



General Assembly

**Substitute Bill No. 1130**

January Session, 2009

\* SB01130ET 031909 \*

**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 Section 16-243v of the general statutes is repealed and the  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 Technology, the Renewable Energy Investment Fund, electric  
7 distribution companies, the Institute for 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 on the application by an  
133 additional thirty days if necessary to obtain additional information  
134 regarding the applicant or the technologies. The department may  
135 conduct additional requests for proposals from time to time. No  
136 Connecticut electric efficiency partner shall receive electric ratepayer  
137 funding without receiving a certificate of public convenience and  
138 necessity as a Connecticut electric efficiency partner by the  
139 department.

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

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

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

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

181 (i) On and after the effective date of this section, the Energy  
182 Innovation Council shall evaluate and approve within ninety days of  
183 submittal new applications from Connecticut electric efficiency  
184 partners for projects and grants for enhanced demand-side  
185 management technologies as part of the Connecticut electric efficiency  
186 partner program, provided any such application is consistent with this  
187 section and demonstrates for the proposed project that there is either

188 (1) an electric system benefit-to-cost ratio of at least one and one-half to  
189 one for the project; or (2) an electric system benefit-to-cost ratio of at  
190 least one to one and the project integrates Class I renewable energy  
191 sources or produces natural gas or oil savings. All Connecticut electric  
192 efficiency partner applications for projects seeking a grant shall  
193 indicate that the participating customer will pay for at least fifty per  
194 cent of the installed costs, provided such customer share may be offset  
195 with applicable tax credit, energy value or other savings. The council  
196 shall award grants on an individual application basis. The council shall  
197 also specify that participating Connecticut electric efficiency partners  
198 shall maintain the technology for a period sufficient to achieve the  
199 expected benefits. To assist a Connecticut electric efficiency partner in  
200 developing its application for submittal to the council and before  
201 submitting such application, an applicant may seek written verification  
202 from the council that its proposed project is sufficiently and reasonably  
203 defined, which the council shall determine within thirty days, and,  
204 after such verification and with the affected customer or customers'  
205 written permission, the Connecticut electric efficiency partner may  
206 request billing and usage data on behalf of such customer or customers  
207 from an electric distribution company, which shall provide the  
208 requested information within thirty days from receipt of the request.

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

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

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

256 for the project or program, provided any grants or costs awarded shall  
257 continue to be recovered by the electric distribution 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 Investment 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 ratepayers' 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 committee of the General Assembly having  
302 cognizance of matters relating to energy that the partnership program  
303 established pursuant to this section be modified or discontinued.

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

315 (p) (1) Electric distribution companies may own and operate Class I  
316 renewable generation facilities within the state. An electric distribution  
317 company shall work with local equipment manufacturers and craft  
318 workers in developing and constructing such facilities, provided (A)  
319 such facilities are connected to its distribution system; (B) the  
320 equipment for such facilities are manufactured or assembled by  
321 companies within the state to the extent practicable; (C) the facilities

322 are installed and maintained by workers employed within the state;  
323 and (D) the council approves the technologies used in the project. The  
324 cumulative ownership of Class I renewable energy sources by electric  
325 distribution companies pursuant to this subsection shall not exceed  
326 thirty megawatts of capacity by December 31, 2010, sixty-five  
327 megawatts by December 31, 2011, and one hundred megawatts by  
328 December 31, 2012. The council shall review the program by February  
329 15, 2012, and recommend to the joint standing committee of the  
330 General Assembly having cognizance of matters relating to energy  
331 whether to extend and expand this program beyond 2012.

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

346 (3) The Energy Innovation Council, in conjunction with the  
347 participating electric distribution companies and certified Connecticut  
348 electric efficiency partners, shall issue a report, in accordance with the  
349 provisions of section 11-4a, to the joint standing committees of the  
350 General Assembly having cognizance of matters relating to energy and  
351 technology, environment and commerce no later than January fifteenth  
352 of 2010, 2011 and 2012. This report shall describe (A) the status of the  
353 Connecticut electric efficiency partner program, including the levels  
354 and types of participation; (B) the amount of authorized investment

355 and its cost; (C) the actual and expected future benefits created by the  
356 program, including contributions to Connecticut jobs and commerce;  
357 (D) the improvement to the commercialization of Class I renewable  
358 energy sources and their integration with the state's power systems  
359 and energy markets; and (E) opportunities to improve the effectiveness  
360 of the program. The 2012 report shall also include a summary of all  
361 three years and recommendations for further use of the program. The  
362 council shall retain an independent consulting firm from a list of firms  
363 developed by the department, in consultation with the Office of  
364 Consumer Counsel, to audit the council's records and the program  
365 operations and project results, and the report from such firm shall be  
366 included in the council's annual report to the General Assembly.

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

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

384 (a) Except as provided in subsection (b) of section 16-50z, no person  
385 shall exercise any right of eminent domain in contemplation of,  
386 commence the preparation of the site for, commence the construction  
387 or supplying of a facility, or commence any modification of a facility,

388 that may, as determined by the council, have a substantial adverse  
 389 environmental effect in the state without having first obtained a  
 390 certificate of environmental compatibility and public need, hereinafter  
 391 referred to as a "certificate", issued with respect to such facility or  
 392 modification by the council. Certificates shall not be required for (1)  
 393 fuel cells built within the state with a generating capacity of two  
 394 hundred fifty kilowatts or less, or (2) fuel cells built out of state with a  
 395 generating capacity of ten kilowatts or less. Any facility with respect to  
 396 which a certificate is required shall thereafter be built, maintained and  
 397 operated in conformity with such certificate and any terms, limitations  
 398 or conditions contained therein. Notwithstanding the provisions of this  
 399 chapter or title 16a, the council shall, in the exercise of its jurisdiction  
 400 over the siting of generating facilities, approve by declaratory ruling  
 401 (A) the construction of a facility solely for the purpose of generating  
 402 electricity, other than an electric generating facility that uses nuclear  
 403 materials or coal as fuel, at a site where an electric generating facility  
 404 operated prior to July 1, 2004, (B) the construction or location of any  
 405 fuel cell, unless the council finds a substantial adverse environmental  
 406 effect, or of any customer-side distributed resources project or facility  
 407 or grid-side distributed resources project or facility with a capacity of  
 408 not more than sixty-five megawatts, as long as such project meets air  
 409 and water quality standards of the Department of Environmental  
 410 Protection, [and] (C) the siting of temporary generation solicited by the  
 411 Department of Public Utility Control pursuant to section 16-19ss, and  
 412 (D) projects undertaken pursuant to section 16-243v, as amended by  
 413 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:**

In section 1, names of entities were corrected and provisions were rephrased for clarity and statutory consistency.

**ET**      *Joint Favorable Subst.-LCO*