

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-98—HB 5697

Planning and Development Committee

AN ACT CONCERNING CHANGES TO THE MUNICIPAL ENERGY COOPERATIVE STATUTES

SUMMARY: This act makes numerous changes to the laws governing municipal electric energy cooperatives. Among other things, it:

1. makes it easier for a municipal utility to join or withdraw from a cooperative,
2. amends provisions specifying how a dissolved cooperative's property is distributed,
3. allows a cooperative to purchase and sell electricity through the Independent System Operator-New England (ISO-New England),
4. allows municipal utility employees to serve on a cooperative's governing board, and
5. allows alternative voting methods within a cooperative and amends existing ones.

The Connecticut Municipal Electric Energy Cooperative (CMEEC) is currently the only such cooperative in Connecticut.

EFFECTIVE DATE: October 1, 2011

ADDING NEW MEMBERS (§ 1)

The law allows an existing municipal electric energy cooperative to accept new members and sets up a procedure for doing so. Under prior law, the governing body of each municipal utility that was already a cooperative member had to adopt a resolution agreeing to allow the new member. The act instead requires the governing bodies of at least two-thirds of the members to adopt such a resolution.

Under prior law, the number of representatives the new member appointed to the cooperative's governing board and their qualifications, terms, and travel expense reimbursement had to be the same as those governing each existing member's representatives. The act specifies that a new member's representatives are also subject to the same compensation requirements as existing ones.

WITHDRAWING FROM THE COOPERATIVE (§§ 1 – 2)

Under prior law, a municipal utility could withdraw from a cooperative only if (1) it had no outstanding debt to the cooperative and was not legally bound to provide any payments to it and (2) the governing bodies of each of the other cooperative members passed resolutions agreeing to the withdrawal and filed them with the secretary of the state (SOTS). The act eliminates these requirements and instead requires that the withdrawing municipal utility continue

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to perform its obligations under any contract with the cooperative or provide sufficient funds in trust to satisfy those obligations.

By law, a withdrawing municipal utility must file with the cooperative a resolution of its governing board approving its withdrawal and the legislative body of the municipality it represents has 30 days to disapprove of the utility's adoption of the withdrawal resolution. The resolution, together with an affidavit from the withdrawing utility that its municipal legislative body does not disapprove, must be filed with the SOTS.

By law, upon proof of such filings, the municipal utility is deemed to have legally and properly withdrawn from the cooperative. Under prior law, the municipal utility was also deemed to have never been a member of the cooperative and to no longer have any right, title, or interest in its property. The act instead specifies that the withdrawing municipal utility has rights to any retained earnings and assets, as provided in its contracts with the cooperative, as long as the (1) contracts treat similar members in a comparable and nondiscriminatory manner and (2) withdrawing municipal utility complies with the statutory process for withdrawing from a cooperative described above.

DISSOLVING THE COOPERATIVE (§ 4)

Under prior law, a dissolved cooperative's property was vested in the municipal utilities that created it. The act provides that such property may also be vested as provided in the agreements between the cooperative and its members, as long as the agreements treat similar members in a comparable and nondiscriminatory manner.

The act also eliminates a provision that the governing bodies dissolving a cooperative, according to the statutory process for doing so, are deemed to have never joined in its creation.

POWERS (§ 3)

The law authorizes a cooperative to purchase and sell power to utilities within or outside Connecticut and to do so by joining the New England Power Pool (NEPOOL), if its governing board approves. The act allows it to purchase and sell power through ISO-New England, according to ISO-New England's rules and procedures, if its governing board approves.

ISO-NE administers the regional electric wholesale market. NEPOOL members participate in this market.

COOPERATIVE GOVERNANCE AND OPERATIONS

Governing Board Membership and Compensation (§§ 1 & 6)

The act allows municipal utility employees to serve as representatives to the cooperative's governing board. Under prior law, only utility officials could do so.

By law, the governing body of each municipal utility in a cooperative (1) must determine its representatives' compensation, if any, and (2) may reimburse them for travel expenses incurred in connection with their service on the board. Prior

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law additionally allowed a cooperative utility board to (1) reimburse representatives for necessary expenses incurred while performing their duties and (2) pay them a salary, if the resolutions establishing the cooperative or any subsequent amendments to the resolutions specified it. It barred the representatives from receiving any other compensation for their services.

The act allows the cooperative board to pay the representatives reasonable and uniform compensation for their service, in addition to reimbursing them for their expenses, but only if the representatives are not compensated by the municipal utility they represent. It also allows the representatives to receive other compensation for their services.

Voting Methods (§ 1)

Prior law allowed a cooperative board to take action by majority vote of the representatives present, unless the cooperative's bylaws required a larger number for adoption. The act specifies that the cooperative may also require a larger number to take action if an amendment to its bylaws requires it.

The law also allows a cooperative board to use a weighted voting method at the request of any representative. The weighted voting procedure requires each representative's vote to carry weight according to the number of megawatt hours of electricity his or her utility purchased from the cooperative in the last calendar year. Under prior law, any proposition that received at least 67% of the votes of members present was adopted. The act requires that the 67% majority represent a majority of all member utilities to approve the action.

The act also allows a cooperative to adopt other voting methods in addition to those allowed under existing law. It may do so prospectively for all actions or specifically designated ones, as long as the voting methods (1) are specified in the cooperative's bylaws or in an amendment unanimously adopted by its members and (2) treat similar members in a comparable and nondiscriminatory manner. Under these alternative methods, the cooperative may base voting rights on:

1. whether the member (a) buys all of its power in the wholesale market or (b) owns and operates generation or transmission facilities and buys supplemental power in the wholesale market or
2. the term of the member's contract with the cooperative for power and transmission supply.

Conflict of Interest (§ 5)

Prior law prohibited a cooperative's representatives, officers, and employees from having any direct or indirect interest in any project or contract involving the cooperative. The act specifies that (1) they may not have a direct or indirect personal interest in any cooperative project or contract and (2) cooperative employees are not automatically disqualified from serving as representatives or officers of the cooperative. As under prior law, they may be municipal utility employees, hold any office with the utility, and own any property within the state.

Board Employees (§ 1)

The act makes technical changes to the functions of employees a cooperative

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board may hire.

BACKGROUND

CMEEC

CMEEC is responsible for procuring power and financing and building generating resources for its members. The members are: Groton Utilities, Jewett City Department of Public Utilities, Norwich Public Utilities, and the Second and Third Taxing Districts of Norwalk (South Norwalk and East Norwalk, respectively). CMEEC also provides power for participating utilities (the Wallingford Department of Public Utilities, Bozrah Light and Power, and the Mohegan Tribal Authority).

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