance of matters relating to energy and the environment, in  
51 accordance with the provisions of section 11-4a, that documents  
52 expenditures and fund balances and evaluates the cost-effectiveness of  
53 such programs conducted in the preceding year, including any  
54 increased cost-effectiveness due to offering programs that save more  
55 than one fuel resource.

56 (3) Programs included in the plan may include, but not be limited  
57 to: (A) Conservation programs, including programs that benefit low-  
58 income persons; (B) research, development and commercialization of  
59 products or processes that are more energy-efficient than those  
60 generally available; (C) development of markets for such products and  
61 processes; (D) support for energy use assessment, engineering studies  
62 and services related to new construction or major building  
63 renovations; (E) the design, manufacture, commercialization and  
64 purchase of energy-efficient appliances and heating devices; (F)  
65 program planning and evaluation; (G) joint fuel conservation  
66 initiatives and programs targeted at saving more than one fuel  
67 resource; and (H) public education regarding conservation. Such  
68 support may be by direct funding, manufacturers' rebates, sale price  
69 and loan subsidies, leases and promotional and educational activities.  
70 The plan shall also provide for expenditures by the Fuel Oil  
71 Conservation Board for the retention of expert consultants and  
72 reasonable administrative costs, provided such consultants shall not be  
73 employed by, or have any contractual relationship with, a fuel oil  
74 company or the program administrator. Such costs shall not exceed  
75 five per cent of the total cost of the plan.

76 (e) (1) There is established a Fuel Oil Conservation Board consisting  
77 of thirteen members, including:

78 (A) One member representing dealers with retail oil heat sales in  
79 excess of fifteen million gallons in the state, appointed by the president  
80 pro tempore of the Senate;

81 (B) One member representing dealers with retail oil heat sales of less  
82 than fifteen million gallons in the state, appointed by the speaker of the  
83 House of Representatives;

84 (C) One member representing the heating, ventilation and air-  
85 conditioning trades licensed under chapter 393, appointed by the  
86 majority leader of the Senate;

87 (D) One member representing wholesale heating distributors  
88 operating within the state, appointed by the majority leader of the  
89 House of Representatives;

90 (E) One member representing a state-wide environmental advocacy  
91 group, appointed by the minority leader of the Senate;

92 (F) The chairperson of the Heating, Piping, Cooling and Sheet Metal  
93 Work Board established under chapter 393;

94 (G) One member from a state-wide retail oil dealer trade  
95 association, appointed by the minority leader of the House of  
96 Representatives;

97 (H) Six members of the public appointed by the Governor, of which  
98 one shall be a representative of an environmental organization  
99 knowledgeable in energy efficiency programs, one shall be a  
100 representative of an in-state biodiesel distributor, one shall be a  
101 representative of a consumer advocacy organization, one shall be a  
102 representative of the business community, one shall be a  
103 representative of low-income ratepayers and one shall be a  
104 representative of state residents, in general, and all of whom shall have  
105 expertise in energy issues; and

106 (I) All appointed members of the board shall serve in accordance  
107 with section 4-1a.

108 (2) The Fuel Oil Conservation Board shall [be within the office of the  
109 State Comptroller for administrative purposes only, and shall]  
110 establish itself as a tax exempt organization in accordance with the

111 provisions of Section 501(c)(3) of the Internal Revenue Code of 1986, or  
112 any subsequent corresponding internal revenue code of the United  
113 States, as from time to time amended. The board shall enter into a  
114 written grant contract with the Comptroller providing for the  
115 conditions under which any funds from the fuel oil conservation  
116 account are expended. Not later than July 1, [2008] 2009, and biennially  
117 thereafter, a third party selected by the Attorney General and paid for  
118 from the fuel oil conservation account, shall [audit] review the  
119 activities of the board and report on whether such activities comport  
120 with state laws and generally accepted practices governing the  
121 operations of a nonprofit corporation. The results of such [audit]  
122 review and the single state audit of the board shall be submitted in a  
123 report to the joint standing committees of the General Assembly  
124 having cognizance of matters relating to energy and the environment,  
125 in accordance with the provisions of section 11-4a.

126 (3) The Fuel Oil Conservation Board shall establish a fuel oil  
127 conservation account. The account shall be a separate, nonlapsing  
128 account within the restricted grant fund and shall be funded by annual  
129 revenue from the tax imposed by section 12-587 on the sale of  
130 petroleum products gross earnings that is in excess of said revenue  
131 collected during fiscal 2006, provided the amount of such revenue that  
132 shall be allocated to said account in the fiscal year commencing July 1,  
133 2007, shall not exceed ten million dollars, and the amount of such  
134 revenue that shall be allocated to said account in fiscal years  
135 commencing on and after July 1, 2008, shall not exceed five million  
136 dollars. The Comptroller may deposit into the fuel oil conservation  
137 account up to two million five hundred thousand dollars upon June 17,  
138 2008, and any remaining balance for the fiscal year commencing July 1,  
139 2007, shall be deposited as determined by the Comptroller upon the  
140 close of the fiscal year, but no later than October 1, 2008.

141 (4) The Fuel Oil Conservation Board shall authorize specific  
142 amounts from the fuel oil conservation account established pursuant to  
143 subdivision (3) of this subsection to the program administrator  
144 selected to implement an approved plan under this section and the

145 grant contract with the state. Such amounts shall be in the form of  
146 grants, which the board shall award twice a year. Any unexpended  
147 state grant moneys [left] in the account at the end of each fiscal year  
148 shall be transferred [outright] to the General Fund.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16a-22l

**ET**      *Joint Favorable*

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The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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### **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

### **Explanation**

This bill makes technical changes to the statutes governing how the Fuel Oil Conservation Board (FOCB) should operate. It requires the Board to enter into a grant agreement with the State Comptroller so the Board is legally required to spend the state's funds in a manner consistent with the Board's mission. As the bill's provisions are consistent with those currently being used by the Comptroller in administration of the FOCB, there is no anticipated fiscal impact. The bill also clarifies the Board's audit requirements – the Attorney General will select a third party to review the board's activities every two years. Payment for the third party review will be paid by the FOCB. As this provision clarifies the original intent of current law, there is no impact upon the Attorney General's office, nor additional fiscal impact to the FOCB.

### **The Out Years**

**State Impact:** None

**Municipal Impact:** None

*Sources: Office of the State Comptroller, Public Hearing Testimony 2/3/09*

**OLR Bill Analysis****SB 776*****AN ACT CONCERNING THE FUEL OIL CONSERVATION BOARD.*****SUMMARY:**

The bill makes several changes regarding the Fuel Oil Conservation Board (FOCB), which helps develop and implement plans for fuel oil conservation programs. The programs are funded by the growth in revenues from the petroleum products tax, which is transferred into a separate General Fund account.

Specifically, the bill:

1. removes the board from the comptroller's office, where it is currently located for administrative purposes only;
2. requires the board to enter into a written grant contract with the comptroller regarding the conditions under which funds from the account are expended;
3. requires that a third party selected by the attorney general review, rather than audit, the board's activities every two years;
4. requires that the first review be completed by July 1, 2009 (under current law the next audit must be completed by July 1, 2010);
5. requires the third party to report on whether the funds activities conform with state laws and generally accepted practices governing nonprofit corporation operations (the law requires the board to be organized as a nonprofit); and
6. requires that the account be used to pay the third party.

The bill requires that the single state audit of the board be submitted in a report to the Environment and Energy and Technology committees, in addition to the review. It also makes minor and technical changes.

EFFECTIVE DATE: Upon passage

**BACKGROUND*****Related Legislation***

PA 09-1 transfers \$ 5 million of the Fuel Oil Conservation account's existing balance to the General Fund and bars an FY 09 transfer of petroleum products tax revenue to fund the account. SB 828, An Act Concerning State Revenue, would preclude such transfers in FY 10 and FY 11.

**COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable

Yea 20 Nay 0 (02/26/2009)