



# House of Representatives

General Assembly

**File No. 140**

*January Session, 2007*

Substitute House Bill No. 7251

*House of Representatives, March 26, 2007*

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

## ***AN ACT CONCERNING UTILITY AUDITS.***

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

1 Section 1. Section 16-8 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The Department of Public Utility Control may, in its discretion,  
4 delegate its powers, in specific cases, to one or more of its  
5 commissioners or to a hearing examiner to ascertain the facts and  
6 report thereon to the department. The department, or any  
7 commissioner thereof, in the performance of its duties or in connection  
8 with any hearing, or at the request of any person, corporation,  
9 company, town, borough or association, may summon and examine,  
10 under oath, such witnesses, and may direct the production of, and  
11 examine or cause to be produced and examined, such books, records,  
12 vouchers, memoranda, documents, letters, contracts or other papers in  
13 relation to the affairs of any public service company as it may find  
14 advisable, and shall have the same powers in reference thereto as are

15 vested in magistrates taking depositions. If any witness objects to  
16 testifying or to producing any book or paper on the ground that such  
17 testimony, book or paper may tend to incriminate him, and the  
18 department directs such witness to testify or to produce such book or  
19 paper, and he complies, or if he is compelled so to do by order of court,  
20 he shall not be prosecuted for any matter concerning which he has so  
21 testified. The fees of witnesses summoned by the department to appear  
22 before it under the provisions of this section, and the fees for  
23 summoning witnesses shall be the same as in the Superior Court. All  
24 such fees, together with any other expenses authorized by statute, the  
25 method of payment of which is not otherwise provided, shall, when  
26 taxed by the department, be paid by the state, through the business  
27 office of the department, in the same manner as court expenses. The  
28 department may designate in specific cases a hearing examiner who  
29 may be a member of its technical staff or a member of the Connecticut  
30 Bar engaged for that purpose under a contract approved by the  
31 Secretary of the Office of Policy and Management to hold a hearing  
32 and make report thereon to the department. A hearing examiner so  
33 designated shall have the same powers as the department, or any  
34 commissioner thereof, to conduct a hearing, except that only a  
35 commissioner of the department shall have the power to grant  
36 immunity from prosecution to any witness who objects to testifying or  
37 to producing any book or paper on the ground that such testimony,  
38 book or paper may tend to incriminate him.

39 (b) (1) In the performance of its duties the Department of Public  
40 Utility Control may establish management audit teams as a regular  
41 and continuing component of its staff. The management audit teams  
42 shall be composed of personnel with a professional background in  
43 accounting, engineering or any other training as the department may  
44 deem necessary to assure a competent and thorough review and audit.  
45 The department shall promptly establish such procedures as it deems  
46 necessary or desirable to provide for management audits to be  
47 performed on a regular or irregular schedule on all or any portion of  
48 the operating procedures and any other internal workings of any  
49 public service company, including the relationship between any public

50 service company and a related holding company or subsidiary,  
51 consistent with the provisions of section 16-8c, provided no such audit  
52 shall be performed on a community antenna television company,  
53 except with regard to any noncable communications services which  
54 the company may provide, or when (A) such an audit is necessary for  
55 the department to perform its regulatory functions under the  
56 Communications Act of 1934, 47 USC 151, et seq., as amended from  
57 time to time, other federal law or state law, (B) the cost of such an audit  
58 is warranted by a reasonably foreseeable financial, safety or service  
59 benefit to subscribers of the company which is the subject of such an  
60 audit, and (C) such an audit is restricted to examination of the  
61 operating procedures that affect operations within the state.

62 (2) In any case where the department determines that an audit is  
63 necessary or desirable, it may (A) order the audit to be performed by  
64 one of its management audit teams, (B) require the affected company  
65 to perform the audit utilizing the company's own internal  
66 management audit staff as supervised by designated members of the  
67 department's staff, or (C) require that the audit be performed under  
68 the supervision of designated members of the department's staff by an  
69 independent management consulting firm selected by the department,  
70 in consultation with the affected company and the Office of Consumer  
71 Counsel. If the affected company has more than seventy-five thousand  
72 customers, such independent management consulting firm shall be of  
73 nationally-recognized stature. All reasonable and proper expenses of  
74 the audits, including, but not limited to, the costs associated with the  
75 audit firm's testimony at a public hearing or other proceeding, shall be  
76 initially borne by the affected companies. [and shall be paid by such  
77 companies at such times and in such manner as the department  
78 directs.]

79 (3) For purposes of this section, a complete audit shall consist of (A)  
80 a diagnostic review of all functions of the audited company, which  
81 shall include, but not be limited to, documentation of the operations of  
82 the company, assessment of the company's system of internal controls,  
83 and identification of any areas of the company which may require

84 subsequent audits, and (B) the performance of subsequent focused  
85 audits identified in the diagnostic review and determined necessary by  
86 the department. All audits performed pursuant to this section shall be  
87 performed in accordance with generally accepted management audit  
88 standards. The department shall adopt regulations in accordance with  
89 the provisions of chapter 54 setting forth such generally accepted  
90 management audit standards. Each audit of a community antenna  
91 television company shall be consistent with the provisions of the  
92 Communications Act of 1934, 47 USC 151, et seq., as amended from  
93 time to time, and of any other applicable federal law. The department  
94 shall certify whether a portion of an audit conforms to the provisions  
95 of this section and constitutes a portion of a complete audit.

96 (4) A complete audit of each portion of each gas, electric or electric  
97 distribution company having more than seventy-five thousand  
98 customers shall begin no less frequently than every six years, so that a  
99 complete audit of such a company's operations shall be performed  
100 every six years. Such an audit of each such company having more than  
101 seventy-five thousand customers shall be updated as required by the  
102 department.

103 (5) The final results of an audit performed pursuant to this section  
104 shall be filed simultaneously with the department and the Office of  
105 Consumer Counsel and shall be open to public inspection. The audit  
106 shall be completed not later than one year following a department  
107 order that it be performed. Upon completion and review of the audit, if  
108 the person or firm performing or supervising the audit determines that  
109 any of the operating procedures or any other internal workings of the  
110 affected public service company are inefficient, improvident,  
111 unreasonable, negligent or in abuse of discretion, the department may,  
112 after notice and opportunity for a hearing, order the affected public  
113 service company to adopt such new or altered practices and  
114 procedures as the department shall find necessary to promote efficient  
115 and adequate service to meet the public convenience and necessity.  
116 The department shall annually submit a report of audits performed  
117 pursuant to this section to the joint standing committee of the General

118 Assembly having cognizance of matters relating to public utilities,  
 119 with a copy to the Office of Consumer Counsel, which report shall  
 120 include the status of audits begun but not yet completed and a  
 121 summary of the results of audits completed.

122 (6) All reasonable and proper costs and expenses, as determined by  
 123 the department, of complying with any order of the department  
 124 pursuant to this subsection shall be recognized by the department for  
 125 all purposes as proper business expenses of the affected company.

126 (7) After notice and hearing, the department may modify the scope  
 127 [and schedule] of a management audit of a telephone company which  
 128 is subject to an alternative form of regulation so that such audit is  
 129 consistent with that alternative form of regulation.

130 (c) Nothing in this section shall be deemed to interfere or conflict  
 131 with any powers of the department or its staff provided elsewhere in  
 132 the general statutes, including, but not limited to, the provisions of this  
 133 section and sections 16-7, 16-28 and 16-32, to conduct an audit,  
 134 investigation or review of the books, records, plant and equipment of  
 135 any regulated public service company.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-8

**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 chamber thereof for any purpose:

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### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 08 \$</b>	<b>FY 09 \$</b>
Public Utility Control, Dept.	CC&PUCF - Cost	Potential Indeterminate	Potential Indeterminate

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

**Municipal Impact:** None

#### **Explanation**

This bill requires all audits performed by firms retained by the Department of Public Utility Control (DPUC) to be completed within one year. To the extent that audit firms would charge more to accommodate completion within one year, DPUC could experience increased costs. The extent to which audit firms may additionally charge DPUC to ensure a timely completion is unknown. However, currently most audits are completed within this timeframe.

To the extent that audit costs would initially be bourn by the utility company, but may eventually be passed on to DPUC, a cost of approximately \$250,000-\$400,000 could occur. Currently, all audit costs are paid by the utility company being audited.

#### **The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the extent that DPUC is responsible for audit costs which are not passed on to the utility company.

**OLR Bill Analysis**

**sHB 7251**

***AN ACT CONCERNING UTILITY AUDITS.***

**SUMMARY:**

By law, the Department of Public Utility Control (DPUC) can require the companies it regulates to undergo management audits. The bill requires DPUC to consult with the Office of Consumer Counsel (OCC) in selecting the consulting firm that conducts the audit. By law, DPUC must consult with the affected company in the selection.

Under current law, the audit results must be filed with DPUC and open for public inspection. The bill (1) explicitly limits this provision to the final audit results and (2) requires that the results be filed simultaneously with OCC. It also requires that the audit be completed within one year after DPUC orders that it be performed. The bill eliminates DPUC's ability to modify the schedule of a management audit of a telephone company subject to an alternative form of regulation.

Under current law, the affected company must pay for all of the reasonable and proper costs of the audit, at a time and in a manner DPUC specifies. The bill instead requires the company to initially bear these costs, and eliminates DPUC's ability to determine the time and manner of the payments.

By law, DPUC must submit an annual report to the Energy and Technology Committee on completed audits and those in progress. The bill requires that a copy of this report be submitted to OCC.

EFFECTIVE DATE: Upon passage

**COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/08/2007)