



General Assembly

February Session, 2002

Raised Bill No. 342

LCO No. 1302

Referred to Committee on Energy and Technology

Introduced by:
(ET)

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2 repealed and the following is substituted in lieu thereof (*Effective from*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.

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

30 (NEW) (e) Connecticut Innovations, Incorporated is authorized to
31 make advance commitments for permitted expenditures from the
32 Renewable Energy Investment Fund payable from the assessment of
33 the charge to customers of electric service to be deposited to such fund
34 pursuant to subsection (b) of this section, the other receipts and
35 revenues of such fund and the amounts from time to time held to the
36 credit of such fund, and may secure any such advance commitment by
37 a pledge of all or a portion of such assessments, receipts, revenues and
38 amounts, other than bond proceeds and federal grants, provided no
39 such advance commitment shall be for a period longer than thirty
40 years. Such advance commitments may be in the form of grant, loan or
41 investment commitments, leases, including finance leases, lease
42 guarantees, development or operating subsidies, investment, loan or
43 bond guarantees, reimbursement agreements, energy purchase
44 contracts, loan or investment participations and related funding
45 commitments, or other advance commitments with respect to
46 payments constituting permitted expenditures from the Renewable
47 Energy Investment Fund, and may include advance commitments to
48 the Connecticut Development Authority to provide for the payment of

49 debt service and other amounts due with respect to bonds or other
50 obligations of the Connecticut Development Authority issued or
51 undertaken for the purpose of providing financial assistance for the
52 deployment and installation of renewable energy technologies for any
53 industrial or commercial application in connection with an economic
54 development project, as defined in subsection (u) of section 32-23d, or
55 for the purpose of providing advance funding to the Renewable
56 Energy Investment Fund. The Connecticut Development Authority is
57 hereby authorized to issue bonds for such purposes pursuant to
58 section 32-23f, as amended, and in the case of bonds issued to provide
59 funding to the Renewable Energy Investment Fund, to loan the net
60 proceeds thereof to Connecticut Innovations, Incorporated, as
61 administrator of the Renewable Energy Investment Fund, for credit to
62 such fund for use in accordance with its purposes. The state covenants
63 with the holders and transferees of each such advance commitment, in
64 consideration of their agreements and undertakings with respect
65 thereto, until such advance commitment and the obligations
66 thereunder have been fully performed and discharged or unless
67 expressly permitted or otherwise authorized by the terms of each
68 contract and agreement made or entered into by Connecticut
69 Innovations, Incorporated with or for the benefit of such holders and
70 transferees, that (1) the state shall cause the appropriate officers of the
71 state to impose, charge, collect and apply the assessments and other
72 revenues, receipts and amounts pledged to secure such advance
73 commitment, including, in the case of the assessment of the charge to
74 customers of electric services to be deposited in the Renewable Energy
75 Investment Fund pursuant to subsection (b) of this section, at rates
76 sufficient, taking into account other pledged revenues, receipts and
77 amounts, to pay the obligations as they come due under such advance
78 commitment, provided nothing in this subsection shall require that
79 any such assessment be at rates higher than provided for when such
80 advance commitment was originally issued, (2) the state shall not limit
81 or alter the rights vested in Connecticut Innovations, Incorporated
82 under this section, (3) the state shall not create or cause to be created

83 any lien or charge on the assessments, revenues, receipts and amounts
84 pledged to secure such advance commitment, other than a lien or
85 charge created pursuant to this subsection, provided nothing in this
86 subsection shall preclude the state from issuing obligations which are
87 secured by a pledge of such assessments, revenues, receipts and
88 amounts which is expressly subordinate and junior in all respects to
89 every lien and pledge created pursuant to this subsection, (4) the state
90 shall not limit, modify, rescind, repeal or otherwise alter the rights or
91 obligations of the appropriate officers of the state to impose, charge,
92 collect or apply the assessments and other revenues and receipts
93 pledged to secure such advance commitment, and (5) the state shall
94 not in any other way impair the rights, exemptions or remedies of such
95 holders and transferees; provided nothing in this subsection shall
96 preclude the state from exercising its power, through a change in law,
97 to limit, modify, rescind or otherwise alter the character of the pledged
98 assessments, revenues, receipts and amounts, or to substitute like or
99 different sources of assessments, taxes, fees, charges or other receipts
100 as pledged revenues, including changing or altering the amount or
101 method of establishing and collecting the assessment of the charge to
102 customers of electric service pursuant to subsection (b) of this section,
103 if and when adequate provision shall have been made by law for the
104 protection of such holders and transferees. Connecticut Innovations,
105 Incorporated is authorized to include this covenant in any agreement
106 with the holders or transferees of such advance commitments. Any
107 pledge made by Connecticut Innovations, Incorporated of assessments
108 and other revenues, receipts, or amounts from time to time held to the
109 credit of the Renewable Energy Investment Fund to secure an advance
110 commitment pursuant to this subsection shall be valid and binding
111 from the time such pledge is made, and shall constitute a pledge
112 within the meaning and for all purposes of title 42a. Such assessments,
113 receipts, revenues and amounts so pledged and thereafter received by
114 Connecticut Innovations, Incorporated for the account of the
115 Renewable Energy Investment Fund shall immediately be subject to
116 the lien of such pledge without any physical delivery thereof or further

117 act, and the lien of any such pledge shall be valid and binding as
118 against all third parties irrespective of whether such third parties have
119 notice thereof. Neither any resolution of Connecticut Innovations,
120 Incorporated nor any other agreement or instrument by which such
121 pledge is created need be recorded. Advance commitments authorized
122 pursuant to this subsection, including any repayment obligation to the
123 Connecticut Development Authority in connection with any loan of
124 bond proceeds to provide funding to the Renewable Energy
125 Investment Fund, shall be special obligations of Connecticut
126 Innovations, Incorporated payable solely from the assessments,
127 receipts, revenues and amounts specifically pledged to secure such
128 advance commitments and shall not be deemed to constitute a debt or
129 liability of the state or any political subdivision thereof, including
130 Connecticut Innovations, Incorporated. For purposes of subsection (c)
131 of this section and this subsection, Connecticut Innovations,
132 Incorporated shall have and may exercise any powers enumerated in
133 section 32-39, as amended, and may take such other actions and do
134 such other things as may be necessary or convenient to carry out such
135 purposes. In acting pursuant to this subsection, Connecticut
136 Innovations, Incorporated may act through one or more subsidiaries
137 formed for that purpose under subsection (h) of section 32-35, as
138 amended by this act, in which case references in this subsection to
139 Connecticut Innovations, Incorporated shall be deemed to be
140 references to such subsidiary or subsidiaries.

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

143 (NEW) (h) (1) The corporation may establish one or more
144 subsidiaries to stimulate, encourage and carry out the development,
145 financing, commercialization and deployment of renewable energy
146 sources which serve end use customers in this state. Each such
147 subsidiary shall constitute a public instrumentality and political
148 subdivision of the state and be deemed a quasi-public agency for
149 purposes of chapter 12. Each such subsidiary shall have all the

150 privileges, immunities, tax exemptions and other exemptions of the
151 corporation. For purposes of subsection (e) of section 16-245n, as
152 amended by this act, the corporation may act through any subsidiary
153 formed pursuant to this subsection.

154 (2) Each such subsidiary may sue and shall be subject to suit,
155 provided the liability of each such subsidiary shall be limited solely to
156 the assets, revenues and resources of such subsidiary and without
157 recourse to the general funds, revenues, resources or any other assets
158 of the corporation or any other subsidiary. Each such subsidiary shall
159 have the power to do all acts and things necessary or convenient to
160 carry out the purposes of this subsection and subsection (e) of section
161 16-245n, as amended by this act, including, but not limited to, (A)
162 solicit, receive and accept aid, grants or contributions from any source
163 of money, property or labor or other things of value for such purposes,
164 including, but not limited to, gifts, grants or loans from any
165 department, agency or quasi-public agency of the United States or the
166 state; (B) enter into agreements with persons upon such terms and
167 conditions as are consistent with such purposes; (C) acquire, take title,
168 lease, purchase, own, manage, hold and dispose of real and personal
169 property and lease, convey or deal in or enter into agreements with
170 respect to such property; (D) borrow money and incur other
171 obligations, including advance commitments of the type described in
172 subsection (e) of section 16-245n, as amended by this act, and
173 mortgage, convey or dispose of its assets and pledge its revenues in
174 order to secure any such obligations, provided such obligations are
175 special obligations of such subsidiary; (E) create and become a member
176 or partner of a limited liability company or a limited or general
177 partnership or establish other contractual arrangements with private
178 and public sector entities as such subsidiary deems necessary in order
179 to develop or finance renewable energy sources; (F) exercise any other
180 powers enumerated in section 32-39, as amended, necessary or
181 appropriate to carry out the purposes of this subsection and subsection
182 (e) of section 16-245n, as amended by this act.

183 (3) A resolution of the corporation shall prescribe the purposes for
184 which each such subsidiary is formed. No such subsidiary shall make
185 any advance commitment payable from or secured by a pledge of the
186 assessments, receipts, revenues and amounts on deposit in, or
187 thereafter received for the account of, the Renewable Energy
188 Investment Fund except as authorized by the corporation or a duly
189 authorized committee thereof.

190 (4) The corporation may transfer to any such subsidiary any moneys
191 and real or personal property, and the corporation may make loans to
192 any such subsidiary, provided the source and security, if any, for the
193 repayment of such loans is derived from the assets, revenues and
194 resources of such subsidiary.

195 (5) The provisions of section 1-125, as amended, and this subsection
196 shall apply to any person appointed as a member, director or officer of
197 any such subsidiary. Neither any such person so appointed, nor the
198 directors, officers and employees of the authority shall be personally
199 liable for the debts, obligations or liabilities of any such subsidiary.
200 Each such subsidiary shall, and the corporation may, protect, save
201 harmless and indemnify such member, director or officer as provided
202 in said section 1-125.

203 (6) The corporation or any such subsidiary may take such actions as
204 are necessary to comply with the provisions of the Internal Revenue
205 Code of 1986 or any subsequent corresponding internal revenue code
206 of the United States, as from time to time amended, to qualify and
207 maintain any such subsidiary as a corporation exempt from taxation
208 under said Internal Revenue Code or to qualify interest on obligations
209 issued by such subsidiary as exempt from federal income taxation
210 under said Internal Revenue Code.

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| This act shall take effect as follows: | |
| Section 1 | <i>from passage</i> |
| Sec. 2 | <i>from passage</i> |

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| Sec. 3 | from passage |
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Statement of Purpose:

To authorize Connecticut Innovations, Incorporated to enter into lease agreements backed by the Clean Energy Fund, to credit income relating to the Clean Energy Fund to such fund, to authorize the Connecticut Innovations, Incorporated to make advance commitments on behalf of the Clean Energy Fund secured by a pledge of future receipts and revenues of such fund, and to allow the Connecticut Innovations, Incorporated to create limited purpose subsidiaries through which Connecticut Innovations, Incorporated could act in carrying out the Clean Energy Fund.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]