



**Substitute House Bill No. 5330**

**Public Act No. 08-128**

**AN ACT CONCERNING MUNICIPAL UTILITIES.**

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

Section 1. Section 7-233q of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) All purchases for supplies, materials or equipment to be made in excess of twenty-five thousand dollars shall be submitted for competitive bid provided that more than one source of such supplies, materials or equipment is available, except this [section] subsection shall not apply to any project or projects in which a municipal electric energy cooperative is an owner of a portion if the project itself is not required to be subject to competitive bidding.

(b) (1) Notwithstanding subsection (a) of this section, any contracts to be entered into by a cooperative created pursuant to this chapter or any project in which such cooperative has an interest or any joint venture or partnership thereof may be entered into as the result of either negotiation, request for proposals, open-bid or sealed-bid method of procurement. In determining the type of procurement method it deems most prudent, the cooperative may consider the scope of work, the management complexities associated therewith, the extent of current and future technological development requirements

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and the best interests of the cooperative and its members and participants. The cooperative shall determine the terms and conditions of such contracts and the fees or other compensation to be paid pursuant to such contracts.

(2) The entry into any contract resulting from negotiation or the conduct of a request for proposals pursuant to subdivision (1) of this subsection may be by resolution or by the terms of written policies adopted by the cooperative at the option of the governing body of said cooperative. If the cooperative elects to proceed by negotiation or request for proposals for the procurement of any such contract by the terms of written policies adopted by the cooperative, the contract and the factual basis for the method of procurement shall be recorded and open for public inspection immediately after the award of such contract.

Sec. 2. Subsection (b) of section 7-233e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) A municipal electric energy cooperative created in the manner provided in this chapter shall constitute a public body corporate and politic, and in furtherance of its purpose of providing facilities for the generation and transmission of electric power such municipal electric energy cooperative shall be deemed to be exercising an essential governmental function and shall have the following powers, to wit:

- (1) To adopt and have a common seal and to alter the same;
- (2) To sue and be sued;
- (3) To contract and be contracted with;

(4) To plan, acquire, construct, reconstruct, operate, maintain, repair, extend or improve one or more projects within or without the

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state; or to acquire any interest in or any right to capacity of such a project and to act as agent, or designate one or more of the other participants in such project to act as agent, for all the participants in such project in connection with the planning, acquisition, construction, reconstruction, operation, maintenance, repair, extension or improvement of such project;

(5) To investigate the desirability of and necessity for additional sources and supplies of electric power, and to make such studies, surveys and estimates as may be necessary to determine the feasibility and cost of any such additional sources and supplies of electric power;

(6) To cooperate with private electric utilities, member and nonmember municipal electric utilities and other public or private electric power entities, within and without the state, or with any person without the state, in the development of such sources and supplies of electric power;

(7) To procure from the United States of America or any agency or instrumentality thereof, or from any state or agency or instrumentality thereof, any consents, authorizations or approvals which may be requisite to enable any project within its powers to be carried forward;

(8) To do and perform any acts and things authorized by the act under, through or by means of its cooperative utility board, officers, agents or employees;

(9) To acquire, hold, use and dispose of its income, revenues, funds and moneys;

(10) To acquire, own, hire, use, operate and dispose of personal property;

(11) To acquire, own, use, lease, operate and dispose of real property and interests in real property, and to make improvements

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thereon;

(12) To grant the use, by lease or otherwise, and to make charges for the use, of any property or facility owned or controlled by it;

(13) To borrow money and to issue its negotiable bonds or notes, and to enter into any agreements with the purchasers or holders of such bonds or notes or with others for their benefit;

(14) Subject to any agreement with bondholders or noteholders, to invest moneys of the municipal cooperative not required for immediate use, including proceeds from the sale of any bonds or notes, in such obligations, securities and other investments as the cooperative utility board shall deem prudent and in accordance with the laws of the state regarding the investment of public moneys;

(15) To exercise the right of eminent domain, subject to the limitations contained herein;

(16) To fix and determine the location and character of, and all other matters in connection with, any and all projects it may be authorized to acquire, hold, establish, effectuate, operate or control;

(17) To contract with any electric utility, any member or nonmember municipal electric utility, any public or private electric power entity within or without the state, or any person without the state, for the sale, exchange or transmission of electric power or energy generated by any project, or any interest therein or any right to capacity thereof, on such terms and for such period of time as the cooperative utility board shall determine;

(18) To purchase, sell, exchange or transmit electric power and energy within and without the state, to any electric utility, any member or nonmember municipal electric utility or any other public or private electric power entity, or any person without the state; and to

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enter into agreements with respect to such purchase, sale, exchange, or transmission to any electric utility, any member or nonmember municipal electric utility or any other public or private electric power entity; as one means of implementing the power granted by this [subsection (18)] subdivision, a municipal electric energy cooperative, if its cooperative utility board shall so determine, may enter into or become a participant in the New England Power Pool; and to acquire, own, hold and dispose of stock or other ownership interests in, or evidences of indebtedness of, any corporation or business entity which constructs electric power generation or transmission facilities or generates, produces, transmits, purchases, sells or exchanges electric power and energy to, or insures the liabilities of, public or private electric power entities located within or without the state, provided the outstanding stock of such corporation is owned in whole or in part by such public or private electric power entities;

(19) To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as the cooperative utility board deems desirable;

(20) To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from any other source, and to comply, subject to the provisions of this chapter, with the terms and conditions thereof;

(21) To mortgage, or otherwise hypothecate, any or all of its property or assets to secure the payment of its bonds, notes or other obligations;

(22) To submit to arbitration any disputes with others or among its members;

(23) To produce electric power by the use of cogeneration

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technology or renewable fuel resources, as defined in section 16-1 of the 2008 supplement to the general statutes;

(24) To contract for the purchase or exchange of electricity produced by a person using cogeneration technology or renewable fuel resources, as defined in section 16-1 of the 2008 supplement to the general statutes, or for the sale or exchange of electricity produced by the municipal cooperative to such person, provided such purchase, sale or exchange is subject to the rates and conditions of service established in accordance with section 16-243a of the 2008 supplement to the general statutes;

(25) To provide in any agreement executed in connection with a project by or among a municipal cooperative and other participants in such project that, if one or more of such participants defaults in its obligations under such agreement including, without limitation, the payment of principal or interest on their indebtedness issued with respect to such project, the municipal cooperative and the other nondefaulting participants, if any, shall be required to pay such obligations, including the principal of and the interest on such indebtedness, for which the defaulting participant or participants were to have paid, upon such terms and conditions and with such limitations as the cooperative utility board may determine;

(26) To guarantee, in connection with any project, the punctual payment of the principal of and interest on the indebtedness or other contractual obligations of any of the participants in such project;

(27) (A) To enter into agreements with any entity to receive or procure the supply, or the prepayment of the supply, of natural gas for the sole benefit of its member, the City of Norwich Department of Public Utilities, a municipal gas utility, provided (i) such supply, or prepayment of supply, is consumed or used by said utility or by any retail customer of said utility entirely within the geographic

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boundaries of the city of Norwich or the town of Preston, and (ii) no part of such supply, or prepayment of supply, shall be consumed or used within or transported to any other municipality or utility, territory, land held in trust by the United States on behalf of a Native American tribe or land located within a Native American reservation or other jurisdiction;

(B) No power granted to a municipal cooperative pursuant to this subdivision shall be exercised so as to impair any existing right, power or privilege of any gas company, as defined in section 16-1;

~~[(27)]~~ (28) To exercise and perform all or part of its power and functions for the sole purpose of purchasing, selling, exchanging or transmitting electric power and energy on a wholesale basis, as provided in this chapter, through one or more wholly owned or partly owned corporations or other business entities; and

~~[(28)]~~ (29) To exercise all other powers not inconsistent with the state Constitution or the United States Constitution, which may be reasonably necessary or appropriate for or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

Approved June 5, 2008