



OLR RESEARCH REPORT

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ANALYSIS OF AN ACT CONCERNING ENERGY EFFICIENCY

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You asked for a section-by-section analysis of the major provisions of HB 6544, An Act Concerning Energy Efficiency.

SECTION 1 – REGULATIONS ON DISCLOSURE OF BUILDING ENERGY CONSUMPTION

The bill requires the Department of Consumer Protection (DCP) commissioner to adopt regulations for evaluating and disclosing the energy consumption of residential and commercial buildings before their sale. The regulations must include a method for labeling or disclosing this information, which may be a federal rating and disclosure system.

In most cases, the bill requires the owner of property to have the energy consumption of his or her property evaluated in accordance with the regulations. The evaluation must cover at least the five years before the sale or the period since the adoption of the regulations, whichever is less.

EFFECTIVE DATE: October 1, 2011

SECTION 2 – HEATING STATEMENTS FROM LANDLORDS

The bill requires any landlord who requires a tenant to pay for heat to give a potential tenant a statement of a unit's heating costs for at least the two previous years before leasing it. The statement must include a

report from the heating fuel supplier (including an electric or natural gas company) if available, and otherwise be based on (1) the heating fuel supplier's records or (2) a good-faith estimate by the landlord.

EFFECTIVE DATE: October 1, 2011

SECTION 3 – BUILDING ENERGY CONSUMPTION INFORMATION REQUIREMENTS

By January 1, 2012, the bill requires the owner or operator of a nonresidential building with a gross floor area of more than 10,000 square feet to disclose the Energy Star portfolio manager benchmarking data and ratings for the most recent 24 months to (1) a prospective buyer, (2) lessee of more than 2,000 square feet of the building, or (3) lender that would finance more than 2,000 square feet of the building. By this date, electric and gas companies must upload all of the energy consumption data for any nonresidential building, upon authorization of its owner or operator, to the Energy Star portfolio manager or comparable system. The utility company must maintain the information in a way that preserves the customer's confidentiality. Further information about the Energy Star portfolio manager and related tools is available at www.energystar.gov.

Starting January 1, 2012, each electric and gas company must maintain energy consumption record for all nonresidential buildings it serves. The data must be maintained in a format that (1) is compatible for uploading to the Energy Star portfolio manager or similar system for at least the most recent 36 months and (2) preserves the customer's confidentiality.

By January 1, 2013, the Office of Policy and Management (OPM) must make public the benchmarking information for all nonresidential buildings with a gross floor area of more than 10,000 square feet the state owns or operates.

The bill requires anyone who owns a large nonresidential building to annually benchmark the building's energy use using the Energy Star portfolio manager benchmarking tool. The requirement starts January 1, 2012, for buildings with more than 150,000 square feet of gross floor area and January 1, 2013, for buildings with more than 50,000 square feet of gross floor area.

The bill requires such building owners, on January first, to provide energy use data and ratings for the most recent 24 months to the DCP

commissioner. The commissioner must make the data accessible on-line starting the second year that the data is provided.

Starting January 1, 2012, any building permit application for a new building with a gross floor area of more than 10,000 square feet or an improvement to such a building costing at least 25% of its assessed value must include an estimate of the finished building's energy performance using the Energy Star target finder tool. The building must subsequently be benchmarked annually using the benchmarking tool. The portfolio manager and target finder ratings and data for each building must be made available to the DCP commissioner within 60 days of being generated, and DCP must make the data accessible on-line.

EFFECTIVE DATE: Upon passage

SECTION 4 – COST EFFECTIVENESS OF ENERGY EFFICIENCY PROGRAMS

The bill expands cost-effectiveness testing requirements for energy efficiency programs proposed by electric and gas companies in their conservation plans. It requires the Department of Public Utility Control (DPUC) to oversee an independent, comprehensive evaluation, measuring and verification process to ensure that the programs are cost effective, their results are reliably and accurately reported, and they are being administered properly and efficiently.

DPUC must contract with one or more consultants not affiliated with the Energy Conservation Management Board (ECMB) or its members to administer the process. The consultant must hire evaluation contractors to perform evaluations and facilitate communications between evaluation contractors and program administrators needed to ensure accurate and independent evaluations. ECMB members can have input into evaluations to ensure that (1) evaluation procedures align with programs' data collection processes and (2) evaluations will provide the information needed to meet third-party evaluation requirements. Other than as specifically authorized, ECMB members, including those representing the electric and gas companies, may not communicate with the consultant or evaluation contractors on substantive issues during the evaluations. They may not communicate with an evaluation contractor about an evaluation outside of the consultant's presence.

All evaluations must describe any problems encountered in the evaluation process and recommend how to correct them. DPUC must publicly file a draft of each evaluation report in the most recent proceeding approving the companies' plans. The drafts must go to all

ECMB members, who may file public written comments on the draft with DPUC. At the request of an ECMB member, DPUC must hold a hearing to review the methodology, results, and recommendations of the evaluation. DPUC must then issue a final evaluation.

The cost of the evaluation administrator and all costs associated with the evaluation contractors hired to perform evaluations must be paid by the existing Energy Efficiency Fund. The electric companies must recommend an annual schedule and budget for evaluations needed to comply with the law and related requirements as part of their proposed plan.

EFFECTIVE DATE: July 1, 2011

SECTION 5 – MUNICIPAL ENERGY EFFICIENCY STANDARDS

The bill allows a municipality, by ordinance adopted by its legislative body, to require all new residential construction of three stories or less to meet federal Energy Star Qualified Home Standards.

EFFECTIVE DATE: October 1, 2011, and applicable to building permits issued on or after that date

SECTIONS 6 AND 7 – ENERGY PERFORMANCE CONTRACTING

The bill requires ECMB, by January 1, 2012, to establish a standardized energy performance contract process for state agencies and municipalities. Such contracts must include (1) a guaranteed energy savings performance contract covering the design and installation of equipment and, if applicable, operation and maintenance of any of the implemented measures and (2) guaranteed annual savings that meet or exceed the total annual contract payments made by the state agency or municipality for the contract, including financing charges to be incurred by the state agency over the contract's life.

The process must include standard contract documents, including requests for qualifications (RFQs), requests for proposals (RFPs), investment-grade audit contracts, energy services agreements, including the form of the project savings guarantee, and project financing agreements. A municipality may use the established state contract or its own contract.

ECMB must help state agencies and municipalities identify, evaluate and implement cost-effective conservation projects at their facilities, and create promotional materials to explain the energy performance contract

program. It must inform state agencies and municipalities of opportunities to develop and finance energy performance contracting projects and provide technical and analytical support for projects.

OPM may charge fees to cover costs incurred for its administrative support and resources or services provided to the state agencies and municipalities that use its technical support services. State agencies may add the costs of these fees to the total cost of the energy performance contract. The initial funding to establish the energy performance contracting process must come from the ECMB. OPM must develop a pool of public and private capital that state agencies (and presumably municipalities) can use to help finance energy-savings measures.

The bill specifies that the energy performance contracts for state agencies which must include RFQs or RFPs. The Department of Administrative Services must issue an RFQ from companies that can offer energy performance contract services to create a prequalified list of companies. A state agency must and municipality may use the list.

Before entering an energy performance contract under these provisions, a state agency or municipality must issue an RFP seeking up to three qualified energy service providers. A state agency or municipality may award the contract to the qualified energy service provider that best meets its needs, which need not be the lowest cost provider.

The selected provider must prepare an investment-grade energy audit. This is a study that includes detailed descriptions of the improvements recommended for the project, their estimated costs, and the cost savings projected to result from the improvements. The cost savings must be reviewed by an independent professional engineer with relevant experience. If the agency decides not to execute an energy services agreement after the audit is completed and the costs and benefits described in the audit are not materially different from those described in the feasibility study submitted in response to the RFP, the agency must pay the costs of the audit. Otherwise, the audit's costs are considered part of the costs of the energy performance contract.

An energy performance contract may extend beyond the fiscal year in which it became effective, subject to appropriation of moneys for costs incurred in future fiscal years if required by law. The contract may run for no more than 20 years. Performance contracts must include contingency provisions if actual savings do not meet predicted savings. The contract must require the provider to give the state agency or municipality an annual reconciliation of the predicted versus actual energy cost savings. If the reconciliation reveals a shortfall in annual

savings, the qualified provider is liable for the shortfall. If the reconciliation reveals an excess in annual energy cost savings, the excess may not be used to cover shortages in subsequent contract years.

The energy service provider must monitor the reductions in energy consumption and cost savings attributable to the measures installed under the contract. It must at least annually, report on the performance of the cost-savings measures to the state agency or municipality. It and the state agency or municipality may agree to modify savings calculations based on specified factors.

The bill specifically allows state agencies to enter into an energy performance contract with a qualified provider to produce utility or operating and maintenance cost savings. Energy savings measures implemented under these contracts must comply with state or local building codes. An agency may implement other capital improvements in conjunction with a performance contract so long as they are being implemented to achieve energy and operations and maintenance cost savings and the other capital improvements are in the aggregate cost effective over the term of the contract.

EFFECTIVE DATE: July 1, 2011

SECTION 8 – GREEN CONNECTICUT LOAN GUARANTY PROGRAM

The law requires the Connecticut Health and Educational Facilities Authority (CHEFA) to establish the Green Connecticut Loan Guaranty Fund to help finance energy efficiency for individuals, non-profit organizations, and small businesses. The bill requires CHEFA to

1. ensure that this program integrates with existing state energy efficiency and renewable energy programs;
2. establish performance targets for the program to ensure sufficient participation in the secondary financial markets and to operate in coordination with existing financing programs to enable efficiency improvements for at least 15% of single family homes in the state by 2020;
3. enter into contracts with one or more entities to perform the functions CHEFA deems appropriate;
4. enter into financial partnership agreements with banks and other financial institutions to provide loan origination services; and

5. exercise such other powers needed to properly administer the program.

The bill requires CHEFA's financial assistance meet the following terms:

1. eligible energy conservation projects must meet cost-effectiveness standards adopted by CHEFA in consultation with ECMB and the Clean Energy Fund board;
2. loans must be at interest rates determined by CHEFA to be no higher than needed to make eligible energy conservation projects feasible;
3. when deciding on a loan, CHEFA may consider whether the applicant or borrower has received, or is eligible to receive, financial assistance and other incentives from any other source for the qualified energy efficiency services that would be the subject of the loan;
4. CHEFA must review and evaluate applications for financial assistance under eligibility and qualification requirements and criteria it establishes in consultation with the boards; and
5. the fee paid for an energy audit provided under the program may be added to the amount of the resulting loan and then reimbursed from the fund to the borrower.

EFFECTIVE DATE: Upon passage