



# OLR RESEARCH REPORT

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## QUESTIONS ON PROPOSED DPUC/DEP MERGER

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You asked for a discussion of potential issues arising from the merger of the departments of Public Utility Control (DPUC) and Environmental Protection (DEP) proposed in HB 6386. OLR memo [2011-R-0115](#) has a section-by-section analysis of this bill.

### SUMMARY

HB 6386 creates the Department of Energy and Environmental Protection (DEEP) by merging DEP and DPUC. It gives DEEP jurisdiction over matters related to the equitable distribution and conservation of energy, utility regulation, and state energy policy in addition to the environmental areas currently under DEP's jurisdiction. The bill also transfers various energy-related responsibilities and powers from the Office of Policy and Management (OPM) to DEEP. The bill is effective July 1, 2011.

The bill may raise a wide range of policy, budgetary, administrative, and other issues. Among others, these include:

1. the role of the DPUC commissioners, retained under the bill within DEEP, in determining policy;
2. the costs and savings involved in implementing the merger; and
3. who will be responsible for the administrative responsibilities that are currently performed by DPUC's executive director.

## **INTRODUCTION**

The bill gives the DEEP commissioner various energy responsibilities, in addition to the environmental responsibilities of the current DEP commissioner. Among other things, it requires the DEEP commissioner to:

1. provide for the highest standards of utility regulation and consumer protection,
2. provide for the equitable distribution and conservation of energy,
3. provide for the development and use of renewable resources, and
4. ensure that low income people can meet essential energy needs.

The bill also transfers various energy-related responsibilities and powers from OPM to DEEP. Among other things, these include planning for and responding to energy emergencies, registering fuel oil dealers, monitoring oil prices, and managing energy use in state-owned buildings.

The bill transfers responsibility for administering the Energy Conservation Loan Fund from the Department of Economic and Community Development to DEEP.

The bill eliminates the ability of DPUC's chairperson, with the consent of at least two other commissioners, to appoint an executive director to serve as DPUC's chief administrative officer. The bill eliminates the executive director's powers and responsibilities, which include the power to hire staff and consultants and to enter into contracts.

The bill places the Connecticut Siting Council and Council on Environmental Quality (CEQ) within DEEP and eliminates some of CEQ's responsibilities and its staff.

## **POLICY ISSUES**

1. The bill retains the five DPUC commissioners. What will be their role in establishing policy in the new agency?

2. How will the function of adjudicating contested cases, such as utility rate cases, be insulated from the function of developing and implementing policy in cases where the same individuals perform both functions?
3. Typically, the DEP commissioner appoints a staff member to serve as a hearing officer to adjudicate contested cases at the agency, while at DPUC a panel of three or five commissioners adjudicate such cases. How will DEEP handle contested cases?
4. The bill transfers the responsibilities of the DEP commissioner to the DEEP commissioner and gives the new commissioner a wide range of additional energy responsibilities. How should the new commissioner prioritize these responsibilities given the fact that DEEP has limited resources?
5. Some of the commissioner's responsibilities may conflict with one another. Notably, the bill calls on the commissioner to provide for the abatement of air pollution and to assist residents and businesses with reducing their energy costs. Reducing energy costs will lead to increased demand, which will in all likelihood increase air emissions. How should the commissioner address the tension between these goals?
6. Among the new responsibilities given to the DEEP commissioner is to provide for the equitable distribution of energy. What does this mean? Given the deregulation of large parts of the energy market, how can the commissioner meet this responsibility?
7. DEP and DPUC have complementary roles in regulating the energy and water industries, and the proposed merger may result in synergies in these areas. How will the merger affect areas where DEP has no responsibilities, such as telecommunication regulation and policy? How will DEEP ensure that telecommunication issues will continue to be adequately addressed?
8. How will the merger affect the operations of the Clean Energy Fund and Connecticut Energy Efficiency Fund?

## **BUDGETARY AND FUNDING ISSUES**

1. What are some of the costs involved in implementing the merger? What are the expected savings and in what areas?

2. Under current law, DPUC is primarily funded by an assessment on the companies it regulates, while DEP's primary source of revenue is tax revenue. On its face, the bill extends the assessment to cover the expenses of DEEP as a whole. Is this the governor's intent? If not, which DEEP expenses should be covered by the assessment on utilities and which should be funded by taxpayers?

### **ADMINISTRATIVE AND PERSONNEL ISSUES**

1. How many people does each agency employ? What impact will the merger have on the agencies' personnel? Is there any personnel reduction anticipated? If yes, in what areas?
2. Who will be responsible for the administrative responsibilities that DPUC's executive director currently performs?
3. How will information on the merger be communicated to staff? How will employee issues be addressed?
4. Are the employees of the affected agencies in the same bargaining units?

### **PROCESS**

1. To what extent was the merger discussed with stakeholders (e.g., utility companies and other entities regulated by DPUC and DEP) to determine if there is an alternative, less disruptive approach that could have produced better results?
2. What is the timetable for completing the merger? How will it work? What administrative and personnel issues need to be resolved and how long will it take to resolve them?

### **MISCELLANEOUS**

1. Are there any risks associated with the merger and what systems are in place to mitigate them?
2. What measures should we use to evaluate the success of the merger?
3. Related agencies often have distinct priorities and agendas that inhibit their working well together. To what extent has this been an issue for DEP and DPUC?

KM: ek