



House of Representatives

General Assembly

File No. 244

February Session, 2006

Substitute House Bill No. 5522

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 ELECTRIC MARKET STRUCTURE.

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

1 Section 1. Section 13a-126 of the 2006 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

4 As used in this section, "public service facility" includes all
5 privately, publicly or cooperatively owned lines, facilities and systems
6 for producing, transmitting or distributing communications, cable
7 television, power, electricity, light, heat, gas, oil, crude products,
8 water, steam, waste, storm water not connected with highway
9 drainage and any other similar commodities, including fire and police
10 signal systems and street lighting systems which directly or indirectly
11 serve the public. Whenever the commissioner determines that any
12 public service facility located within, on, along, over or under any land
13 comprising the right-of-way of a state highway or any other public
14 highway when necessitated by the construction or reconstruction of a

15 state highway shall be readjusted or relocated in or removed from such
16 right-of-way, the commissioner shall issue an appropriate order to the
17 company, corporation or municipality owning or operating such
18 facility, and such company, corporation or municipality shall readjust,
19 relocate or remove the same promptly in accordance with such order;
20 provided an equitable share of the cost of such readjustment,
21 relocation or removal, including the cost of installing and constructing
22 a facility of equal capacity in a new location, shall be borne by the
23 state, except that the state shall not bear any share of the cost of a
24 project to readjust, relocate or remove any facility, as defined in
25 subsection (a) of section 16-50i, as amended, used for transmitting
26 electricity or as an electric trunkline, for an electric distribution
27 company, as defined in section 16-1 of the 2006 supplement to the
28 general statutes. The Department of Transportation shall evaluate the
29 total costs of such a project, including department costs for
30 construction or reconstruction and electric distribution company costs
31 for readjusting, relocating or removing such facility, so as to minimize
32 the overall costs incurred by the state and the electric distribution
33 company. The electric distribution company may provide the
34 department with proposed alternatives to the relocation, readjustment
35 or removal proposed by the department and shall be responsible for
36 any changes to project costs attributable to adoption of the company's
37 proposed alternative designs for such project, including changes to the
38 area of the relocation, readjustment or removal and any incremental
39 costs incurred by the department to evaluate such alternatives. If such
40 electric distribution company and the department cannot agree on a
41 plan for such project, the Commissioner of Transportation and the
42 chairperson of the Department of Public Utility Control shall, on
43 request of the company, jointly determine the alternative for the
44 project. Such equitable share, in the case of or in connection with the
45 construction or reconstruction of any limited access highway, shall be
46 the entire cost, less the deductions provided in this section, and, in the
47 case of or in connection with the construction or reconstruction of any
48 other state highway, shall be such portion or all of the entire cost, less
49 the deductions provided in this section, as may be fair and just under

50 all the circumstances, but shall not be less than fifty per cent of such
51 cost after the deductions provided in this section. In establishing the
52 equitable share of the cost to be borne by the state, there shall be
53 deducted from the cost of the readjusted, relocated or removed
54 facilities a sum based on a consideration of the value of materials
55 salvaged from existing installations, the cost of the original installation,
56 the life expectancy of the original facility and the unexpired term of
57 such life use. When any facility is removed from the right-of-way of a
58 public highway to a private right-of-way, the state shall not pay for
59 such private right-of-way, provided, when a municipally-owned
60 facility is thus removed from a municipally-owned highway, the state
61 shall pay for the private right-of-way needed by the municipality for
62 such relocation. If the commissioner and the company, corporation or
63 municipality owning or operating such facility cannot agree upon the
64 share of the cost to be borne by the state, either may apply to the
65 superior court for the judicial district within which such highway is
66 situated, or, if said court is not in session, to any judge thereof, for a
67 determination of the cost to be borne by the state, and said court or
68 such judge, after causing notice of the pendency of such application to
69 be given to the other party, shall appoint a state referee to make such
70 determination. Such referee, having given at least ten days' notice to
71 the parties interested of the time and place of the hearing, shall hear
72 both parties, shall view such highway, shall take such testimony as
73 such referee deems material and shall thereupon determine the
74 amount of the cost to be borne by the state and immediately report to
75 the court. If the report is accepted by the court, such determination
76 shall, subject to right of appeal as in civil actions, be conclusive upon
77 both parties.

78 Sec. 2. Section 16a-7c of the general statutes is amended by adding
79 subsection (g) as follows (*Effective July 1, 2006*):

80 (NEW) (g) When evaluating submissions pursuant to subsection (f)
81 of this section for a facility described in subdivision (3) of subsection
82 (a) of section 16-50i that are in excess of twenty-five megawatts, the
83 board shall perform a net energy analysis for each proposal. Such

84 analysis shall include all embodied energy requirements used in the
85 materials for initial construction of the facility and over the useful
86 lifetime of the facility. The analysis shall be expressed in a
87 dimensionless unit as an energy profit ratio of energy generated by the
88 facility to energy expended in plant construction, maintenance and
89 total fuel cycle energy requirements over the useful lifetime of the
90 facility. The boundary for both the fuel cycle and materials for the
91 facility construction and maintenance shall be at both the point of
92 primary material extraction and include, but not be limited to, such
93 subsequent steps as transportation, refinement and energy for delivery
94 to the end consumer. The results of said net energy analysis shall be
95 included in the results forwarded to the Connecticut Siting Council
96 pursuant to subsection (f) of this section. For purposes of this
97 subsection, "net energy" means the heat energy contained in a fuel
98 minus the energy used to extract the fuel from the environment, refine
99 it to a socially useful state, and deliver it to consumers, and "embodied
100 energy" means the total energy used to build and maintain a process,
101 expressed in calorie equivalents of one type of energy.

102 Sec. 3. Subdivision (1) of subsection (c) of section 16-50p of the 2006
103 supplement to the general statutes is repealed and the following is
104 substituted in lieu thereof (*Effective October 1, 2006*):

105 (c) (1) The council shall not grant a certificate for a facility described
106 in subdivision (3) of subsection (a) of section 16-50i, as amended, either
107 as proposed or as modified by the council, unless (A) it finds and
108 determines a public benefit for the facility, and (B) the facility, except
109 for an electric generating facility that will use nuclear materials as fuel,
110 will operate with dual fuel capacity.

111 Sec. 4. (*Effective from passage*) Not later than September 1, 2006, the
112 Department of Public Utility Control shall conduct a contested case
113 proceeding, in accordance with the provisions of chapter 54 of the
114 general statutes, to analyze the appropriate number of linemen that are
115 necessary for an electric distribution company to maintain, repair and
116 extend its electric distribution lines under normal circumstances and

117 under extraordinary circumstances, including, but not limited to,
118 storm conditions. Not later than January 1, 2007, the department shall
119 submit a report with the results of such analysis to the joint standing
120 committee of the General Assembly having cognizance of matters
121 relating to energy in accordance with the provisions of section 11-4a of
122 the general statutes.

123 Sec. 5. Subsection (a) of section 16-19e of the general statutes is
124 repealed and the following is substituted in lieu thereof (*Effective*
125 *October 1, 2006*):

126 (a) In the exercise of its powers under the provisions of this title, the
127 Department of Public Utility Control shall examine and regulate the
128 transfer of existing assets and franchises, the expansion of the plant
129 and equipment of existing public service companies, the operations
130 and internal workings of public service companies and the
131 establishment of the level and structure of rates in accordance with the
132 following principles: (1) That there is a clear public need for the service
133 being proposed or provided; (2) that the public service company shall
134 be fully competent to provide efficient and adequate service to the
135 public in that such company is technically, financially and
136 managerially expert and efficient; (3) that the department and all
137 public service companies shall perform all of their respective public
138 responsibilities with economy, efficiency and care for the public safety,
139 and so as to promote economic development within the state with
140 consideration for energy and water conservation, energy efficiency and
141 the development and utilization of renewable sources of energy and
142 for the prudent management of the natural environment; (4) that the
143 level and structure of rates be sufficient, but no more than sufficient, to
144 allow public service companies to cover their operating costs
145 including, but not limited to, appropriate staffing levels, and capital
146 costs, to attract needed capital and to maintain their financial integrity,
147 and yet provide appropriate protection to the relevant public interests,
148 both existing and foreseeable which shall include, but not be limited
149 to, reasonable costs of security of assets, facilities and equipment that
150 are incurred solely for the purpose of responding to security needs

151 associated with the terrorist attacks of September 11, 2001, and the
152 continuing war on terrorism; (5) that the level and structure of rates
153 charged customers shall reflect prudent and efficient management of
154 the franchise operation; and (6) that the rates, charges, conditions of
155 service and categories of service of the companies not discriminate
156 against customers which utilize renewable energy sources or
157 cogeneration technology to meet a portion of their energy
158 requirements.

159 Sec. 6. (*Effective from passage*) Not later than September 1, 2006, the
160 Department of Public Utility Control shall conduct a contested case
161 proceeding, in accordance with the provisions of chapter 54 of the
162 general statutes, to determine the most efficacious way to notify the
163 public regarding an electric power outage and the status of an electric
164 distribution company's efforts to restore electricity to a particular area
165 of the state. Not later than January 1, 2007, the department shall submit
166 a report with the results of such proceeding to the joint standing
167 committee of the General Assembly having cognizance of matters
168 relating to energy in accordance with the provisions of section 11-4a of
169 the general statutes.

170 Sec. 7. (*Effective from passage*) Not later than September 1, 2006, the
171 Department of Public Utility Control and the Connecticut Siting
172 Council shall conduct a contested case proceeding, in accordance with
173 the provisions of chapter 54 of the general statutes, to analyze the
174 current compliance status of electric generation facilities with on-site
175 fuel storage requirements, to determine how much fuel storage is
176 necessary to generate an electric generation facility at peak load for a
177 forty-eight-hour period, and to analyze what on-site fuel storage
178 resources are currently available in the state. Not later than January 1,
179 2007, the department shall submit a report with the results of such
180 proceeding to the joint standing committee of the General Assembly
181 having cognizance of matters relating to energy in accordance with the
182 provisions of section 11-4a of the general statutes.

183 Sec. 8. Section 16-32g of the general statutes is repealed and the

184 following is substituted in lieu thereof (*Effective October 1, 2006*):

185 Not later than January 1, [1988] 2007, each electric or electric
186 distribution company shall submit to the Department of Public Utility
187 Control a plan for the maintenance of poles, wires, conduits or other
188 fixtures, along public highways or streets for the transmission or
189 distribution of electric current, owned, operated, managed or
190 controlled by such company, in such format as the department shall
191 prescribe. Such plan shall include a summary of appropriate staffing
192 levels necessary for the maintenance of said fixtures and a program for
193 the trimming of tree branches and limbs located in close proximity to
194 overhead electric wires where such branches and limbs may cause
195 damage to such electric wires. The department shall review each plan
196 and may issue such orders as may be necessary to ensure compliance
197 with this section. The department may require each electric or electric
198 distribution company to submit an updated plan at such time and
199 containing such information as the department may prescribe. The
200 department shall adopt regulations, in accordance with the provisions
201 of chapter 54, to carry out the provisions of this section.

202 Sec. 9. (NEW) (*Effective October 1, 2006*) As used in sections 10 to 25,
203 inclusive, of this act:

204 (1) "Microgrid" means small, locally controlled electric distribution
205 systems interconnected with electric distribution company facilities;
206 and

207 (2) "Energy improvement district distributed resources" means one
208 or more of the following: (A) Customer-side distributed resources, as
209 defined in section 16-1 of the 2006 supplement to the general statutes;
210 (B) grid-side distributed resources, as defined in said section 16-1; (C)
211 combined heat and power systems, as defined in said section 16-1; (D)
212 Class III renewable energy sources, as defined in said section 16-1; and
213 (E) microgrids;

214 (3) "Project" means the acquisition, purchase, construction,
215 reconstruction, improvement or extension of one or more of energy

216 improvement district distributed resources.

217 Sec. 10. (NEW) (*Effective October 1, 2006*) Any municipality may, by
218 vote of its legislative body, or, in the case of a municipality in which
219 the legislative body is a town meeting, its board of selectmen, establish
220 an energy improvement district within such municipality. The affairs
221 of any such district shall be administered by an Energy Improvement
222 District Board, comprising not less than five and not more than seven
223 members. The members of any such board shall be appointed by the
224 chief elected official of the municipality and shall serve for such term
225 as the legislative body may prescribe and until their successors are
226 appointed and have qualified. Vacancies shall be filled by the chief
227 elected official for the unexpired portion of the term. The members of
228 each such board shall serve without compensation, except for
229 necessary expenses.

230 Sec. 11. (NEW) (*Effective October 1, 2006*) An Energy Improvement
231 District Board shall have power over the planning, development,
232 funding, building and operation of energy improvement district
233 distributed resources in its district, except on state or federally owned
234 properties, with a view to the increase and efficiency, reliability and
235 the furtherance of commerce and industry in the energy improvement
236 district. The board shall coordinate its activities with regard to such
237 resources with relevant state, regional and federal agencies. The board
238 shall make a thorough investigation of electric distribution system
239 conditions in the district and such other places as it may deem proper,
240 and shall prepare a comprehensive plan for the development of energy
241 improvement district distributed resources in the district. The board
242 may lease or acquire office space and equip the same with suitable
243 furniture and supplies for the performance of work of the board, and
244 may employ such personnel as may be necessary for such
245 performance. The board also shall have power to:

246 (1) Sue and be sued;

247 (2) Have a seal and alter the same;

248 (3) Confer with any body or official having to do with electric power
249 distribution facilities within and without the district, and hold public
250 hearings as to such facilities;

251 (4) Confer with electric distribution companies with reference to the
252 development of electric distribution facilities in such district and the
253 coordination of the same;

254 (5) Determine the location, type, size and construction of requisite
255 energy improvement district distributed resources, subject to the
256 approval of any department, commission or official of the United
257 States, the state or the municipality where federal, state or municipal
258 statute or regulation requires it;

259 (6) Own, lease, pledge, encumber, erect, construct, improve,
260 rehabilitate, make, equip and maintain energy improvement district
261 distributed resources in the district and for any such purpose acquire
262 in the name of the Energy Improvement District Board by purchase,
263 grant, gift or condemnation, except as limited by this section, real
264 property, including easements therein, lands under water and riparian
265 rights, and hold, improve, develop, mortgage, pledge, exchange, sell,
266 convey or otherwise dispose of any such property in such manner as
267 the board shall determine;

268 (7) Make surveys, maps and plans for, and estimates of the cost of,
269 the development and operation of requisite energy improvement
270 district distributed resources and for the coordination of such facilities
271 with existing agencies, both public and private, with the view of
272 increasing the efficiency of the electric distribution system in the
273 district and in the furtherance of commerce and industry in the district;

274 (8) Make contracts and leases, loans and execute all instruments
275 necessary or convenient to carry out their duties under the provision of
276 this section, including the lending of proceeds of bonds issued in
277 accordance with subdivision (9) of this section, to owners, lessees or
278 occupants of facilities in the energy improvement district;

279 (9) Fix fees, rates, rentals or other charges for the purpose of all
280 energy improvement district distributed resources owned by the
281 Energy Improvements District Board and collect such fees, rates,
282 rentals and other charges for such facilities owned by the board, which
283 fees, rates, rentals or other charges shall be sufficient to comply with
284 all covenants and agreements with the holders of any bonds issued
285 pursuant to section 12 of this act;

286 (10) Operate and maintain all energy improvement district
287 distributed resources owned or leased by the board and use the
288 revenues from such resources for the corporate purposes of the board
289 in accordance with any covenants or agreements contained in the
290 proceedings authorizing the issuance of bonds pursuant to section 12
291 of this act;

292 (11) Regulate and supervise the construction of all energy
293 improvement district distributed resources constructed or installed by
294 any private individual or corporation, and regulate the operation of all
295 privately owned energy improvement district distributed resources
296 insofar as such operation may adversely affect the flow of electric
297 power or the enforcement of approved plans for the development of
298 energy improvement district distributed resources. The power granted
299 by this subdivision shall be subject to the rules, regulations or other
300 directives of any federal or state department, commission or other
301 agency having jurisdiction and such grant of power shall not operate
302 to deprive any person or corporation, private or public, of any
303 property without due process of law;

304 (12) Accept gifts, grants, loans or contributions for the United States,
305 the state or any agency or instrumentality of either of them, or a person
306 or corporation, by conveyance, bequest or otherwise, and expend the
307 proceeds for any purpose of the board and, as necessary, contract with
308 the United States, the state or any agency or instrumentality of either
309 of them, to accept gifts, grants, loans or contributions on such terms
310 and conditions as may be provided by the law authorizing the same;

311 (13) Maintain staff to promote and develop the movement of

312 commerce through the energy improvement district; and

313 (14) Use the officers, employees, facilities and equipment of the
314 municipality, with the consent of the municipality, and pay a proper
315 portion of the compensation or cost.

316 Sec. 12. (NEW) (*Effective October 1, 2006*) (a) An Energy
317 Improvement District Board may, from time to time, issue bonds
318 subject to the approval of the legislative body or, in the case of a
319 municipality in which the legislative body is a town meeting, its board
320 of selectmen, in the municipality in which the energy improvement
321 district is located, for the purpose of paying all or any part of the cost
322 of acquiring, purchasing, constructing, reconstructing, improving or
323 extending any energy improvement district distributed resources
324 project and acquiring necessary land and equipment thereof, or for any
325 other authorized purpose of the board. The board may issue such
326 types of bonds as it may determine, including, but not limited to,
327 bonds payable as to principal and interest: (1) From its revenues
328 generally; (2) exclusively from the income and revenues of a particular
329 project; or (3) exclusively from the income and revenues of certain
330 designated projects, whether or not they are financed in whole or in
331 part from the proceeds of such bonds. Any such bonds may be
332 additionally secured by a pledge of any grant or contribution from a
333 participating municipality, the state or any political subdivision,
334 agency or instrumentality thereof, any federal agency or any private
335 corporation, copartnership, association or individual, or a pledge of
336 any income or revenues of the board, or a mortgage on any project or
337 other property of the board, provided such pledge shall not create any
338 liability on the entity making such grant or contribution beyond the
339 amount of such grant or contribution. Whenever and for so long as any
340 board has issued and has outstanding bonds, the board shall fix,
341 charge and collect rates, rents, fees and other charges in accordance
342 with section 14 of this act. Neither the members of the board nor any
343 person executing the bonds shall be liable personally on the bonds by
344 reason of the issuance thereof. The bonds and other obligations shall so
345 state on the face, shall not be a debt of the state or any political

346 subdivision thereof, except when the board or a participating
347 municipality which in accordance with section 21 of this act has
348 guaranteed payment of principal and of interest on the same, and no
349 person other than the board or such a public body shall be liable
350 thereon, nor shall such bonds or obligations be payable out of any
351 funds or properties other than those of the board or such a
352 participating municipality. Such bonds shall not constitute an
353 indebtedness within the meaning of any statutory limitation on the
354 indebtedness of any participating municipality. Bonds of the board are
355 declared to be issued for an essential public and governmental
356 purpose. In anticipation of the sale of such revenue bonds the board
357 may issue negotiable bond anticipation notes and may renew the same
358 from time to time, but the maximum maturity of any such note,
359 including renewals thereof, shall not exceed five years from the date of
360 issue of the original note. Such notes shall be paid from any revenues
361 of the board available therefor and not otherwise pledged, or from the
362 proceeds of sale of the revenue bonds of the Energy Improvement
363 District Board in anticipation of which they were issued. The notes
364 shall be issued in the same manner as the revenue bonds. Such notes
365 and the resolution or resolutions authorizing the same may contain
366 any provisions, conditions or limitations which a bond resolution of
367 the board may contain.

368 (b) An Energy Improvement District Board may issue bonds as
369 serial bonds or as term bonds, or both. Bonds shall be authorized by
370 resolution of the members of the authority and shall bear such date or
371 dates, mature at such time or times, not exceeding fifty years from
372 their respective dates, bear interest at such rate or rates, or have
373 provisions for the manner of determining such rate or rates, payable at
374 such time or times, be in such denominations, be in such form, either
375 coupon or registered, carry such registration privileges, be executed in
376 such manner, be payable in lawful money of the United States of
377 America at such place or places, and be subject to such terms of
378 redemption, as such resolution or resolutions may provide. The
379 revenue bonds or notes may be sold at public or private sale for such
380 price or prices as the Energy Improvement District Board shall

381 determine. Pending preparation of the definitive bonds, the Energy
382 Improvement District Board may issue interim receipts or certificates
383 which shall be exchanged for such definitive bonds.

384 (c) Any resolution or resolutions authorizing any revenue bonds or
385 any issue of revenue bonds may contain provisions, which shall be
386 part of the contract with the holders of the revenue bonds to be
387 authorized, as to: (1) Pledging all or any part of the revenues of a
388 project or any revenue-producing contract or contracts made by the
389 Energy Improvement District Board with any individual, partnership,
390 corporation or association or other body, public or private, to secure
391 the payment of the revenue bonds or of any particular issue of revenue
392 bonds, subject to such agreements with bondholders as may then exist;
393 (2) the rentals, fees and other charges to be charged, and the amounts
394 to be raised in each year thereby, and the use and disposition of the
395 revenues; (3) the setting aside of reserves or sinking funds or other
396 funds or accounts as the board may establish and the regulation and
397 disposition thereof, including requirements that any such funds and
398 accounts be held separate from or not be commingled with other funds
399 of the board; (4) limitations on the right of the board or its agent to
400 restrict and regulate the use of the project; (5) limitations on the
401 purpose to which the proceeds of sale of any issue of revenue bonds
402 then or thereafter to be issued may be applied and pledging such
403 proceeds to secure the payment of the revenue bonds or any issue of
404 the revenue bonds; (6) limitations on the issuance of additional bonds,
405 the terms upon which additional bonds may be issued and secured,
406 the refunding of outstanding bonds; (7) the procedure, if any, by which
407 the terms of any contract with bondholders may be amended or
408 abrogated, the amount of bonds the holders of which must consent
409 thereto, and the manner in which such consent may be given; (8)
410 limitations on the amount of moneys derived from the project to be
411 expended for operating, administrative or other expenses of the board;
412 (9) defining the acts or omissions to act that shall constitute a default in
413 the duties of the board to holders of its obligations and providing the
414 rights and remedies of such holders in the event of a default; (10) the
415 mortgaging of a project and the site thereof for the purpose of securing

416 the bondholder; and (11) provisions for the execution of
417 reimbursement agreements or similar agreements in connection with
418 credit facilities, including, but not limited to, letters of credit or policies
419 of bond insurance, remarketing agreements and agreements for the
420 purpose of moderating interest rate fluctuations.

421 (d) If any member whose signature or a facsimile of whose
422 signature appears on any bonds or coupons ceases to be such member
423 before delivery of such bonds, such signature or such facsimile shall
424 nevertheless be valid and sufficient for all purposes the same as if he
425 had remained in office until such delivery. Notwithstanding the
426 provisions of sections 10 to 25, inclusive, of this act, or any recitals in
427 any bonds issued under the provisions of this section, all such bonds
428 shall be deemed to be negotiable instruments under the provisions of
429 the general statutes.

430 (e) Unless otherwise provided by the ordinance creating the Energy
431 Improvement District Board, bonds may be issued under the
432 provisions of this section, without obtaining the consent of the state or
433 of any political subdivision thereof, and without any other proceedings
434 or the happening of other conditions or things than those proceedings,
435 conditions or things which are specifically required by sections 10 to
436 25, inclusive, of this act.

437 (f) A Energy Improvement District Board may, out of any of any
438 funds available to it, purchase its bonds or notes. The Energy
439 Improvement District Board may hold, pledge, cancel or resell such
440 bonds, subject to and in accordance with agreements with
441 bondholders.

442 (g) An Energy Improvement District Board shall cause a copy of any
443 bond resolutions adopted by it to be filed for public inspection in its
444 office and in the office of the clerk of each participating municipality
445 and may thereupon cause to be published at least once, in a newspaper
446 published or circulating in each participating municipality, a notice
447 stating the fact and date of such adoption and the places where such
448 bond resolution has been so filed for public inspection and the date of

449 the first publication of such notice and also stating that any action or
450 proceeding of any kind or nature in any court questioning the validity
451 or proper authorization of bonds provided for by the bond resolution,
452 or the validity of any covenants, agreements or contracts provided for
453 by the bond resolution, shall be commenced not later than twenty days
454 after the first publication of such notice. If any such notice is published
455 and if no action or proceeding question the validity or proper
456 authorization of bonds provided for by the bond resolution referred to
457 in such notice, or the validity of any covenants, agreements, contracts
458 provided for by the bond resolution is commenced or instituted not
459 later than twenty days after the first publication of said notice, then all
460 residents and taxpayers and owners of property in each participating
461 municipality and all other persons shall be forever barred and
462 foreclosed from instituting or commencing any action or proceeding in
463 any court, or from pleading any defense to any action or proceeding,
464 questioning the validity or proper authorization of such bonds, or the
465 validity of such covenants, agreements or contracts, and said bonds,
466 covenants, agreements and contracts shall be conclusively deemed to
467 be valid and binding obligations in accordance with their terms and
468 tenor.

469 (h) Notwithstanding any provision of the general statutes, (1) the
470 state shall not have any liability or responsibility with regard to any
471 obligation issued by the board, and (2) no political subdivision of the
472 state shall have any liability or responsibility with regard to any
473 obligation issued by the board except as expressly provided by
474 sections 10 to 25, inclusive, of this act.

475 Sec. 13. (NEW) (*Effective October 1, 2006*) An Energy Improvement
476 District Board may secure any bonds issued under the provisions of
477 section 12 of this act by a trust indenture by way of conveyance, deed
478 of trust or mortgage of any project or any other property of the board,
479 whether or not financed in whole or in part from the proceeds of such
480 bonds, or by a trust agreement by and between the board and a
481 corporate trustee, which may be any trust company or bank having the
482 powers of a trust company within or without the state or by both such

483 conveyance, deed of trust or mortgage and indenture or trust
484 agreement. Such trust indenture or agreement may pledge or assign
485 any or all fees, rents and other charges to be received or proceeds of
486 any contract or contracts pledged, and may convey or mortgage any
487 property of the board. Such trust indenture or agreement may contain
488 such provisions for protecting and enforcing the right and remedies of
489 the bondholders as may be reasonable and proper and not in violation
490 of law, including provisions that have been specifically authorized to
491 be included in any resolution or resolutions of the board authorizing
492 the issue of bonds. Any bank or trust company incorporated under the
493 laws of the state may act as depository of the proceeds of such bonds
494 or of revenues or other moneys and may furnish such indemnifying
495 bonds or pledge such securities as may be required by the board. Such
496 trust indenture may set forth rights and remedies of the bondholders
497 and of the trustee, and may restrict the individual right of action by
498 bondholders. In addition to the foregoing, such trust indenture or
499 agreement may contain such other provisions as the board may deem
500 reasonable and proper for the security of the bondholders. All
501 expenses incurred in carrying out the provisions of such trust
502 indenture or agreement may be treated as part of the cost of a project.

503 Sec. 14. (*Effective October 1, 2006*) (a) An Energy Improvement
504 District Board may fix, revise, charge and collect rates, rents, fees and
505 charges for the use of and for the services furnished or to be furnished
506 by each project and to contract with any person, partnership,
507 association or corporation, or other body, public or private, in respect
508 thereof. Such rates, rents, fees and charges shall be fixed and adjusted
509 in respect of the aggregate of rates, rents, fees and charges from such
510 project so as to provide funds sufficient with other revenues, if any, (1)
511 to pay the cost of maintaining, repairing and operating the project and
512 each and every portion thereof, to the extent that the payment of such
513 cost has not otherwise been adequately provided for, (2) to pay the
514 principal of and the interest on outstanding revenue bonds of the
515 board issued in respect of such project as the same shall become due
516 and payable, and (3) to create and maintain reserves required or
517 provided for in any resolution authorizing, or trust agreement

518 securing, such revenue bonds of the board. Such rates, rents, fees and
519 charges shall not be subject to supervision or regulation by any
520 department, commission, board, body, bureau or agency of this state
521 other than the board. A sufficient amount of the revenues derived in
522 respect of a project, except such part of such revenues as may be
523 necessary to pay the cost of maintenance, repair and operation and to
524 provide reserves and for renewals, replacements, extensions,
525 enlargements and improvements as may be provided for in the
526 resolution authorizing the issuance of any revenue bonds of the board
527 or in the trust agreement securing the same, shall be set aside at such
528 regular intervals as may be provided in such resolution or trust
529 agreement in a sinking or other similar fund which is hereby pledged
530 to, and charged with, the payment of the principal of and the interest
531 on such revenue bonds as the same shall become due, and the
532 redemption price or the purchase price of bonds retired by call or
533 purchase as therein provided. Such pledge shall be valid and binding
534 from the time when the pledge is made; the rates, rents, fees and
535 charges and other revenues or other moneys so pledged and thereafter
536 received by the board shall immediately be subject to the lien of any
537 such pledge, without any physical delivery thereof or further act, and
538 the lien of any such pledge shall be valid and binding as against all
539 parties having claims of any kind in tort, contract or otherwise against
540 the board, irrespective of whether such parties have notice thereof.
541 Neither the resolution nor any trust indenture or agreement by which
542 a pledge is created need be filed or recorded except in the records of
543 the board. The use and disposition of moneys to the credit of such
544 sinking or other similar fund shall be subject to the provisions of the
545 resolution authorizing the issuance of such bonds or of such trust
546 agreement. Except as may otherwise be provided in such resolution or
547 such trust indenture or agreement, such sinking or other similar fund
548 shall be a fund for all revenue bonds issued to finance a project of such
549 board without distinction or priority of one over another.

550 (b) All moneys received by the board pursuant to sections 10 to 25,
551 inclusive, of this act, whether as proceeds from the sale of bonds or as
552 revenues, shall be deemed to be trust funds to be held and applied

553 solely as provided pursuant to this section.

554 Sec. 15. (*Effective October 1, 2006*) Any holder of bonds, notes,
555 certificates or other evidences of borrowing issued under the
556 provisions of section 12 of this act, or of any of the coupons
557 appertaining thereto, and the trustee under any trust indenture or
558 agreement, except to the extent the right may be restricted by such
559 trust indenture or agreement, may, either at law or in equity, by suit,
560 action, injunction, mandamus or other proceedings, protect and
561 enforce any and all rights under the provisions of the general statutes
562 or granted by sections 10 to 25, inclusive, of this act, or under such
563 trust indenture or agreement or the resolution authorizing the issuance
564 of such bonds, notes or certificates, and may enforce and compel the
565 performance of all duties required by said section or by such trust
566 indenture or agreement or solution to be performed by the Energy
567 Improvement District Board or by any officer or agent thereof,
568 including the fixing, charging and collection of fees, rents and other
569 charges.

570 Sec. 16. (NEW) (*Effective October 1, 2006*) An Energy Improvement
571 District Board, in the exercise of its powers granted pursuant to
572 sections 10 to 25, inclusive, of this act, shall be for the benefit of the
573 inhabitants of the state, for the increase of their commerce and for the
574 promotion of their safety, health, welfare, convenience and prosperity,
575 and as the operation and maintenance of any project which the board
576 is authorized to undertake constitute the performance of an essential
577 governmental function, no board shall be required to pay any taxes or
578 assessments upon any project acquired and constructed by it under the
579 provisions of said sections. The bonds, notes, certificates or other
580 evidences of debt issued under the provisions of section 12 of this act,
581 their transfer and the income therefrom, including any profit made on
582 the sale thereof, shall at all times be free and exempt from taxation by
583 the state and by any political subdivision thereof.

584 Sec. 17. (NEW) (*Effective October 1, 2006*) Bonds issued by an Energy
585 Improvement District Board pursuant to section 12 of this act, shall be

586 securities in which all public officers and public bodies of the state and
587 its political subdivisions, all insurance companies, trust companies,
588 banking associations, investment companies and executors,
589 administrators, trustees and other fiduciaries may properly and legally
590 invest funds, including capital in their control or belonging to them.
591 Such bonds shall be securities that may properly and legally be
592 deposited with and received by any state or municipal officer or any
593 agency or political subdivision of the state for any purpose for which
594 the deposit of bonds or obligations is now or may hereafter be
595 authorized by law.

596 Sec. 18. (NEW) (*Effective October 1, 2006*) For the purpose of aiding
597 an Energy Improvement District Board and cooperating in the
598 planning, undertaking, acquisition, construction or operation of any
599 distributed resource facility, a municipality may (1) acquire real
600 property in its name for such distributed resource facility or for the
601 widening of existing roads, streets, parkways, avenues or highways or
602 for new roads, streets, parkways, avenues or highways to any such
603 distributed resource facility, or partly for such purposes and partly for
604 other municipal purposes, by purchase or condemnation in the
605 manner provided by law for the acquisition of real property by such
606 municipality, (2) furnish, dedicate, close, vacate, pave, install, grade,
607 regrade, plan or replan parks, streets, roads, roadways, alleys,
608 sidewalks or other places which it is otherwise empowered to
609 undertake, and (3) do all things necessary or convenient to aid and
610 cooperate in the planning, undertaking, construction or operation of
611 any such distributed resource facility, and cause services to be
612 furnished to the board of any character which such municipality is
613 otherwise empowered to furnish, and to incur the entire expense
614 thereof.

615 Sec. 19. (NEW) (*Effective October 1, 2006*) A municipality may, by
616 ordinance, and any other governmental unit shall, without any
617 referendum or public or competitive bidding, and any person may sell,
618 lease, lend, grant or convey to an Energy Improvement District Board,
619 or to permit a board to use, maintain or operate as part of any

620 distributed resource facility, any real or personal property that may be
621 necessary or useful and convenient for the purposes of the board and
622 accepted by the board. Any such sale, lease, loan, grant, conveyance or
623 permit may be made or given with or without consideration and for a
624 specified or an unlimited period of time and under any agreement and
625 on any terms and conditions that may be approved by such
626 municipality, governmental unit or person and that may be agreed to
627 by the board in conformity with its contract with the holders of any
628 bonds. Subject to any such contracts with the holders of bonds, the
629 board may enter into and perform any and all agreements with respect
630 to property so purchased, leased, borrowed, received or accepted by it,
631 including agreements for the assumption of principal or interest or
632 both of indebtedness of such municipality, governmental unit or
633 person or of any mortgage or lien existing with respect to such
634 property or for the operation and maintenance of such property as part
635 of any energy improvement district distributed resources facility.

636 Sec. 20. (NEW) (*Effective October 1, 2006*) A municipality,
637 governmental unit or person may enter into and perform any lease or
638 other agreement with any Energy Improvement District Board for the
639 lease or other agreement with any municipality, governmental unit or
640 person of all or any part of any energy improvement district
641 distributed resource facility or facilities. Any such lease or other
642 agreement may provide for the payment to the board by such
643 municipality, governmental unit or person, annually or otherwise, of
644 such sum or sums of money, computed at fixed amount or by any
645 formula or in any other manner, as may be so fixed or computed. Any
646 such lease or other agreement may be made and entered into for a
647 term beginning currently or at some future or contingent date and
648 with or without consideration and for a specified or unlimited time
649 and on any terms and conditions which may be approved by such
650 municipality, governmental unit or person and which may be agreed
651 to by the board in conformity with its contract with the holders of any
652 bonds, and shall be valid and binding on such municipality,
653 governmental unit or person whether or not an appropriation is made
654 thereby prior to authorization or execution of such lease or other

655 agreement. Such municipality, governmental unit or person shall do
656 all acts and things necessary, convenient or desirable to carry out and
657 perform any such lease or other agreement entered into by it and to
658 provide for the payment or discharge of any obligation thereunder in
659 the same manner as other obligations of such municipality,
660 governmental unit or person.

661 Sec. 21. (NEW) (*Effective October 1, 2006*) For the purpose of aiding
662 an Energy Improvement District Board and cooperating in the
663 planning, undertaking, acquisition, construction or operation of any
664 distributed resource facility, a municipality, by ordinance or by
665 resolution of its legislative body, shall have power from time to time
666 and for such period and upon such terms, with or without
667 consideration, as may be provided by such resolution or ordinance and
668 accepted by the board, (1) to appropriate moneys for the purposes of
669 the board, and to loan or donate such money to the board in such
670 installments and upon such terms as may be agreed upon with the
671 board, (2) to covenant and agree with the board to pay to or on the
672 order of the board annually or at shorter intervals as a subsidy for the
673 promotion of its purposes not more than such sums of money as may
674 be stated in such resolution or ordinance or computed in accordance
675 therewith, (3) upon authorization by it in accordance with law of the
676 performance of any act or thing which it is empowered by law to
677 authorize and perform and after appropriation of the moneys, if any,
678 necessary for such performance, to covenant and agree with the board
679 to do and perform such act or thing and as to the time, manner and
680 other details of its doing and performance, and (4) to appropriate
681 money for all or any part of the cost of acquisition or construction of
682 such facility, and, in accordance with the limitations and any
683 exceptions thereto and in accordance with procedure prescribed by
684 law, to incur indebtedness, borrow money and issue its negotiable
685 bonds for the purpose of financing such distributed resource facility
686 and appropriation, and to pay the proceeds of such bonds to the board.

687 Sec. 22. (NEW) (*Effective October 1, 2006*) For the purpose of aiding
688 an Energy Improvement District Board in the planning, undertaking,

689 acquisition, construction or operation of any distributed resource
690 facility, a participating municipality may, pursuant to resolution
691 adopted by its legislative body in the manner provided for adoption of
692 a resolution authorizing bonds of such municipality and with or
693 without consideration and upon such terms and conditions as may be
694 agreed to by and between the municipality and the board,
695 unconditionally guarantee the punctual payment of the principal of
696 and interest on any bonds of the board and pledge the full faith and
697 credit of the municipality to the payment thereof. Any guarantee of
698 bonds of the board made pursuant to this section shall be evidenced by
699 endorsement thereof on such bonds, executed in the name of the
700 municipality and on its behalf by such officer thereof as may be
701 designated in the resolution authorizing such guaranty, and such
702 municipality shall thereupon and thereafter be obligated to pay the
703 principal of and interest on said bonds in the same manner and to the
704 same extent as in the case of bonds issued by it. As part of the
705 guarantee of the municipality for payment of principal and interest on
706 the bonds, the municipality may pledge to and agree with the owners
707 of bonds issued under this chapter and with those persons who may
708 enter into contracts with the municipality or the board or any
709 successor agency pursuant to the provisions of this chapter that it will
710 not limit or alter the rights thereby vested in the bond owners, the
711 board or any contracting party until such bonds, together with the
712 interest thereon, are fully met and discharged and such contracts are
713 fully performed on the part of the municipality or the board, provided
714 nothing in this subsection shall preclude such limitation or alteration if
715 and when adequate provisions shall be made by law for the protection
716 of the owners of such bonds of the municipality or the board or those
717 entering into such contracts with the municipality or the board. The
718 board is authorized to include this pledge and undertaking for the
719 municipality in such bonds or contracts. To the extent provided in
720 such agreement or agreements, the obligations of the municipality
721 thereunder shall be obligatory upon the municipality and the
722 inhabitants and property thereof, and thereafter the municipality shall
723 appropriate in each year during the term of such agreement, and there

724 shall be available on or before the date when the same are payable, an
725 amount of money that, together with other revenue available for such
726 purpose, shall be sufficient to pay such principal and interest
727 guaranteed by it and payable thereunder in that year, and there shall
728 be included in the tax levy for each such year in an amount that,
729 together with other revenues available for such purpose, shall be
730 sufficient to meet such appropriation. Any such agreement shall be
731 valid, binding and enforceable against the municipality if approved by
732 action of the legislative body of such municipality. Any such guaranty
733 of bonds of the board may be made, and any resolution authorizing
734 such guaranty may be adopted, notwithstanding any statutory debt or
735 other limitations, but the principal amount of bonds so guaranteed
736 shall, after their issuance, be included in the gross debt of such
737 municipality for the purpose of determining the indebtedness of such
738 municipality under subsection (b) of section 7-374 of the general
739 statutes. The principal amount of bonds so guaranteed and included in
740 gross debt shall be deducted and is declared to be and to constitute a
741 deduction from such gross debt under and for all the purposes of said
742 subsection (b) of section 7-374, (1) from and after the time of issuance
743 of said bonds until the end of the fiscal year beginning next after the
744 completion of acquisition and construction of the distributed resource
745 facility to be financed from the proceeds of such bonds, and (2) during
746 any subsequent fiscal year if the revenues of the board in the preceding
747 fiscal year are sufficient to pay its expenses of operation and
748 maintenance in such year and all amounts payable in such year on
749 account of the principal and interest on all such guaranteed bonds, all
750 bonds of the municipality issued as provided in this section and all
751 bonds of the Energy Improvement District Board issued under section
752 12 of this act.

753 Sec. 23. (NEW) (*Effective October 1, 2006*) Any lease or other
754 agreement, and any instruments making or evidencing the same, may
755 be pledged or assigned by the board to secure its bonds and thereafter
756 may not be modified except as provided by the terms of such
757 instrument or by the terms of such pledge or assignment.

758 Sec. 24. (NEW) (*Effective October 1, 2006*) All property of an Energy
 759 Improvement District Board shall be exempt from levy and sale by
 760 virtue of an execution and no execution or other judicial process shall
 761 issue against the same nor shall any judgment against the board be a
 762 charge or lien upon its property, provided nothing in this section shall
 763 apply to or limit the rights of the holder of any bonds to pursue any
 764 remedy for the enforcement of any pledge or lien given by the board
 765 on its facility revenues or other moneys.

766 Sec. 25. (NEW) (*Effective October 1, 2006*) An Energy Improvement
 767 District Board and the municipality in which any property of the board
 768 is located may enter into agreements with respect to the payment by
 769 the board to such municipality of annual sums of money in lieu of
 770 taxes on such property in such amount as may be agreed upon
 771 between the board and the municipality. The board may make, and the
 772 municipality may accept, such payments and apply them in the
 773 manner in which taxes may be applied in such municipality, provided
 774 no such annual payment with respect to any parcel of such property
 775 shall exceed the amount of taxes paid thereon for the taxable year
 776 immediately prior to the time of its acquisition by the board.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	13a-126
Sec. 2	<i>July 1, 2006</i>	16a-7c
Sec. 3	<i>October 1, 2006</i>	16-50p(c)(1)
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>October 1, 2006</i>	16-19e(a)
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>October 1, 2006</i>	16-32g
Sec. 9	<i>October 1, 2006</i>	New section
Sec. 10	<i>October 1, 2006</i>	New section
Sec. 11	<i>October 1, 2006</i>	New section
Sec. 12	<i>October 1, 2006</i>	New section
Sec. 13	<i>October 1, 2006</i>	New section
Sec. 14	<i>October 1, 2006</i>	New section

Sec. 15	<i>October 1, 2006</i>	New section
Sec. 16	<i>October 1, 2006</i>	New section
Sec. 17	<i>October 1, 2006</i>	New section
Sec. 18	<i>October 1, 2006</i>	New section
Sec. 19	<i>October 1, 2006</i>	New section
Sec. 20	<i>October 1, 2006</i>	New section
Sec. 21	<i>October 1, 2006</i>	New section
Sec. 22	<i>October 1, 2006</i>	New section
Sec. 23	<i>October 1, 2006</i>	New section
Sec. 24	<i>October 1, 2006</i>	New section
Sec. 25	<i>October 1, 2006</i>	New section

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:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Department of Transportation	TF - Cost	Significant	Significant
Ct Siting Council; Public Utility Control, Dept.	CC&PUCF - None	None	None

Note: TF=Transportation Fund; CC&PUCF=Consumer Counsel and Public Utility Control Fund

Municipal Impact:

Municipalities	Effect	FY 07 \$	FY 08 \$
Various Municipalities	See Below	See Below	See Below

Explanation

Section 1 of the bill results in a cost to the Department of Transportation (DOT) and is anticipated to be in excess of \$1 million. PA 05-210 eliminated the Department of Transportation of cost sharing requirements when electric transmission and trunkline facilities had to be relocated in highway rights-of-way. This section of the bill limits these changes to facilities owned by an electric distribution company. Therefore, the DOT will incur significant costs, in excess of \$1 million, to relocate a transmission line that is not owned by electric distribution companies but rather owned by a power generator, municipality or other entity.

Currently, a portion of a 345-kilovolt transmission line is being constructed within the state right-of-way. Construction costs are in the range of \$2 to \$4 million per 1500 foot section. Any relocation required due to improvement of the transportation system in the future would cost at least the same amount. Relocation of one mile of the transmission line could potentially cost over \$10 million.

The bonding provisions of the bill will not have any fiscal

implications for the state because such bonds are not a direct or indirect liability of the State of Connecticut.

The bill places new conditions for certificates for new power plants which are approved by the Connecticut Siting Council and requires DPUC to conduct two contested cases by September 1, 2006. It is anticipated that these provisions can be absorbed within the agencies existing resources. The bill makes various other changes, none of which are anticipated to have a fiscal impact to the state.

Municipal Impact

The bill allows municipalities to establish energy improvement districts to develop distributed resources in the district. Under the bill, members of the board of the energy improvement district are not compensated except for necessary expenses. This could result in a minimal cost to municipalities. However, to the extent that the energy improvement district may fix and collect rates for sale of energy resources that they produce, municipalities will gain revenue from the services furnished from each project.

Although the bill provides a property tax exemption for property owned by an energy improvement district, it also provides a payment in lieu of taxes (PILOT) so that the town may receive all or part of the value of the taxes that would otherwise be due on the property. There will be a revenue loss to towns only in situations where the PILOT payments are less than the full amount of the property tax liability.

The bonding provisions create a liability for any town that chooses to guarantee such bonds. If the revenues intended to pay debt service on the bonds are insufficient to cover the liability, the guarantee requires that the town to appropriate sufficient funds to cover the shortfall. This would require the town to either reduce funding for its own budget or increase revenue collected from taxes. Also, since the guaranteed bonds would count toward a municipality's debt cap, towns choosing to provide a guarantee for these bonds might be limited in their ability to issue bonds for other purposes.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis
sHB 5522*****AN ACT CONCERNING ELECTRIC MARKET STRUCTURE.*****SUMMARY:**

The bill imposes additional requirements for Siting Council certificates for new power plants. It requires the council and the Department of Public Utility Control (DPUC) to analyze the extent to which generation facilities are complying with on-site fuel storage requirements.

By law, when an application is made to the Siting Council to build a new power plant, the Connecticut Energy Advisory Board (CEAB) must solicit and evaluate alternative proposals. The bill expands the factors CEAB must consider in its evaluation to include how much energy the plant will deliver, compared to the amount of energy needed to build and operate the plant and to extract, refine, and deliver the fuel it will use.

The bill requires DPUC to investigate power outages and electric company staffing levels. By law, DPUC must set utility rates to be just sufficient to cover a company's operating and capital costs and maintain its financial integrity. The bill specifies that operating costs include having appropriate staffing levels. It requires electric companies to submit maintenance plans for their distribution and transmission systems by January 1, 2007.

The bill authorizes the establishment of "energy improvement districts" and prescribes how they can be formed. It specifies the board's powers, which include developing distributed resources (e.g., small power plants and certain conservation programs) and microgrids (local electric distribution networks), charging rates, and taking property by eminent domain. The board can issue revenue

bonds, which are subject to standard provisions regarding their issuance, guarantees of revenues to back the bonds, trust indentures, and other bondholder rights. Districts are tax-exempt, but can make payments in lieu of property taxes. The bill gives municipalities a wide range of powers to aid districts, including guaranteeing the district's bonds.

PA 05-210 relieved the Department of Transportation (DOT) of cost sharing requirements when electric transmission and trunkline facilities had to be relocated in highway rights-of-way. This bill limits these changes to facilities owned by an electric company.

EFFECTIVE DATE: Upon passage for the fuel storage, DPUC investigations, and DOT cost sharing provisions; July 1, 2006 for the CEAB evaluation; and October 1, 2006 for the dual fuel, DPUC rate-setting, electric company maintenance plan, and energy improvement district provisions.

CONNECTICUT SITING COUNCIL

By law, a Siting Council certificate is needed to build a new power plant. The bill requires that any new power plant, other than one that uses nuclear power, have a dual fuel capacity (e.g., be able to burn both natural gas and oil).

The bill requires the council, when issuing a certificate for a power plant that is fueled at least in part by natural gas, to condition the certificate on the plant owner maintaining at least 10% of its natural gas contracts on a firm basis. Under current practice, power plant owners often obtain natural gas on an interruptible basis. When natural gas demand is particularly high, the company supplying the plant can interrupt the supply in order to meet the needs of residential and other firm customers.

The bill requires the council and DPUC to conduct a contested case (a quasi-judicial proceeding) by September 1, 2006, to analyze the compliance status of generation facilities with on-site fuel storage requirements. The analysis must also determine how much fuel

storage is needed to run a power plant at peak load for a 48-hour period and what on-site fuel storage resources are currently available in Connecticut. By January 1, 2007, DPUC must report the proceeding results to the Energy and Technology Committee.

DPUC INVESTIGATIONS

The bill requires DPUC to conduct two contested cases by September 1, 2006. The first must determine the most effective way of notifying the public about a power outage and the status of an electric company's efforts to restore power to a particular area of Connecticut. The second must analyze the appropriate number of linemen needed for an electric company to maintain, repair, and extend its distribution lines under normal circumstances and under extraordinary circumstances, including storms. In both cases, DPUC must report the proceeding results to the Energy and Technology Committee by January 1, 2007.

DISTRIBUTION SYSTEM MAINTENANCE PLANS

The bill requires each electric company to submit a plan to DPUC by January 1, 2007 for maintaining transmission and distribution systems along highways, in a format DPUC prescribes. The plan must include a summary of appropriate staffing levels to maintain these systems and a program to trim trees located close to overhead wires. DPUC must review the plans and can issue appropriate orders. It may also order the companies to update their plans.

CEAB ANALYSIS

By law, when an application is made to the Siting Council to build a new power plant, the Connecticut Energy Advisory Board (CEAB) must solicit and evaluate alternative proposals. The bill requires CEAB to also conduct a "net energy analysis" of each plant that is larger than 25 megawatts. This analysis must determine the ratio between (1) the amount of energy the plant will produce over its lifetime to (2) the amount of energy used in plant construction and maintenance and the total fuel cycle, both over the plant's lifetime. The amount of energy used in plant construction and maintenance goes back to primary

material extraction, and must include energy used in transporting, refining, and transmitting the electricity to final consumers. For example, in determining the energy content of the steel used in the plant, the analysis would determine how much energy was used (1) to mine the iron and coal used to make the steel, (2) deliver these materials to the steel mill, (3) convert the materials into steel and shape them into usable products, (4) deliver these products to the power plant site, and (5) erect them as part of the plant. CEAB must include this analysis it sends to the Siting Council regarding alternative proposals.

ENERGY IMPROVEMENT DISTRICTS

Formation

The bill allows a municipality's legislative body (the board of selectmen in town meeting towns) to establish an energy improvement district. The district's affairs must be managed by a board of between five and seven members. The municipality's chief elected official appoints the members. They serve for the term specified by the legislative body or until their successors are appointed and have qualified. Vacancies are filled by the chief elected official for the unexpired portion of the term. The members are compensated for necessary expenses.

Powers and Responsibilities

A board may plan, develop, fund, build, and operate distributed resources in its district, except on state or federally owned properties. These resources are:

1. customer-side distributed resources (i.e., generation facilities of up to 65 megawatts located on a customer's premises and electricity savings from conservation programs);
2. larger power plants that are connected to the transmission grid;
3. combined heat and power (cogeneration) systems;
4. class III resources (combined heat and power systems and

energy savings from new commercial and industrial customer conservation programs); and

5. microgrids (i.e., small, locally controlled electric distribution systems that are connected with the electric company's distribution system).

The board must act with a view to the increase, efficiency, reliability, and furtherance of commerce and industry in the district. It must coordinate its activities regarding such resources with relevant state, regional, and federal agencies. It must make a thorough investigation of electric distribution system conditions in the district and other places as it may deem proper. It must prepare a comprehensive plan for the development of distributed resources in the district. The board may lease or acquire and equip office space and may employ staff.

The board also can:

1. determine the location, type, size, and construction of needed distributed resources in the district, subject to approval by relevant municipal, state, and federal agencies;
2. own, lease, improve, and maintain distributed resources in the district and acquire real property by purchase or condemnation, and sell or otherwise convey the property;
3. regulate distributed resources owned by private parties in the district if they harm the flow of power in the district or interfere with the district's approved plan of development subject to other laws and due process;
4. operate and maintain distributed resources owned or leased by it and use the revenues for its corporate purposes;
5. maintain staff to promote and develop commerce in the district;
6. make contracts, leases, and loans, including the loan of bond

proceeds to the owners or lessees of facilities in the district; and

7. use the municipality's officers, employees, facilities, and equipment, with its consent, and pay proper compensation.

The board's property is exempt from levy and sale by execution. No execution or other judicial process can be issued against this property and charges against the board cannot be liened on the property. However, these provisions do not limit bondholders rights.

Rates and Charges

A board may fix and collect rates and other charges for the use of and for the services furnished, or to be furnished, by each project. The rates and other charges must be sufficient, together with other revenues, to (1) pay the cost of maintaining, repairing, and operating the project, to the extent that these costs have not otherwise been covered; (2) pay principal and interest on the board's outstanding bonds for the project; and (3) create and maintain reserves. The rates and charges are not subject to regulation by any state agency. A sufficient amount of a project's revenues, other than the revenues needed to pay the cost of maintenance, repair, and operation, and to provide reserves and the improvements as may be provided for in the bond resolution or trust agreement, must be set aside to pay the principal and interest on the bonds as they become due.

Bonding

A board may, subject to the approval of the municipality's legislative body, issue revenue bonds to pay the cost of acquiring, constructing, improving, or extending any distributed resources project and acquiring needed land and equipment, or for any other authorized purpose of the board. The bonds can have a term of up to 50 years. Unless otherwise provided by the ordinance creating the board, bonds may be issued under the bill's provisions without obtaining the consent of the state or political subdivision and without any other proceedings.

The bonds are not a debt of the state or political subdivision, except

when the board or a participating municipality has guaranteed payment of principal and interest. The state, its political subdivisions, banks, and insurance companies can invest in the bonds.

Municipal Guarantee of Bonds

The bill allows a municipality, by resolution of its legislative body, to unconditionally guarantee the punctual repayment of the bond's principal and interest by pledging the municipality's full faith and credit (i.e., its taxing power). The municipality can do so to help the board in the planning, acquisition, construction, or operation of distributed resources.

Once the guarantee is made, the municipality must appropriate enough money each year to ensure that its contribution, taken together with the district's other resources, provide enough money to make the annual principal and interest payments on the bonds. It must set its taxes to meet this appropriation. As part of its guarantee, the municipality can pledge with bondholders and contractors of the board and the municipality that it will not limit or alter their rights until the bonds are paid off.

The guaranteed bonds' principal counts toward the municipality's debt limit to the extent that the district's revenues do not cover the principal and interest on the bonds and the facility's operations and maintenance cost. This provision applies starting the second fiscal year after the facility is completed. The district's bonds count toward the municipality's debt limit in the same way.

Tax Exemption and PILOTs

The bill exempts the board from taxes or assessments on its projects. However, a board can agree with its host municipality to make annual payments in lieu of taxes on the board's property, not to exceed the amount of taxes paid on the property for the tax year immediately prior to its acquisition. The district's bonds and the income from them are exempt from state taxes.

Municipal Powers

In order to help a board in the planning, acquisition, construction, or operation of a distributed resources facility, a municipality can:

1. acquire, by purchase or condemnation, real property in its name for a distributed resource facility or for widening of existing roads or for new roads to the facility;
2. close, pave, or replan roads, parks, and sidewalks as it is otherwise empowered to do; and
3. do anything that is necessary or convenient to help in the planning, construction, or operation of distributed resource facilities, provide services to the board that the municipality is authorized to provide, and incur related expenses.

A municipality or person may, and any other governmental unit must, (1) sell or otherwise convey to a board any real or personal property that may be necessary or useful for the board's purposes or (2) permit the board to use, maintain, or operate such property as part of its distributed resource facility. Referendum and public or competitive bidding requirements do not apply to these actions. The conveyance or permit may be for consideration or for free. It may be for a specified or unlimited period of time and under any agreement and on any terms and conditions that may be approved by such municipality, governmental unit, or person. Subject to any contracts with bondholders, the board may enter into agreements with respect to the property, including agreements to assume the principal or interest of the indebtedness of the municipality, governmental unit, or person.

A municipality, governmental unit, or person may enter into any lease or other agreement with a board to lease all or any part of the district's distributed resource facilities. The lease may provide for the municipality, governmental unit, or person paying the board on a fixed or formula basis. The lease may be for a fixed or unlimited time. The municipality, governmental unit, or person must undertake all things necessary or convenient to meet the terms of the agreement. The board can assign its leases to secure its bonds, and if it does so, the

lease cannot be modified except as provided in the assignment.

A municipality, by ordinance or resolution of its legislative body, may aid a board in the planning, construction, or operation of a distributed resource facility, by, among other things; (1) appropriating or loaning money to the board for its purposes; (2) agreeing to pay the board a subsidy for the promotion of its purposes; and (3) appropriating money for all or any part of the cost of acquisition or construction of a facility, or borrowing money and issuing its bonds to finance facilities.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 16 Nay 2 (03/14/2006)