



Senate

General Assembly

File No. 405

January Session, 2009

Substitute Senate Bill No. 1129

Senate, April 2, 2009

The Committee on Commerce reported through SEN. LEBEAU of the 3rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ENERGY AND THE STATE'S ECONOMY.

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

1 Section 1. Section 16-243v of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) For purposes of this section: (1) "Connecticut electric efficiency
4 partner program" means the coordinated effort among the Department
5 of Public Utility Control, the Connecticut Center for Advanced
6 Technologies, the Renewable Energy Investments Fund, electric
7 distribution companies, the Institute of Sustainable Energy, persons
8 and entities providing enhanced demand-side management
9 technologies, and electric consumers to conserve electricity, use
10 electricity more efficiently and reduce demand in Connecticut through
11 the purchase and deployment of energy efficient technologies and to
12 promote the development and use of Class I renewable energy sources,
13 as defined in subdivision (26) of subsection (a) of section 16-1; (2)
14 "enhanced demand-side management technologies" means demand-
15 side management solutions, customer-side emergency dispatchable

16 generation resources, customer-side renewable energy generation, load
17 shifting technologies, [and] conservation and load management
18 technologies that reduce electric distribution company customers'
19 electric demand or natural gas or oil consumption, technologies that
20 manage, optimize or improve the efficiency of electricity usage or the
21 ability to procure energy more effectively relative to a customer's
22 specific load characteristics or improve the efficiency or performance
23 of the electric system, combined heat and power systems, solar thermal
24 and geothermal systems, Class I renewable sources connected on the
25 customer side of the meter, and high efficiency natural gas and oil
26 boilers and furnaces; [and] (3) "Connecticut electric efficiency partner"
27 means an electric distribution company customer who acquires an
28 enhanced demand-side management technology or a person, [other
29 than] including an electric distribution company, that provides
30 enhanced demand-side management technologies to electric
31 distribution company customers; and (4) "Energy Innovation Council"
32 means the council established pursuant to subsection (h) of this
33 section.

34 (b) [The] Until June 1, 2009, the Energy Conservation Management
35 Board, in consultation with the Renewable Energy Investments
36 Advisory Committee, shall evaluate and approve enhanced demand-
37 side management technologies that can be deployed by Connecticut
38 electric efficiency partners to reduce electric distribution company
39 customers' electric demand. Such evaluation shall include an
40 examination of the potential to reduce customers' demand, federally
41 mandated congestion charges and other electric costs. On or before
42 October 15, 2007, the Energy Conservation Management Board shall
43 file such evaluation with the Department of Public Utility Control for
44 the department to review and approve or to review, modify and
45 approve on or before October 15, 2007.

46 (c) Not later than October 15, 2007, the Energy Conservation
47 Management Board shall file with the department, for the department
48 to review and approve or to review, modify and approve, an analysis
49 of the state's electric demand, peak electric demand and growth

50 forecasts for electric demand and peak electric demand. Such analysis
51 shall identify the principal drivers of electric demand and peak electric
52 demand, associated electric charges tied to electric demand and peak
53 electric demand growth, including, but not limited to, federally
54 mandated congestion charges and other electric costs, and any other
55 information the department deems appropriate. The analysis shall
56 include, but not be limited to, an evaluation of the costs and benefits of
57 the enhanced demand-side management technologies approved
58 pursuant to subsection (b) of this section and establishing suggested
59 funding levels for said individual technologies.

60 (d) Commencing April 1, 2008, and continuing until the effective
61 date of this section, any person may apply to the department for
62 certification and funding as a Connecticut electric efficiency partner.
63 Such application shall include the technologies that the applicant shall
64 purchase or provide and that have been approved pursuant to
65 subsection (b) of this section. In evaluating the application, the
66 department shall (1) consider the applicant's potential to reduce
67 customers' electric demand, including peak electric demand, and
68 associated electric charges tied to electric demand and peak electric
69 demand growth, (2) determine the portion of the total cost of each
70 project that shall be paid for by the customer participating in this
71 program and the portion of the total cost of each project that shall be
72 paid for by all electric ratepayers and collected pursuant to subsection
73 (h) of this section. In making such determination, the department shall
74 ensure that all ratepayer investments maintain a minimum two-to-one
75 payback ratio, and (3) specify that participating Connecticut electric
76 efficiency partners shall maintain the technology for a period sufficient
77 to achieve such investment payback ratio. The annual ratepayer
78 contribution for projects approved pursuant to this section shall not
79 exceed sixty million dollars. Not less than seventy-five per cent of such
80 annual ratepayer investment shall be used for the technologies
81 themselves. No person shall receive electric ratepayer funding
82 pursuant to this subsection if such person has received or is receiving
83 funding from the Energy Conservation and Load Management Funds
84 for the projects included in said person's application. No person shall

85 receive electric ratepayer funding without receiving a certificate of
86 public convenience and necessity as a Connecticut electric efficiency
87 partner by the department. The department may grant an applicant a
88 certificate of public convenience if it possesses and demonstrates
89 adequate financial resources, managerial ability and technical
90 competency. The department may conduct additional requests for
91 proposals from time to time as it deems appropriate. The department
92 shall specify the manner in which a Connecticut electric efficiency
93 partner shall address measures of effectiveness and shall include
94 performance milestones.

95 (e) [Beginning February 1, 2010, a certified Connecticut electric
96 efficiency partner may only receive funding if selected in a request for
97 proposal developed, issued and evaluated by the department. In
98 evaluating a proposal, the department shall take into consideration the
99 potential to reduce customers' electric demand including peak electric
100 demand, and associated electric charges tied to electric demand and
101 peak electric demand growth, including, but not limited to, federally
102 mandated congestion charges and other electric costs, and shall utilize
103 a cost benefit test established pursuant to subsection (c) of this section
104 to rank responses for selection. The department shall determine the
105 portion of the total cost of each project that shall be paid by the
106 customer participating in this program and the portion of the total cost
107 of each project that shall be paid by all electric ratepayers and collected
108 pursuant to the provisions of this subsection. In making such
109 determination, the department shall (1) ensure that all ratepayer
110 investments maintain a minimum two-to-one payback ratio, and (2)
111 specify that participating Connecticut electric efficiency partners shall
112 maintain the technology for a period sufficient to achieve such
113 investment payback ratio. The annual ratepayer contribution shall not
114 exceed sixty million dollars. Not less than seventy-five per cent of such
115 annual ratepayer investment shall be used for the technologies
116 themselves. No Connecticut electric efficiency partner shall receive
117 funding pursuant to this subsection if such partner has received or is
118 receiving funding from the Energy Conservation and Load
119 Management Funds for such technology. The department may conduct

120 additional requests for proposals from time to time as it deems
121 appropriate. The department shall specify the manner in which a
122 Connecticut electric efficiency partner shall address measures of
123 effectiveness and shall include performance milestones.] On and after
124 the effective date of this section, any person may apply to the
125 department for certification as a Connecticut electric efficiency partner.
126 Such application shall include the technologies that the applicant shall
127 provide pursuant to subsection (f) of this section. The department shall
128 act on any application within thirty days of receipt and may grant an
129 applicant a certificate of public convenience if it possesses and
130 demonstrates adequate financial resources, managerial ability and
131 technical competency. The department may, with the consent of the
132 applicant, extend the time for decision by an additional thirty days if
133 necessary to obtain additional information regarding the applicant or
134 the technologies. The department may conduct additional requests for
135 proposals from time to time. No Connecticut electric efficiency partner
136 shall receive electric ratepayer funding without receiving a certificate
137 of public convenience and necessity as a Connecticut electric efficiency
138 partner by the department.

139 (f) [The] Until the effective date of this section, the department may
140 retain the services of a third party entity with expertise in areas such as
141 demand-side management solutions, customer-side renewable energy
142 generation, customer-side distributed generation resources, customer-
143 side emergency dispatchable generation resources, load shifting
144 technologies and conservation and load management investments to
145 assist in the development and operation of the Connecticut electric
146 efficiency partner program. The costs for obtaining third party services
147 pursuant to this subsection shall be recoverable through the systems
148 benefits charge.

149 (g) [The] Until the effective date of this section, the department shall
150 develop a long-term low-interest loan program to assist certified
151 Connecticut electric efficiency partners in financing the customer
152 portion of the capital costs of approved enhanced demand-side
153 management technologies. The department may establish such

154 financing mechanism by the use of one or more of the following
155 strategies: (1) Modifying the existing long-term customer-side
156 distributed generation financing mechanism established pursuant to
157 section 16-243j, (2) negotiating and entering into an agreement with the
158 Connecticut Development Authority to establish a credit facility or to
159 utilize grants, loans or loan guarantees for the purposes of this section
160 upon such terms and conditions as the authority may prescribe
161 including provisions regarding the rights and remedies available to the
162 authority in case of default, or (3) selecting by competitive bid one or
163 more entities that can provide such long-term financing.

164 (h) The department shall establish an Energy Innovation Council,
165 which shall have the following members: (1) The executive director of
166 the Connecticut Center for Advanced Technologies; (2) the director of
167 the Renewable Energy Investments Fund; (3) the chairman of the
168 Institute for Sustainable Energy; and (4) a commissioner or staff
169 designee of the department. The council's objective shall be to expedite
170 the commercialization and impact of enhanced energy management
171 technologies. The council shall provide oversight to the electric
172 efficiency partner program pursuant to the provisions of this section.
173 The council shall confer at least monthly and provide a written record
174 of its meetings and actions. Each member may draw upon expertise
175 from within its entity to support the council's efforts. Each electric
176 distribution company shall appoint a representative to serve in an
177 advisory capacity to the council and facilitate council communication
178 with the company.

179 (i) On and after the effective date of this section, the Energy
180 Innovation Council shall evaluate and approve, not more than ninety
181 days after submittal, new applications from Connecticut electric
182 efficiency partners for projects and grants for enhanced demand-side
183 management technologies as part of the electric efficiency partner
184 program, provided such application is consistent with this section and
185 demonstrates for the proposed project that there is either (1) an electric
186 system benefit-to-cost ratio of at least one and one-half to one for the
187 project; or (2) an electric system benefit-to-cost ratio of at least one to

188 one and the project integrates Class I renewable energy sources or
189 produces natural gas or oil savings. All Connecticut electric efficiency
190 partner applications for projects seeking a grant shall indicate that the
191 participating customer will pay for at least fifty per cent of the installed
192 costs, provided such customer share may be offset with applicable tax
193 credit, energy value or other savings. The council will award grants on
194 an individual application basis. The council shall also specify that
195 participating Connecticut electric efficiency partners shall maintain the
196 technology for a period sufficient to achieve the expected benefits. To
197 assist a Connecticut electric efficiency partner in developing its
198 application for submittal to the council and before submitting such
199 application, an applicant may seek written verification from the
200 council that its proposed project is sufficiently and reasonably defined,
201 which the council shall determine within thirty days, and, after such
202 verification and with the affected customer or customers' written
203 permission, the Connecticut electric efficiency partner may request
204 billing and usage data on behalf of such customer from an electric
205 distribution company, which shall provide the requested information
206 within thirty days from receipt of the request.

207 (j) For a project approved pursuant to subsection (i) of this section,
208 Connecticut electric efficiency partner projects may receive a one-time
209 grant, not to exceed fifty per cent of the total installed cost of the
210 project. The council shall determine the size of grants on an individual
211 application basis and shall adjust the size of the grant based on (1)
212 economics of the specific project; (2) whether the project preserves or
213 creates jobs in Connecticut; (3) environmental benefits realized as a
214 result of the project; (4) the proposed project's ancillary electric market
215 or system benefits; and (5) the degree of technology integration and
216 innovation. Such grants shall be funded directly through the
217 Connecticut electric efficiency partner program. On and after the
218 effective date of this section, the annual ratepayer contribution for
219 projects approved pursuant to this section shall not exceed sixty
220 million dollars, provided any one technology cannot use more than
221 one-third of the annual funding of grants for the electric efficiency
222 partner program. An electric distribution company shall recover its

223 costs and investment in its Connecticut electric efficiency partner
224 project, as described in its application, through the systems benefits
225 charge, provided, if actual or projected costs of all projects exceed sixty
226 million dollars in one year, the electric distribution company may
227 defer such excess, with a return, for future recovery, and further
228 provided the council shall adjust future grants and projects to assure
229 that any such excess beyond sixty million dollars of annual costs are
230 minimized. The annual ratepayer contribution recovered through the
231 systems benefits charge pursuant to this section for electric distribution
232 company projects approved pursuant to subsections (i) and (k) of this
233 section shall not exceed thirty million dollars. Notwithstanding other
234 statutes, an electric distribution company may develop, purchase, own
235 and operate renewable energy source generation pursuant to this
236 section.

237 (k) For each project or program supported by ratepayer
238 contribution, the council shall require the applicable Connecticut
239 electric efficiency partner to submit data sufficient to enable the
240 department and an electric distribution company to determine annual
241 revenue requirements on a forecasted and actual basis and to enable
242 the council to monitor the efficacy and cost-effectiveness of such
243 project or program at least annually, commencing in the year after the
244 project or program has become operational. In conducting such
245 monitoring, the council may work in conjunction with the Energy
246 Conservation Management Board or may use a third-party consultant,
247 provided the costs of monitoring shall be included as recoverable costs
248 pursuant to subsection (l) of this section. The council shall review the
249 results of the monitoring and shall issue a report, in accordance with
250 the provisions of section 11-4a, to the joint standing committees of the
251 General Assembly having cognizance of matters relating to energy and
252 commerce. If the council determines that a project or program has not
253 provided or will not provide the benefits that formed the basis for the
254 grant or other ratepayer contribution, the council may suspend further
255 grants for the project or program, provided any grants or costs
256 awarded shall continue to be recovered by the electric distribution
257 company.

258 [(h)] (l) The department [shall] and the council may provide for the
259 payment of [electric ratepayers'] a participating electric customer's
260 portion of the costs of deploying enhanced demand-side management
261 technologies by implementing a contractual financing agreement with
262 the Connecticut Development Authority or a private financing entity
263 selected through an appropriate open competitive selection process,
264 through loans available from the Renewable Energy Investments Fund
265 or through a financing agreement with an electric distribution
266 company. The department and council shall provide for the payment
267 of electric ratepayer's portion of the costs of deploying enhanced
268 demand-side management technologies by allowing an electric
269 distribution company to recover any remaining costs of participation
270 through the systems benefits charge. The electric distribution
271 companies may earn a return on investment in any enhanced demand-
272 side technologies equal to that allowed for a generation project
273 proposed in whole or in part by an electric distribution company
274 approved by the department pursuant to section 16-243u. Such costs
275 and return may be recovered over time by establishing a regulatory
276 asset, with electric distribution company recovery with a return
277 through the systems benefits charge over an amortization period to be
278 established by the department based upon the expected useful life of
279 the projects and programs. Section 16-43 shall not apply to any loan or
280 financing arrangement made by an electric distribution company
281 pursuant to this section. No contractual financing agreements entered
282 into with the Connecticut Development Authority shall exceed ten
283 million dollars. Any electric ratepayer costs resulting from such
284 financing agreement shall be recovered from all electric ratepayers
285 through the systems benefits charge.

286 [(i)] (m) On or before [February 15, 2009, and annually thereafter,
287 the department] July 1, 2010, the council shall report to the joint
288 standing committee of the General Assembly having cognizance of
289 matters relating to energy regarding the effectiveness of the
290 Connecticut electric efficiency partner program established pursuant to
291 this section. Said report shall include, but not be limited to, an
292 accounting of all benefits and costs to ratepayers, a description of the

293 approved technologies, the payback ratio of all investments, the
294 number of programs deployed and a list of proposed projects
295 compared to approved projects and reasons for not being approved.

296 [(j)] (n) On or [before] after April 1, [2011] 2012, the Department of
297 Public Utility Control shall initiate a proceeding to review the
298 effectiveness of the program and perform a ratepayer cost-benefit
299 analysis. Based upon the department's findings in the proceeding, [the
300 department may modify or discontinue] the council may recommend
301 to the joint standing committees of the General Assembly having
302 cognizance of matters relating to energy and commerce that the
303 partnership program established pursuant to this section be modified
304 or discontinued.

305 (o) On or before August 1, 2009, the electric distribution companies
306 and the council shall determine the scope of an energy intensity study
307 of customers for which energy is a material part of their cost structure
308 and shall complete such study by September 30, 2009. The electric
309 distribution companies shall contact customers identified in such
310 study that appear to have energy characteristics that may benefit from
311 participation in the electric efficiency partners program and seek their
312 permission to be identified to entities that may offer solutions to such
313 customers through a solicitation process administered by the council.
314 The council shall include information on this process in its annual
315 reports to the General Assembly.

316 (p) (1) Electric distribution companies may own and operate Class I
317 renewable generation facilities within the state. An electric distribution
318 company shall work with local equipment manufacturers and craft
319 workers in developing and constructing such facilities, provided (A)
320 such facilities are connected to its distribution system; (B) the
321 equipment for such facilities are manufactured or assembled by
322 companies within the state to the extent practicable; (C) the facilities
323 are installed and maintained by workers employed within the state;
324 and (D) the council approves the technologies used in the project. The
325 cumulative ownership of Class I renewable energy sources by electric

326 distribution companies pursuant to this subsection shall not exceed
327 thirty megawatts of capacity by December 31, 2010, sixty-five
328 megawatts by December 31, 2011, and one hundred megawatts by
329 December 31, 2012. The council shall review the program by February
330 15, 2012, and recommend to the joint standing committees of the
331 General Assembly having cognizance of matters relating to energy and
332 commerce whether to extend and expand this program beyond 2012.

333 (2) For facilities owned and operated by an electric distribution
334 company pursuant to this subsection, such company shall recover its
335 costs based on a reconciling formula that provides for full recovery of
336 any incurred costs, including a return on investment established as
337 described in subsection (l) of this section, based on cost-of-service
338 principles pursuant to section 16-19e, provided the department shall
339 approve such formula, after a hearing held in a proceeding or
340 proceedings separate from other distribution rate proceedings. Such
341 projects shall be eligible for any state or federal incentives, grants or
342 credits, including, but not limited to, those available under programs
343 administered by the renewable energy investments board. Any
344 revenue requirements resulting from this program incurred before
345 2012 shall be recovered through the funding established in subsection
346 (j) of this section.

347 (3) The Energy Innovation Council, in conjunction with the
348 participating electric distribution companies and certified electric
349 efficiency partners, shall issue a report, in accordance with the
350 provisions of section 11-4a, to the joint standing committees of the
351 General Assembly having cognizance of matters relating to energy and
352 technology, environment and commerce no later than January fifteenth
353 of 2010, 2011 and 2012. Each report shall describe for each year (A) the
354 status of the program, including the levels and types of participation;
355 (B) the amount of authorized investment and its cost; (C) the actual
356 and expected future benefits created by the program, including
357 contributions to Connecticut jobs and commerce; (D) the improvement
358 to the commercialization of Class I renewable energy sources and their
359 integration with the state's power systems and energy markets; and (E)

360 opportunities to improve the effectiveness of the program. The 2012
361 report shall also include a summary of such information for 2010, 2011
362 and 2012 and recommendations for further use of the program. The
363 council shall retain an independent consulting firm from a list of firms
364 developed by the department, in consultation with the Office of
365 Consumer Counsel, to audit the council's records and the program
366 operations and project results, and the report from such firm shall be
367 included in the council's annual report to the General Assembly.

368 (4) Not later than September 1, 2009, the council and electric
369 distribution companies, working together, shall identify no less than
370 two studies to determine optimal locations and characteristics for
371 installing Class I renewable energy sources under this program. No
372 later than September 1, 2009, the council shall provide electric
373 distribution companies with an assessment of key issues pertinent to
374 the commercialization of fuel cells and their integration with the state's
375 electric systems and energy markets, including lessons learned from
376 previously proposed or completed projects. In conducting such
377 studies, the council and electric distribution companies shall consider
378 fuel cell assessment. The electric distribution companies shall work in
379 conjunction with staff from the council or its members' staff to issue,
380 no later than December 31, 2009, the findings of the two studies. The
381 findings shall provide guidance to the investments made under the
382 purview of the program established pursuant to this section.

383 Sec. 2. Subsection (a) of section 16-50k of the general statutes is
384 repealed and the following is substituted in lieu thereof (*Effective July*
385 *1, 2009*):

386 (a) Except as provided in subsection (b) of section 16-50z, no person
387 shall exercise any right of eminent domain in contemplation of,
388 commence the preparation of the site for, commence the construction
389 or supplying of a facility, or commence any modification of a facility,
390 that may, as determined by the council, have a substantial adverse
391 environmental effect in the state without having first obtained a
392 certificate of environmental compatibility and public need, hereinafter

393 referred to as a "certificate", issued with respect to such facility or
 394 modification by the council. Certificates shall not be required for (1)
 395 fuel cells built within the state with a generating capacity of two
 396 hundred fifty kilowatts or less, or (2) fuel cells built out of state with a
 397 generating capacity of ten kilowatts or less. Any facility with respect to
 398 which a certificate is required shall thereafter be built, maintained and
 399 operated in conformity with such certificate and any terms, limitations
 400 or conditions contained therein. Notwithstanding the provisions of this
 401 chapter or title 16a, the council shall, in the exercise of its jurisdiction
 402 over the siting of generating facilities, approve by declaratory ruling
 403 (A) the construction of a facility solely for the purpose of generating
 404 electricity, other than an electric generating facility that uses nuclear
 405 materials or coal as fuel, at a site where an electric generating facility
 406 operated prior to July 1, 2004, (B) the construction or location of any
 407 fuel cell, unless the council finds a substantial adverse environmental
 408 effect, or of any customer-side distributed resources project or facility
 409 or grid-side distributed resources project or facility with a capacity of
 410 not more than sixty-five megawatts, as long as such project meets air
 411 and water quality standards of the Department of Environmental
 412 Protection, [and] (C) the siting of temporary generation solicited by the
 413 Department of Public Utility Control pursuant to section 16-19ss, and
 414 (D) projects undertaken pursuant to section 16-243v, as amended by
 415 this act.

This act shall take effect as follows and shall amend the following sections:		
---	--	--

Section 1	<i>from passage</i>	16-243v
Sec. 2	<i>July 1, 2009</i>	16-50k(a)

Statement of Legislative Commissioners:

Subdivisions (3) and (4) of section 1(p) were rewritten for clarity.

CE *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: None

Municipal Impact: None

Explanation

This bill requires the Department of Public Utility Control (DPUC) to create the Energy Innovation Council. The Council will review applications for funding as a member of the Connecticut electric efficiency partner program. This bill does not provide funding for the Council, therefore it is expected the DPUC will absorb any increased administrative workload. There is no anticipated fiscal impact associated with this bill.

The Out Years

None

OLR Bill Analysis**sSB 1129*****AN ACT CONCERNING ENERGY AND THE STATE'S ECONOMY.*****SUMMARY:**

This bill broadens the scope of and makes many other changes to the Connecticut electric efficiency partner program. This program provides financial incentives, funded by electric company ratepayers, for various demand-side management (energy efficiency and on-site generation) technologies. Among other things, the bill broadens the entities involved in administering the program and expands the types of technologies that can be funded. It also allows electric companies to participate as partners in the program. Under current law, only technology providers and electric company customers can do so.

The bill changes how the program is administered. Under current law, the Department of Public Utility Control (DPUC) simultaneously reviews an entity's application to be certified as a partner and its application for funding under the program. The bill splits these two reviews between the DPUC and the Energy Innovation Council that it creates. It generally requires DPUC to determine whether an applicant qualifies as a partner within 30 days. It requires the council to approve funding and how the funding is spent. It requires the council to monitor spending under the program and report on it to the Energy and Technology Committee.

The bill changes how projects are funded. Under current law, a participating customer pays half or more of the cost of an approved project and ratepayers pay the remaining costs. The bill allows ratepayer funding under the partner program even if the customer or other partner has received or is receiving funding from the Energy Conservation and Load Management Funds for the project. The bill

eliminates a requirement that DPUC develop a program to provide long-term, low-interest loans to finance the customer's share of the costs but provides alternative financing mechanisms. The bill appears to retain a cap of \$60 million that electric companies can recover from ratepayers in any one year for this program. The bill allows the electric company to earn a return on its costs and investments through the systems benefits charge (SBC), a charge on electric bills that is used to pay various public policy costs. The bill establishes a \$30 million cap on ratepayer funding for electric company projects using this charge.

The bill also broadens the program to allow electric companies to develop, purchase, own, and operate certain types of renewable energy source generation. The companies are allowed to earn a rate of return on these investments. Under the bill, an electric company must recover the costs it incurs before 2012 for class I generation projects (e.g., solar or fuel cell projects) from the funding provided for partners program as described above. The bill has a separate cost-recovery mechanism for other facilities the company owns and operates. It appears that the \$60 million cap includes the costs associated with the company's renewable generation.

The bill requires electric companies and the council to (1) study the energy intensity of certain customers and (2) determine the best locations and characteristics for installing Class I renewable energy sources under the program.

The bill exempts projects developed under its provisions; from requiring Siting Council approval.

EFFECTIVE DATE: July 1, 2009 for the Siting Council provision, upon passage for the remaining provisions.

SCOPE OF THE PROGRAM

Under current law, the purpose of the partner program is to conserve electricity and reduce demand in Connecticut through the purchase and deployment of energy efficient technologies. The bill expands the purpose to include increasing the efficiency of electricity

use and promoting the development and use of Class I renewable energy sources.

Under current law, the program involves DPUC, persons and entities providing enhanced demand-side management technologies, and electric consumers. (The technologies include both efficiency measures and certain types of on-site generation.) The bill additionally involves the Connecticut Center for Advanced Technologies (CCAT), the Clean Energy Fund, electric companies, and the Institute of Sustainable Energy at Eastern Connecticut State University.

The bill expands the range of technologies that can be developed under the program. Under current law, enhanced demand-side management technologies are those (1) that reduce electricity consumption; (2) change when electricity is consumed (which can lower costs); or (3) use certain technologies to generate electricity on-site, as well as high efficiency natural gas and oil boilers and furnaces. The bill expands the range of enhanced demand-side technologies to include:

1. technologies that reduce natural gas or oil consumption;
2. technologies that manage, optimize, or improve the efficiency of electricity use or the ability to procure energy more effectively relative to a customer's specific load characteristics;
3. technologies that improve the efficiency or performance of the electric system;
4. combined heat and power (cogeneration) systems;
5. solar thermal and geothermal systems; and
6. other Class I renewable sources located on the customer's side of the electric meter.

Under current law, the "partners" who can participate in the program are electric company customers who acquire enhanced

demand-side management technologies and a person that provides these technologies to the customer. The bill expands that latter group to include electric companies.

The bill repeals a provision that allows DPUC to retain a consultant with expertise in relevant areas to help develop and operate the program. Under current law, the consultant's costs are recoverable through the SBC.

ENERGY INNOVATION COUNCIL

The bill requires DPUC to establish an Energy Innovation Council to expedite the commercialization and impact of enhanced energy management technologies. Under the bill, the council consists of (1) CCAT's executive director, (2) the director of the Clean Energy Fund, (3) the chairman of the Institute for Sustainable Energy, and (4) a DPUC commissioner or staff designee. Under the bill, the council must oversee the partner program. It must confer at least monthly and provide written reports of its meetings and actions. Each member may draw upon expertise from within its entity to support the council's efforts. Each electric company must appoint a representative to advise the council and facilitate its communications with the company.

CERTIFICATION OF PARTNERS

By law, entities that seek to participate in the program must be certified as partners by DPUC. The certificate application must include the technologies that the applicant will purchase or provide that have been approved by DPUC. DPUC may grant a certificate if the applicant possesses and demonstrates adequate financial resources, managerial ability, and technical competency.

The bill requires DPUC to act on any application within 30 days of receiving it. It allows DPUC, with the applicant's consent, to extend this deadline by 30 days if more time is needed to obtain additional information on the applicant or the technologies it seeks to have funded.

FUNDING TECHNOLOGIES AND PROJECTS

The bill transfers the responsibility for approving funding under the program from DPUC to the council on the date the bill passes. Under the bill, the council must evaluate and approve, within 90 days of submittal, new applications from partners for projects and grants for enhanced demand-side management technologies as part of the program. The bill does not define “project” but it appears to mean the installation of a technology in a particular setting.

To help partners develop their applications, the bill allows an applicant to seek written verification from the council that its proposed project is sufficiently and reasonably defined. The council must make this determination within 30 days. After this verification and with the written permission of the affected customer or customers, the partner may request billing and usage data on the customer’s behalf from an electric company, which must provide the requested information within 30 days from receipt of the request.

Under the bill, all applications for projects seeking grants must indicate that the participating customer will pay for at least 50% of the installed costs. However, the customer’s share may be offset with applicable tax credit, energy value, or other savings (see COMMENT).

The bill repeals provisions that require DPUC, in evaluating applications, to (1) consider the applicant’s potential to reduce customers’ electric demand, including peak electric demand, and associated electric charges tied to electric demand and peak electric demand growth and (2) determine the portion of the total cost of each project that will be paid for by the participating customers and the portion that will be paid for by all electric ratepayers.

The bill requires the council to award grants on an individual application basis. It entitles approved projects to a one-time grant, not to exceed 50% of the project’s total installed cost. The council must adjust the size of the grant based on (1) the project’s economics, (2) whether it preserves or creates jobs in Connecticut, (3) the environmental benefits the project creates, (4) the project’s ancillary electric market or system benefits, and (5) the degree of technology

integration and innovation. The grants must be funded directly through the program.

Under current law, DPUC can approve technologies only if the ratepayer investments in them have at least a two-to-one payback ratio, i.e., the savings to ratepayers as a whole are at least twice as much as the ratepayer contributions toward the technology. The bill instead requires the applicant to demonstrate that a proposed project will have (1) an electric system benefit/cost ratio of at least 1.5 to one for the project, or (2) an electric system benefit/cost ratio of at least one-to-one if the project integrates Class I renewable energy sources or produces natural gas or oil savings. It appears that the bill is using payback ratio and benefit/cost ratio as synonyms.

The bill repeals technology approval provisions scheduled to take effect on February 1, 2010. These provisions specify that a certified partner may receive funding only if selected in a request for proposal developed, issued, and evaluated by DPUC. Under current law, DPUC must use a cost benefit test to rank responses for selection. The law's provisions also broaden the factors DPUC must consider in deciding whether to approve an application.

LONG-TERM FINANCING

The bill repeals a requirement that DPUC develop a long-term low-interest loan program to help certified partners finance the customer portion of the capital costs of approved technologies using one of three strategies.

Under current law, DPUC must provide for the payment of ratepayers' portion of the costs of deploying enhanced demand-side management technologies by entering into a financing agreement with the Connecticut Development Authority (CDA) or a private financing entity selected through an appropriate open competitive selection process.

The bill instead allows DPUC and the council to provide for the payment of a participating customer's portion of the costs of the

technologies through these mechanisms or by (1) loans from the Clean Energy Fund or (2) a financing agreement with an electric company.

Under the bill, DPUC and the council must provide for the payment of the ratepayer's portion of the costs of these technologies by allowing an electric company to recover any remaining costs of participation through the SBC. These costs and return may be recovered over time by establishing a regulatory asset, with the electric company recovering a return through the SBC. (A regulatory asset is essentially an IOU held by a utility that entitles it to future recovery of DPUC-approved costs.) DPUC must set the period over which the company will recover its costs and earn a return based on the expected useful life of the projects and programs. The rate of return may equal that approved by DPUC under a law that allowed the electric companies to build power plants that operate at times of peak demand. The bill exempts these loans and financing arrangements from a DPUC review that takes place when a utility disposes of its assets or merges with another company.

By law, financing agreements entered into with CDA may not exceed \$10 million dollars. Any ratepayer costs resulting from such a financing agreement must be recovered from all ratepayers through the SBC.

RESTRICTIONS ON RATEPAYER CONTRIBUTIONS

Under current law, the annual ratepayer contribution for the partner program may not exceed \$60 million dollars. It appears that the bill retains the cap. The bill provides that if actual or projected costs of all projects exceed \$60 million in one year, the electric company may defer the excess, with a return, for future recovery (regulatory assets). The bill provides that in such circumstances, the council must adjust future grants and projects to assure that any such excess beyond \$60 million of annual costs is minimized. It is not clear what happens if the company does not defer the excess. It is also unclear how reducing future expenditures can address a current cost overrun.

The bill provides that no more than one-third of the total funding go to one technology. It also limits to \$30 million per year ratepayer funding for approved electric company projects whose costs are recovered through the SBC.

The bill eliminates provisions of current law that (1) require that at least 75% of the annual ratepayer investment be used for the technologies themselves and (2) bar a partner from receiving funding under the program if it has received or is receiving funding from the Energy Conservation and Load Management Funds for the same technology.

PROGRAM MONITORING

Under the bill, for each project or program supported by ratepayer contribution, the council must require the affected partner to submit enough data to allow (1) DPUC and an electric company to determine annual revenue requirements on a forecasted and actual basis and (2) the council to monitor the efficacy and cost-effectiveness of the project or program. The council's monitoring must occur at least annually, starting in the year after the project or program begins operating. The council may work with the Energy Conservation Management Board or use a third-party consultant in conducting the monitoring. The costs of monitoring must be recoverable costs through the SBC.

The council must review the results of the monitoring and issue a report to the Energy and Technology and Commerce committees. If the council determines that a project or program has not provided or will not provide the benefits that formed the basis for the grant or other ratepayer contribution, the council may suspend further grants for the project or program. But any grants or costs awarded must continue to be recovered by the electric company.

OTHER PROGRAM PROVISIONS

Under current law, by February 15 of each year, DPUC must report to the Energy and Technology Committee on the program's effectiveness. The bill instead requires the council to issue a single

report by July 1, 2010. By law, the report must include an accounting of all benefits and costs to ratepayers, a description of the approved technologies, the payback ratio of all investments, the number of programs deployed, and a list of proposed projects compared to approved projects and reasons for them not being approved.

Under the current law, by April 1, 2011, DPUC must initiate a proceeding to review the program's effectiveness and perform a ratepayer cost-benefit analysis. The bill instead requires DPUC to do this no earlier than April 1, 2012. Under current law, based on its findings in the proceeding, DPUC may modify or discontinue the program. The bill instead allows the council to recommend to the Energy and Technology Committee that the program be modified or discontinued.

ELECTRIC COMPANY OWNERSHIP OF RENEWABLE GENERATION RESOURCES

Amount of Generation Permitted

Current law generally bars electric companies from owning power plants or other generation resources. The bill allows electric companies to develop, purchase, own, and operate certain types of renewable energy source generation. It specifically allows them to own and operate class I facilities in the state. The companies must work with local equipment manufacturers and craft workers in developing and constructing such facilities, so long as (1) the facilities are connected to the electric company's distribution system, (2) the equipment for the facilities are manufactured or assembled by companies in the state to the extent practicable, (3) the facilities are installed and maintained by workers employed in the state, and (4) the council approves the technologies used in the project.

The cumulative ownership of Class I renewable energy resources by electric companies may not exceed 30 megawatts (MW) of capacity by December 31, 2010, 65 MW by December 31, 2011, and 100 MW by December 31, 2012. (A MW is the amount of power used by 750 to 1,000 homes.) The council must review the program, by February 15,

2012, and recommend to the Energy and Technology Committee whether to extend and expand it beyond 2012.

The bill appears to allow electric companies to develop, purchase, own and operate other classes of renewable energy source generation, so long as they are located on the customer's side of the meter (see § 1(j)).

Electric Company Cost Recovery

Under the bill, an electric company must recover the costs it incurs before 2012 for class I projects from the funding provided for the partners program as described above, using the SBC.

The bill establishes a separate cost-recovery mechanism for other generation facilities owned and operated by an electric company. For these facilities, the company must recover its costs based on a formula. Before approving the formula, DPUC must hold a hearing, which must be separate from hearings on the company's distribution rates.

The formula must provide for full recovery of any incurred costs, including a return on investment based on traditional utility cost-of-service principles. The rate of return may equal that approved by DPUC under a law that allowed the electric companies to build power plants that operate at times of peak demand.

The projects are eligible for any state or federal incentives, grants, or credits, including those available under programs administered by the Clean Energy Fund's board.

REPORT

The bill requires the council, in conjunction with the participating electric companies and certified electric efficiency partners, to issue a report to the Energy and Technology, Environment, and Commerce committees by January 15 in 2010, 2011, and 2012. The report must describe:

1. the status of the program, including the levels and types of

- participation;
2. the amount of authorized investment and its cost;
 3. the actual and expected future benefits created by the program, including contributions to Connecticut jobs and commerce;
 4. the improvement to the commercialization of Class I renewable energy sources and their integration with the state's power systems and energy markets; and
 5. opportunities to improve the effectiveness of the program.

The 2012 report must also include a summary of all three years and recommendations for further use of the program. The council must retain an independent consulting firm from a list of firms developed by DPUC, in consultation with the Office of Consumer Counsel, to audit the council's records and the program operations and project results. The firm's report must be included in the council's annual report to the legislature.

STUDY OF BEST LOCATIONS FOR RENEWABLE RESOURCES

The bill requires the council and electric companies to jointly identify, by September 1, 2009, at least two studies to determine the best locations and characteristics for installing Class I renewable energy sources under the program. Also by September 1, 2009, the council must provide the electric companies with an assessment of key issues pertinent to the commercialization of fuel cells and their integration with the state's electric systems and energy markets, including lessons learned from previously proposed or completed projects.

The electric companies must work with the council's staff (although the bill does not provide the council staff) or the council members' staff to issue, by December 31, 2009, the findings of the two studies, with consideration of the fuel cell assessment. The findings must provide guidance to the investments made under the program.

ENERGY INTENSITY STUDY

The bill requires the electric companies and the council to determine, by August 1, 2009, the scope of an energy intensity study of customers for whom energy is a material part of their costs. The companies and council must complete the study by September 30, 2009. The companies must contact customers identified in the study that appear to have energy characteristics who may benefit from participation in the partners program. The companies must seek their permission to be identified to entities that may offer solutions to them through a solicitation process administered by the council. The council must include information on this process in its annual reports to the legislature. (it is unclear to which reports this provision is referring.)

BACKGROUND***Related Bill***

sSB 1130, favorably reported by the Energy and Technology Committee, is identical to this bill.

COMMENT***Unclear Project Financing Provision***

The bill is unclear how the technology's vendor would recover its full costs under certain circumstances. The bill caps the ratepayer subsidy for approved projects under the program at 50% of installed costs. It requires the customer to pay at least 50% of the installed cost, but allows the customer's share to be offset with applicable tax credit, energy value or other customer savings. It is unclear how these offsets would help pay the installed cost. For example, if the installed cost of a technology was \$1 million, the maximum grant would be \$500,000. The customer's share would be at least \$500,000. It is unclear how the vendor would recover its costs if tax credits, energy value, or other savings were counted towards the customer's share, since there is no requirement in the bill that the customer transfer them to the vendor or the electric company.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/17/2009)