



Senate

General Assembly

File No. 359

February Session, 2002

Substitute Senate Bill No. 342

Senate, April 8, 2002

The Committee on Finance, Revenue and Bonding reported through SEN. LOONEY of the 11th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE FINANCING OF RENEWABLE ENERGY PROJECTS.

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

1 Section 1. Subsection (c) of section 16-245n of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (c) There is hereby created a Renewable Energy Investment Fund
5 which shall be administered by Connecticut Innovations, Incorporated.
6 The fund may receive any amount required by law to be deposited
7 into the fund and may receive any federal funds as may become
8 available to the state for renewable energy investments. Connecticut
9 Innovations, Incorporated, may use any amount in said fund for
10 expenditures which promote investment in renewable energy sources
11 in accordance with a comprehensive plan developed by it to foster the
12 growth, development and commercialization of renewable energy

13 sources, related enterprises and stimulate demand for renewable
14 energy and deployment of renewable energy sources which serve end
15 use customers in this state. Such expenditures may include, but not be
16 limited to, grants, direct or equity investments, loans, lease or
17 guarantee payments, contracts, [or] other forms of financial assistance
18 or other actions which support research, development, manufacture,
19 commercialization, deployment and installation of renewable energy
20 technologies, and actions which expand the expertise of individuals,
21 businesses and lending institutions with regard to renewable energy
22 technologies. Any interest, income and dividends derived from the
23 investment of amounts available in the Renewable Energy Investment
24 Fund, and any application fees, license fees, royalty payments,
25 investment income, loan repayments or other returns on expenditures
26 made from the Renewable Energy Investment Fund, shall be credited
27 to and used for purposes of such fund. In carrying out the provisions
28 of this section, any administrative expenses of Connecticut
29 Innovations, Incorporated or of any subsidiary of Connecticut
30 Innovations, Incorporated formed for such purpose pursuant to
31 subsection (h) of section 32-35, as amended by this act, to the extent
32 such administrative expenses are not otherwise paid from application
33 fees or other designated sources, may be paid from the Renewable
34 Energy Investment Fund.

35 Sec. 2. Section 16-245n of the general statutes is amended by adding
36 subsection (e) as follows (*Effective from passage*):

37 (NEW) (e) Connecticut Innovations, Incorporated is authorized to
38 make advance commitments for permitted expenditures from the
39 Renewable Energy Investment Fund payable from the assessment of
40 the charge to customers of electric service to be deposited to such fund
41 pursuant to subsection (b) of this section, the other receipts and
42 revenues of such fund and the amounts from time to time held to the
43 credit of such fund, and may secure any such advance commitment by
44 a pledge of all or a portion of such assessments, receipts, revenues and
45 amounts, other than federal grants, provided no such advance
46 commitment shall be for a period longer than thirty years. Such

47 advance commitments may be in the form of grant, loan or investment
48 commitments, leases, including finance leases, lease guarantees,
49 development or operating subsidies, investment, loan or bond
50 guarantees, reimbursement agreements, energy purchase contracts,
51 loan or investment participations and related funding commitments,
52 or other advance commitments with respect to payments constituting
53 permitted expenditures from the Renewable Energy Investment Fund,
54 and may include advance commitments to the Connecticut
55 Development Authority to provide for the payment of debt service and
56 other amounts due with respect to bonds or other obligations of the
57 Connecticut Development Authority issued or undertaken for the
58 purpose of providing financial assistance for the deployment and
59 installation of renewable energy technologies for any industrial or
60 commercial application in connection with an economic development
61 project, as defined in subsection (u) of section 32-23d, or for the
62 purpose of providing funding to the Renewable Energy Investment
63 Fund. The Connecticut Development Authority is hereby authorized to
64 issue bonds for such purposes pursuant to section 32-23f, as amended,
65 and in the case of bonds issued to provide funding to the Renewable
66 Energy Investment Fund, to loan the net proceeds thereof to
67 Connecticut Innovations, Incorporated, as administrator of the
68 Renewable Energy Investment Fund, for credit to such fund for use in
69 accordance with its purposes. The state covenants with the holders and
70 transferees of each such advance commitment, in consideration of their
71 agreements and undertakings with respect thereto, until such advance
72 commitment and the obligations thereunder have been fully
73 performed and discharged or unless expressly permitted or otherwise
74 authorized by the terms of each contract and agreement made or
75 entered into by Connecticut Innovations, Incorporated with or for the
76 benefit of such holders and transferees, that (1) the state shall cause the
77 appropriate officers of the state to impose, charge, collect and apply
78 the assessments and other revenues, receipts and amounts pledged to
79 secure such advance commitment, including, in the case of the
80 assessment of the charge to customers of electric services to be
81 deposited in the Renewable Energy Investment Fund pursuant to

82 subsection (b) of this section, at rates sufficient, taking into account
83 other pledged revenues, receipts and amounts, to pay the obligations
84 as they come due under such advance commitment, provided nothing
85 in this subsection shall require that any such assessment be at rates
86 higher than provided for when such advance commitment was
87 originally issued, (2) the state shall not limit or alter the rights vested
88 in Connecticut Innovations, Incorporated under this section, (3) the
89 state shall not create or cause to be created any lien or charge on the
90 assessments, revenues, receipts and amounts pledged to secure such
91 advance commitment, other than a lien or charge created pursuant to
92 this subsection, provided nothing in this subsection shall preclude the
93 state from issuing obligations which are secured by a pledge of such
94 assessments, revenues, receipts and amounts which is expressly
95 subordinate and junior in all respects to every lien and pledge created
96 pursuant to this subsection, (4) the state shall not limit, modify,
97 rescind, repeal or otherwise alter the rights or obligations of the
98 appropriate officers of the state to impose, charge, collect or apply the
99 assessments and other revenues and receipts pledged to secure such
100 advance commitment, and (5) the state shall not in any other way
101 impair the rights, exemptions or remedies of such holders and
102 transferees; provided nothing in this subsection shall preclude the state
103 from exercising its power, through a change in law, to limit, modify,
104 rescind or otherwise alter the character of the pledged assessments,
105 revenues, receipts and amounts, or to substitute like or different
106 sources of assessments, taxes, fees, charges or other receipts as pledged
107 revenues, including changing or altering the amount or method of
108 establishing and collecting the assessment of the charge to customers
109 of electric service pursuant to subsection (b) of this section, if and
110 when adequate provision shall have been made by law for the
111 protection of such holders and transferees. Connecticut Innovations,
112 Incorporated is authorized to include this covenant in any agreement
113 with the holders or transferees of such advance commitments. Any
114 pledge made by Connecticut Innovations, Incorporated of assessments
115 and other revenues, receipts, or amounts from time to time held to the
116 credit of the Renewable Energy Investment Fund to secure an advance

117 commitment pursuant to this subsection shall be valid and binding
118 from the time such pledge is made, and shall constitute a pledge
119 within the meaning and for all purposes of title 42a. Such assessments,
120 receipts, revenues and amounts so pledged and thereafter received by
121 Connecticut Innovations, Incorporated for the account of the
122 Renewable Energy Investment Fund shall immediately be subject to
123 the lien of such pledge without any physical delivery thereof or further
124 act, and the lien of any such pledge shall be valid and binding as
125 against all third parties irrespective of whether such third parties have
126 notice thereof. Neither any resolution of Connecticut Innovations,
127 Incorporated nor any other agreement or instrument by which such
128 pledge is created need be recorded. Advance commitments authorized
129 pursuant to this subsection, including any repayment obligation to the
130 Connecticut Development Authority in connection with any loan of
131 bond proceeds to provide funding to the Renewable Energy
132 Investment Fund, shall be special obligations of Connecticut
133 Innovations, Incorporated payable solely from the assessments,
134 receipts, revenues and amounts specifically pledged to secure such
135 advance commitments and shall not be deemed to constitute a debt or
136 liability of the state or any political subdivision thereof, including
137 Connecticut Innovations, Incorporated. For purposes of subsection (c)
138 of this section and this subsection, Connecticut Innovations,
139 Incorporated shall have and may exercise any powers enumerated in
140 section 32-39, as amended, and may take such other actions and do
141 such other things as may be necessary or convenient to carry out such
142 purposes. In acting pursuant to this subsection, Connecticut
143 Innovations, Incorporated may act through one or more subsidiaries
144 formed for that purpose under subsection (h) of section 32-35, as
145 amended by this act, in which case references in this subsection to
146 Connecticut Innovations, Incorporated shall be deemed to be
147 references to such subsidiary or subsidiaries.

148 Sec. 3. Section 32-35 of the general statutes is amended by adding
149 subsection (h) as follows (*Effective from passage*):

150 (NEW) (h) (1) The corporation may establish one or more

151 subsidiaries to stimulate, encourage and carry out the development,
152 financing, commercialization and deployment of renewable energy
153 sources which serve end use customers in this state. Each such
154 subsidiary shall constitute a public instrumentality and political
155 subdivision of the state and be deemed a quasi-public agency for
156 purposes of chapter 12. Each such subsidiary shall have all the
157 privileges, immunities, tax exemptions and other exemptions of the
158 corporation. For purposes of subsection (e) of section 16-245n, as
159 amended by this act, the corporation may act through any subsidiary
160 formed pursuant to this subsection.

161 (2) Each such subsidiary may sue and shall be subject to suit,
162 provided the liability of each such subsidiary shall be limited solely to
163 the assets, revenues and resources of such subsidiary and without
164 recourse to the general funds, revenues, resources or any other assets
165 of the corporation or any other subsidiary. Each such subsidiary shall
166 have the power to do all acts and things necessary or convenient to
167 carry out the purposes of this subsection and subsection (e) of section
168 16-245n, as amended by this act, including, but not limited to, (A)
169 solicit, receive and accept aid, grants or contributions from any source
170 of money, property or labor or other things of value for such purposes,
171 including, but not limited to, gifts, grants or loans from any
172 department, agency or quasi-public agency of the United States or the
173 state; (B) enter into agreements with persons upon such terms and
174 conditions as are consistent with such purposes; (C) acquire, take title,
175 lease, purchase, own, manage, hold and dispose of real and personal
176 property and lease, convey or deal in or enter into agreements with
177 respect to such property; (D) borrow money and incur other
178 obligations, including advance commitments of the type described in
179 subsection (e) of section 16-245n, as amended by this act, and
180 mortgage, convey or dispose of its assets and pledge its revenues in
181 order to secure any such obligations, provided such obligations are
182 special obligations of such subsidiary; (E) create and become a member
183 or partner of a limited liability company or a limited or general
184 partnership or establish other contractual arrangements with private
185 and public sector entities as such subsidiary deems necessary in order

186 to develop or finance renewable energy sources; (F) exercise any other
187 powers enumerated in section 32-39, as amended, necessary or
188 appropriate to carry out the purposes of this subsection and subsection
189 (e) of section 16-245n, as amended by this act.

190 (3) A resolution of the corporation shall prescribe the purposes for
191 which each such subsidiary is formed. No such subsidiary shall make
192 any advance commitment payable from or secured by a pledge of the
193 assessments, receipts, revenues and amounts on deposit in, or
194 thereafter received for the account of, the Renewable Energy
195 Investment Fund except as authorized by the corporation or a duly
196 authorized committee thereof.

197 (4) The corporation may transfer to any such subsidiary any moneys
198 and real or personal property, and the corporation may make loans to
199 any such subsidiary, provided the source and security, if any, for the
200 repayment of such loans is derived from the assets, revenues and
201 resources of such subsidiary.

202 (5) The provisions of section 1-125, as amended, and this subsection
203 shall apply to any person appointed as a member, director or officer of
204 any such subsidiary. Neither any such person so appointed, nor the
205 directors, officers and employees of the authority shall be personally
206 liable for the debts, obligations or liabilities of any such subsidiary.
207 Each such subsidiary shall, and the corporation may, protect, save
208 harmless and indemnify such member, director or officer as provided
209 in section 1-125, as amended.

210 (6) The corporation or any such subsidiary may take such actions as
211 are necessary to comply with the provisions of the Internal Revenue
212 Code of 1986 or any subsequent corresponding internal revenue code
213 of the United States, as from time to time amended, to qualify and
214 maintain any such subsidiary as a corporation exempt from taxation
215 under said Internal Revenue Code or to qualify interest on obligations
216 issued by such subsidiary as exempt from federal income taxation
217 under said Internal Revenue Code.

218 Sec. 4. Subsection (d) of section 16-245n of the general statutes is
219 repealed and the following is substituted in lieu thereof (*Effective*
220 *October 1, 2002*):

221 (d) The chairperson of the board of directors of Connecticut
222 Innovations, Incorporated, shall convene a Renewable Energy
223 Investments Advisory Committee to assist Connecticut Innovations,
224 Incorporated, in matters related to the Renewable Energy Investment
225 Fund, including, but not limited to, development of a comprehensive
226 plan and expenditure of funds. The advisory committee shall include
227 not more than twelve individuals with knowledge and experience in
228 matters related to the purpose and activities of said fund. The advisory
229 committee shall consist of the following members: (1) One person with
230 expertise regarding renewable energy resources or renewable energy
231 policy appointed by the speaker of the House of Representatives; (2)
232 one person representing a state or regional organization primarily
233 concerned with environmental protection appointed by the president
234 pro tempore of the Senate; (3) one person with experience in business
235 or commercial investments appointed by the majority leader of the
236 House of Representatives; (4) one person representing a state or
237 regional organization primarily concerned with environmental
238 protection appointed by the majority leader of the Senate; (5) one
239 person with experience in business or commercial investments
240 appointed by the minority leader of the House of Representatives; (6)
241 one person with experience in business or commercial investments
242 appointed by the minority leader of the Senate; (7) two state officials
243 with experience in matters relating to energy policy and one person
244 with expertise regarding renewable energy resources appointed by the
245 Governor; and (8) three persons with experience in business or
246 commercial investments appointed by the board of directors of
247 Connecticut Innovations, Incorporated. The advisory committee shall
248 issue annually a report to such chairperson reviewing the activities of
249 the fund in detail and shall provide a copy of such report to the joint
250 standing committee of the General Assembly having cognizance of
251 matters relating to energy.

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:

Fund-Type	Agency Affected	FY 03 \$
Various	Connecticut Development Authority, Connecticut Innovations Incorporated	See Below

Municipal Impact: None

Explanation

If the Connecticut Development Authority (CDA) issues bonds as authorized by the bill and uses their authority to issue bonds secured by a Special Capital Reserve Fund (SCRF), the state would have a contingent liability. If the bonds do not contain a SCRF provision, then there is no impact to the state.

Currently, the interest generated by revenue deposited into the Renewable Energy Fund is credited to the Fund; therefore the bill conforms the statutes to current practice. Since the Fund is expected to have revenues in FY 03 of approximately \$22 million, the interest credited to the Fund is expected to be about \$800,000.

OLR Bill Analysis

sSB 342

AN ACT CONCERNING THE FINANCING OF RENEWABLE ENERGY PROJECTS**SUMMARY:**

This bill expands the powers of Connecticut Innovations, Inc. (CII) in its administration of the Renewable Energy Investment Fund. It allows CII to make advance commitments backed by its revenue, including the charge on electric bills for renewable energy that by law goes into the fund. It allows the advance commitments to take several forms, including grants, loans, and guarantees. It also allows CII to make advance commitments to the Connecticut Development Authority (CDA), and allows CDA to issue bonds backed by these commitments. CDA can use the bond proceeds to fund renewable energy projects or lend them back to CII. The bill contains provisions to protect the rights of holders and transferees of the commitments. The commitments, including any repayment obligation to CDA in connection with the bonds, are CII's special obligations payable solely from its revenue pledged to them. The commitments are not liabilities of the state or its political subdivisions, including CII.

The bill allows CII to establish subsidiaries to promote the development of renewable energy resources. The subsidiaries have the same powers and exemptions as CII, including the power to make advance commitments.

By law, CII can use the Renewable Energy Investment Fund to provide several other forms of assistance to promote the development of renewable energy. The bill specifically allows CII to use the fund to provide loans, lease or guarantee payments, and other forms of financial assistance. It requires that the following be returned to the fund:

1. any interest, income, or dividends from investments of the fund's resources and
2. any application or license fees, royalty payments, investment income, loan repayments, or other returns of expenditures from the

fund.

The bill allows CII to use the fund to pay its or its subsidiaries', administrative expenses to the extent that they have not been covered by other designated sources such as application fees.

The bill allows the House speaker's appointee to the board that advises CII about the fund to have expertise in renewable energy policy as an alternative to expertise in renewable energy resources.

EFFECTIVE DATE: Upon passage

ADVANCE COMMITMENTS

The bill allows CII to make advance commitments from the renewable energy charge on electric bills, other Renewable Energy Investment Fund receipts and revenue, and credits to the fund. (Under existing law, the charge is 0.05 cents per kilowatt-hour (kwh); it will increase to 0.075 cents per kwh on July 1, 2002 and 0.1 cents per kwh on July 1, 2004.) CII can back an advance commitment by a pledge of any of its revenue, other than federal grants. The commitments can run no more than 30 years. They can take a wide range of forms, including grants, loan or investment commitments, leases and lease guarantees, energy purchase contracts, subsidies, investments, and loan or bond guarantees. The advance commitment must be for purposes that are permitted expenditures of the fund, which include a wide range of activities connected with the development of renewable energy.

The bill specifically allows CII to make advance commitments to CDA to pay debt service on CDA bonds or other obligations used to (1) provide financial assistance for the deployment and installation of renewable energy project in industrial and commercial applications that are part of CDA economic development projects and (2) provide funds to the Renewable Energy Investment Fund. It allows CDA to issue bonds for both purposes. In the case of the latter purpose, CDA can lend the net proceeds of the bonds to CII to be credited to the fund.

PROTECTION FOR HOLDERS OF COMMITMENTS

Under the bill, the state covenants with the holders of the commitments and transferees of such commitments that it will not impair its obligations until they have been paid off, except as provided

under agreements between these parties and CII. Specifically, the state covenants that it will (1) ensure that it sets the assessments that back the commitments, including the renewable energy charge, high enough to pay the obligations as they become due; (2) not limit CII's rights established under the law; (3) not create a lien on the assessments that back the commitments, unless it is subordinate to the pledges established under the bill; (4) not limit or end its ability to collect the assessments; and (5) not otherwise impair the rights of the commitment holders or transferees, except as provided in the bill. But the bill allows the state to change the assessment or other revenue that are pledged to back the commitments. The bill contains several provisions to implement these protections. Among other things, CII may include these covenants in its advance commitment agreements and an automatic lien on purged revenues to the Renewable Energy Fund.

SUBSIDIARIES

Authorization

The bill allows CII to create subsidiaries to promote the development, financing, commercialization, and deployment of renewable energy sources that serve Connecticut customers. CII can do this by adopting a resolution, which must specify the subsidiary's purposes. A subsidiary cannot make an advanced commitment backed by the Renewable Energy Investment Fund except as authorized by CII or an authorized CII committee.

The bill makes the subsidiaries quasi-public agencies, with the same privileges, immunities, professional and financial responsibilities, and tax, and other exemptions as CII. Its directors and staff have the same protections from liability the law provides to those of the state's other quasi-public agencies.

CII can transfer funds and real and personal property to the subsidiary. It can lend subsidiaries funds so long as the source and security of a subsidiary's repayment, if any, is from its assets, revenue, and resources.

CII and its subsidiaries can do anything necessary to maintain the subsidiaries' tax-exempt status.

Powers

The subsidiaries have the same powers as CII. They can (1) sue and be sued, but their liability does not extend beyond their own assets, revenue, and resources; (2) solicit or accept funds and other assets from any source; (3) contract with other entities to carry out their missions, (4) acquire and dispose of real and personal property and enter into agreements regarding the property; (5) borrow money and incur other obligations, including the advance commitments described above so long as they are the subsidiary's special obligations; (6) mortgage and dispose of their assets and pledge their revenue to back these obligations; (7) create and join any limited liability company or a limited or general partnership and establish other contractual arrangements to develop or finance renewable energy projects; and (8) exercise other powers granted to CII to implement the bill.

BACKGROUND***Related Bill***

sHB 5712, "An Act Concerning Renewable Energy and Energy Conservation" increases the renewable energy charges on electric bills as of July 1, 2002, among other things.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute Change of Reference
Yea 15 Nay 0

Finance, Revenue and Bonding Committee

Joint Favorable Report
Yea 43 Nay 0