



House of Representatives

General Assembly

File No. 445

February Session, 2012

Substitute House Bill No. 5385

House of Representatives, April 16, 2012

The Committee on Energy and Technology reported through REP. NARDELLO of the 89th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ENERGY RETROFITS FOR CERTAIN BUILDINGS AND THE DISCLOSURE OF THE ENERGY EFFICIENCY OF CERTAIN BUILDINGS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) (a) As used in this
2 section, "residential building" means a structure that is intended to be
3 or is used as a residence consisting of one to four dwelling units.

4 (b) Each electric distribution company and gas company, as defined
5 in section 16-1 of the general statutes, shall develop a program to allow
6 any owner of a residential building to compare the electric or gas
7 consumption of such building to the electric or gas consumption of
8 similar buildings served by such company. On or before January 1,
9 2013, each such company shall submit a proposal for such program to
10 the Public Utilities Regulatory Authority. The authority may approve
11 or deny and request modification of any such proposal. The cost
12 incurred by each such company for developing and implementing

13 such program may be recovered from the Energy Efficiency Fund.

14 Sec. 2. Section 16-245ii of the 2012 supplement to the general statutes
15 is repealed and the following is substituted in lieu thereof (*Effective*
16 *October 1, 2012*):

17 (a) As used in this section, "nonresidential building" means any
18 building, except a residential building containing less than five
19 dwelling units.

20 (b) Commencing January 1, 2012, each electric distribution, electric
21 and gas company shall maintain and make available to the public, free
22 of charge, records of the energy consumption data of all typical
23 nonresidential buildings to which such company provides service. This
24 data shall be maintained in a format (1) compatible for uploading to
25 the United States Environmental Protection Agency's Energy Star
26 portfolio manager or similar system, for at least the most recent thirty-
27 six months, and (2) that preserves the confidentiality of the customer.

28 (c) On and after January 1, 2013, each electric distribution, electric
29 and gas company shall maintain records of the energy consumption
30 data of all nonresidential buildings to which such company provides
31 service. This data shall be maintained in a format (1) compatible for
32 uploading to the United States Environmental Protection Agency's
33 Energy Star portfolio manager or a comparable system selected by the
34 Public Utilities Regulatory Authority, and (2) that preserves the
35 confidentiality of the customer. The authority may select different
36 systems for different classes of buildings. Any system selected
37 pursuant to this subsection shall evaluate the efficiency of the building
38 systems of such building when such building systems are used under
39 standardized conditions.

40 (d) On and after January 1, 2013, upon the written authorization or
41 secure electronic authorization of a nonresidential building owner or
42 operator, an electric distribution, electric or gas company shall upload
43 all of the energy consumption data for the specified building account
44 to the Energy Star portfolio manager or comparable system selected by

45 the authority pursuant to subsection (c) of this section to benchmark
46 such building's energy use. The electric distribution, electric or natural
47 gas company shall maintain such data in a manner that preserves the
48 confidentiality of the customer.

49 (e) (1) Not later than January 1, 2014, and annually thereafter, any
50 owner or operator of a nonresidential building with a total gross floor
51 area of fifty thousand square feet or more that is offered for sale or
52 lease to the state or any municipality shall benchmark such building's
53 energy use by uploading such building's energy consumption data to
54 the Energy Star portfolio manager or comparable system selected by
55 the authority. On and after January 1, 2014, such owner or operator
56 shall disclose the benchmarking data and ratings generated by such
57 system for the most recent twelve-month period to the state or any
58 municipality seeking to purchase or lease such building. On and after
59 January 1, 2015, the Commissioner of Energy and Environmental
60 Protection shall make such benchmarking data and ratings accessible
61 to the public via an on-line database.

62 (2) Not later than July 1, 2014, and annually thereafter, any owner or
63 operator of a nonresidential building with a total gross floor area of
64 twenty thousand square feet or more but less than fifty thousand
65 square feet that is offered for sale or lease to the state or any
66 municipality shall benchmark such building's energy use by uploading
67 such building's energy consumption data to the Energy Star portfolio
68 manager or comparable system selected by the authority. On and after
69 July 1, 2014, such owner or operator shall disclose the benchmarking
70 data and ratings generated by such system for the most recent twelve-
71 month period to the state or any municipality seeking to purchase or
72 lease such building. On and after July 1, 2015, the Commissioner of
73 Energy and Environmental Protection shall make such benchmarking
74 data and ratings accessible to the public via an on-line database.

75 (3) Not later than January 1, 2015, and annually thereafter, any
76 owner or operator of a nonresidential building with a total gross floor
77 area of ten thousand square feet or more but less than twenty

78 thousand square feet that is offered for sale or lease to the state or any
79 municipality shall benchmark such building's energy use by uploading
80 such building's energy consumption data to the Energy Star portfolio
81 manager or comparable system selected by the authority. On and after
82 January 1, 2015, such owner or operator shall disclose the
83 benchmarking data and ratings generated by such system for the most
84 recent twelve-month period to the state or any such municipality
85 seeking to purchase or lease such building. On and after January 1,
86 2016, the Commissioner of Energy and Environmental Protection shall
87 make such benchmarking data and ratings accessible to the public via
88 an on-line database.

89 (f) On or before July 1, 2013, the Secretary of the Office of Policy and
90 Management shall benchmark the energy use of any nonresidential
91 building with a total gross floor area of not less than ten thousand
92 square feet owned or operated by the state or any state agency by
93 uploading such building's energy consumption data to the Energy Star
94 portfolio manager benchmarking tool or a comparable system.

95 Sec. 3. Section 8-253a of the general statutes is repealed and the
96 following is substituted in lieu thereof (*Effective October 1, 2012*):

97 In addition to the terms and conditions set forth in section 8-253,
98 loans made by the authority hereunder shall also be subject to the
99 following terms and conditions:

100 (1) A loan hereunder may be prepaid after a period of twenty years
101 or sooner with the permission of the authority, [;] provided [;]
102 nonprofit mortgagors and mortgagors to whom loans are made on or
103 after October 1, 1978, may prepay their loans prior to maturity only
104 with the consent of the authority. The authority shall grant such
105 consent if it finds (A) that it may reasonably be expected that the
106 prepayment of the loan will not result in a material escalation of rents
107 charged to occupants of the project; and (B) that the need for low and
108 moderate income housing in the area concerned is no longer acute.

109 (2) The interest rate on the loan shall be established by the authority

110 at the lowest level consistent with the authority's cost of operation and
111 its responsibilities to the holders of its bonds, bond anticipation notes
112 and other obligations, except those loans made pursuant to subsection
113 (32) of section 8-250.

114 (3) The authority shall require the mortgagor or its contractor to
115 post labor and materials and construction performance surety bonds,
116 or enter into an escrow arrangement acceptable to the authority, in
117 amounts related to the project cost as established by regulation, and to
118 execute such other assurances and guarantees as the authority may
119 deem necessary.

120 (4) The loan shall be subject to an agreement between the authority
121 and the mortgagor which will subject said mortgagor and its principals
122 or stockholders to limitations established by the authority as to rentals,
123 carrying charges, and other charges, profits and fees, and the
124 disposition of its property and franchises to the extent more restrictive
125 limitations are not provided in the law under which the mortgagor is
126 incorporated or organized.

127 (5) A loan to a mortgagor, other than a municipal developer or a
128 nonprofit corporation having as one of its purposes the construction or
129 rehabilitation of housing, shall be subject to an agreement between the
130 authority and the mortgagor limiting the mortgagor, and its principals
131 or stockholders, to such return on the mortgagor's equity in any project
132 assisted with a loan from the authority as may be established or
133 permitted by the authority. The mortgagor's equity in a project shall
134 consist of the difference between the amount of the loan and the total
135 project cost, whether or not such costs have been paid in cash or in a
136 form other than cash. With respect to every project, the authority shall,
137 pursuant to rules and regulations adopted by it, establish the
138 mortgagor's equity after the acceptance as proper by the authority of
139 the certification or other assurances of project cost from the mortgagor,
140 provided in no case shall such figure ever be less than the mortgagor's
141 original equity in such project.

142 (6) No loan shall be executed, except a loan made to a municipal

143 developer or a nonprofit corporation having as one of its purposes the
144 construction or rehabilitation of housing, unless the mortgagor agrees
145 (A) to certify upon completion of project construction or rehabilitation,
146 subject to audit by the authority, either that the actual project cost as
147 defined herein exceeded the amount of the loan proceeds by ten per
148 cent or more, or the amount by which the loan proceeds exceed ninety
149 per cent of total project cost, and (B) to pay forthwith to the authority,
150 for application to reduction of principal of the loan, the amount, if any,
151 of such excess loan proceeds, subject to audit and determination by the
152 agency. No loan shall be made to a municipal developer or a nonprofit
153 corporation unless such mortgagor agrees to certify the actual project
154 cost upon completion of the project, and further agrees to pay
155 forthwith to the authority, for application to reduction of the principal
156 of the loan, the amount, if any, by which the proceeds of the loan
157 exceed the certified project cost, subject to audit and determination by
158 the authority. Notwithstanding the provisions of this subsection, the
159 authority may accept, in lieu of any certification of project cost as
160 provided herein, such other assurances of the said project cost, in any
161 form or manner whatsoever, as will enable the authority to determine
162 with reasonable accuracy the amount of said project cost.

163 (7) As a condition of the loan, the authority shall have the power at
164 all times during the construction and rehabilitation of a housing
165 project and the operation thereof: (A) To enter upon and inspect
166 without prior notice any project, including all parts thereof, for the
167 purpose of investigating the physical and financial condition thereof,
168 and its construction, rehabilitation, operation, management and
169 maintenance, and to examine all books and records with respect to
170 capitalization, income and other matters relating thereto and to make
171 such charges as may be required to cover the cost of such inspections
172 and examinations; (B) to order such alterations, changes or repairs as
173 may be necessary to protect the security of its investment in a housing
174 project or for the health, safety and welfare of the occupants thereof;
175 (C) to order any managing agent, project manager or owner of a
176 housing project to do such acts as may be necessary to comply with the
177 provisions of all applicable laws and ordinances or any rule or

178 regulation of the authority or the terms of any agreement concerning
179 the said project or to refrain from doing any act in violation thereof
180 and in this regard the authority shall be a proper party to file a
181 complaint and to prosecute thereon for any violation of laws or
182 ordinances as set forth herein; (D) to require the adoption and
183 continuous use of uniform systems of accounts and records for a
184 project and to require all owners or managers of same to file annual
185 reports containing such information and verified in such manner as the
186 authority shall require and to file at such times and on such forms as
187 the authority may prescribe reports and answers to specific inquiries of
188 the authority to determine the extent of compliance with any
189 agreement, the terms of the loan, the provisions of this chapter and any
190 other applicable law; [and] (E) to enforce, by court action if necessary,
191 the terms and provisions of any agreement between the authority and
192 the mortgagor as to schedules of rentals or carrying charges, aggregate
193 family income limits as applied to applicants for housing or the
194 occupants thereof, or any other limitation imposed upon the
195 mortgagor as to financial structure, construction, operation, or
196 disposition of the housing; and (F) to require that an energy audit of
197 such housing project is conducted prior to the construction or
198 rehabilitation of such project and that the recommendations of such
199 energy audit concerning energy efficiency upgrades are implemented
200 in such construction or rehabilitation, except no such audit or
201 upgrades are required for any project concerning handicapped
202 accessibility or any project that does not substantially affect energy
203 consumption.

204 (8) If, pursuant to subsection (29) of section 8-250, the authority
205 appoints a majority of new directors to the board of directors of a
206 mortgagor corporation, or appoints a new managing agent for an
207 unincorporated association, the persons so appointed need not be
208 stockholders or partners or meet other qualifications which may be
209 prescribed by the articles of incorporation or other basic documents of
210 organization or the bylaws of such mortgagor. In the absence of fraud
211 or bad faith, the persons so appointed shall not be personally liable for
212 the debts, obligations or liabilities of such mortgagor; and shall serve

213 only for a period coexistent with the duration of the reasons for their
 214 appointment or until the authority is assured, in a manner satisfactory
 215 to it, that the need for such service no longer exists; and they shall
 216 serve as directors or managing agents for such compensation as the
 217 authority may determine and shall be entitled to be reimbursed for all
 218 necessary expenses incurred in the discharge of their duties as
 219 directors or managing agents of such mortgagor.

220 Sec. 4. (NEW) (*Effective October 1, 2012*) Any owner of a residential
 221 building, as defined in section 1 of this act, that receives more than one
 222 thousand dollars of assistance from the Energy Efficiency Fund or
 223 Clean Energy Fund and any owner or operator of a nonresidential
 224 building, as defined in section 16-245ii of the general statutes, as
 225 amended by this act, that receives more than two thousand five
 226 hundred dollars of assistance from the Energy Efficiency Fund or
 227 Clean Energy Fund shall upload all of the energy consumption data
 228 for such building to the Energy Star portfolio manager or comparable
 229 system selected by the authority pursuant to section 16-245ii of the
 230 general statutes, as amended by this act, to benchmark such building's
 231 energy consumption data before and after such assistance is received.
 232 The Public Utilities Regulatory Authority shall make publically
 233 available the energy consumption data for any such building after such
 234 assistance was received, in a manner that preserves the confidentiality
 235 of the customer, including such customer's name and street address.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>October 1, 2012</i>	16-245ii
Sec. 3	<i>October 1, 2012</i>	8-253a
Sec. 4	<i>October 1, 2012</i>	New section

ET *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Policy & Mgmt., Off.	GF - Cost	37,500	50,000
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	10,958	14,610

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill establishes several requirements for collecting, measuring, and benchmarking energy consumption and efficiency data from various buildings. It requires the Office of Policy and Management (OPM) to benchmark certain nonresidential state buildings. It is expected that OPM will need to hire an administrative position with an annualized salary of \$50,000 (plus fringe benefits) to benchmark energy use of these buildings. In FY 13, it is expected to cost \$37,500 (plus fringe benefits) to implement the position for nine months of the year.

The bill also requires electric and gas utility companies to develop and propose a program for certain utility consumption comparison to the Public Utilities Regulatory Authority (PURA). The companies can recover their costs for developing and implementing the programs from the Energy Efficiency Fund.²

¹ The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated non-pension fringe benefit cost associated with most personnel changes is 29.22% of payroll in FY 13 and FY 14.

² The Energy Efficiency Fund is funded by a charge of 0.3 cents per kilowatt-hour, auctions under the Regional Greenhouse Gas Initiative, contributions from gas company ratepayers, and other sources.

Under the bill, PURA is required to make certain benchmarking results publically available on-line. It also requires PURA to publish on-line certain energy consumption data for buildings that receive assistance from the Energy Efficiency Fund or Clean Energy Funds. These provisions have no fiscal impact.

The bill also increases the conditions on certain mortgages from the Connecticut Housing Finance Authority, a quasi-public state agency. This has no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 5385

AN ACT CONCERNING ENERGY RETROFITS FOR CERTAIN BUILDINGS AND THE DISCLOSURE OF THE ENERGY EFFICIENCY OF CERTAIN BUILDINGS.

SUMMARY:

This bill establishes several requirements for electric and gas utility companies, state and municipal governments, and certain owners and operators of residential and nonresidential buildings to participate in a system to collect, measure, and compare (benchmark) energy consumption and efficiency data from various buildings. It requires:

1. utility companies to maintain the data for all nonresidential buildings and make the data available for energy efficiency benchmarking at an owner's request;
2. the state to benchmark certain nonresidential state buildings;
3. benchmarking for certain nonresidential buildings that are offered for sale or lease to the state or a municipality;
4. the utilities to develop a program for benchmarking residential buildings; and
5. energy efficiency benchmarking for buildings that receive a certain amount of financial assistance from the Energy Efficiency Fund or the Clean Energy Fund.

The bill also allows the Connecticut Housing Finance Authority to require that, as a condition for a mortgage to build or renovate a housing project, (1) the project must undergo an energy audit prior to the start of any work and (2) the audit's recommendations for energy efficiency upgrades must be implemented. The bill excludes projects that address handicapped accessibility or do not substantially affect

energy consumption from the audit and upgrade requirement.

EFFECTIVE DATE: October 1, 2012

NONRESIDENTIAL BUILDING BENCHMARKS

Starting January 1, 2013, the bill requires utility companies to maintain energy consumption data for any nonresidential buildings that they serve. (The law already requires them to maintain this data for all “typical” nonresidential buildings that they serve.) The data must preserve customer confidentiality and be kept in a format that can be uploaded into either the U.S. Environmental Protection Agency’s (EPA) Energy Star portfolio manager or a similar benchmarking system chosen by Public Utilities Regulatory Authority (PURA) (see BACKGROUND). PURA can opt to use different systems with different building classes, but any benchmarking system it chooses must be able to evaluate a building’s energy efficiency under standardized conditions. The bill does not specify a date by which PURA must select a system.

The bill requires the utility companies to upload a building’s energy consumption data into the benchmarking system whenever the building’s owner or operator issues a written or secure electronic authorization for it. The bill defines a nonresidential building as any building except residential buildings with 4 or fewer dwelling units.

State and Municipal Benchmarking

By July 1, 2013, the bill requires the secretary of the Office of Policy and Management to benchmark the energy use of any state owned or operated buildings with a total gross floor area over 10,000 square feet by uploading the building’s energy consumption data to the Energy Star portfolio manager or a comparable system.

Depending on their size, the bill requires buildings offered for sale or lease to the state or any municipality to annually benchmark their energy use by entering their energy consumption data into the Energy Star system or a similar system chosen by PURA. The building’s owner or operator must disclose the benchmarking results for the most

recent 12-month period to the state or any municipality looking to purchase or lease the building. Under the bill, the Department of Energy and Environmental Protection commissioner must also make the benchmarking results publically available one year after the benchmarking requirement begins. Table 1 shows when the requirement begins and when the benchmarking data must be made available to the public under the bill.

Table 1: Benchmarking Requirements For Buildings Offered For Sale Or Lease To The State Or Municipalities

<i>Total Gross Floor Area (square feet)</i>	<i>Benchmarking Requirement Starts</i>	<i>Public Availability Requirement Starts</i>
Over 50,000	January 1, 2014	January 1, 2015
At least 20,000 but less than 50,000	July 1, 2014	July 1, 2015
At least 10,000 but less than 20,000	January 1, 2015	January 1, 2016

RESIDENTIAL BENCHMARKING PROPOSALS

The bill requires electric and gas utility companies to each develop and propose a program to allow a residential building owner to compare a building's electric or gas consumption with that of similar buildings served by the utility. The companies must submit their proposals to the PURA by January 1, 2013 and PURA can approve, deny, or request modifications in any proposal. The companies can recover their costs for developing and implementing the programs from the Energy Efficiency Fund. Under the bill, a residential building is any structure with 1 to 4 dwelling units intended to be, or used as, a residence.

ENERGY EFFICIENCY FUND AND CLEAN ENERGY FUND BENCHMARKING

As a condition for receiving certain amounts of assistance from the Energy Efficiency or Clean Energy Funds, the bill requires residential

building owners and nonresidential building owners or operators to upload their building's energy consumption data into the Energy Star system or the benchmarking system established by PURA under the bill. It applies to residential building owners who receive over \$1,000 and nonresidential owners or operators who receive over \$2,500 in assistance from either fund. They must benchmark their buildings' energy consumption before and after receiving the assistance. The bill requires PURA to make the data uploaded after a building received the assistance available to the public in a manner that preserves confidentiality, including names and addresses.

BACKGROUND

EPA Energy Star Portfolio Manager

According to the EPA, the Energy Star portfolio manager is a free interactive energy management software tool that allows building owners to measure and assess their building's energy use in a standardized way. Once energy consumption data is entered into the system, it allows owners to (1) set an energy use baseline against which improvements can be measured; (2) verify efficiency improvements; (3) obtain data to support mortgages, sales, and leases; (4) and compare a building's performance with that of other buildings.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/28/2012)