



General Assembly

Substitute Bill No. 1129

January Session, 2009

* SB01129CE 031709 *

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 Section 16-243v of the general statutes is repealed and the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.*