

Office of Legislative Research  
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**ENERGY AND UTILITIES**



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## **NOTICE TO READERS**

This report provides highlights of new laws (public acts) affecting energy and public utilities enacted during the 2012 regular and special legislative sessions. In each summary, we indicate the public act (PA) number, if available. The report does not cover special acts and public acts that were vetoed unless the veto was overridden.

Not all provisions of the acts are included here. Complete summaries of all 2012 public acts are available on OLR's webpage:

<http://www.cga.state.ct.us/olr/publicactsummaries.asp>.

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk's Office, or the General Assembly's website: <http://www.cga.state.ct.us/default.asp>.

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## **CLEAN ENERGY FINANCE AND INVESTMENT AUTHORITY**

### ***Governance and Powers***

**PA 12-2, June Special Session**, allows the Clean Energy Finance and Investment Authority (CEFIA) to provide grants, loans, loan guarantees, or debt and equity investments in accordance with its procedures (the quasi-public authority analog to regulations.)

The act requires the authority's board of directors to elect the president of the authority (its CEO). It subjects CEFIA staff and directors and people dealing with the authority to the same ethics laws that apply to other quasi-public authorities. The act exempts CEFIA directors and staff from personal liability for their actions, so long as they are not wanton, reckless, willful, or malicious. It subjects CEFIA to the laws governing other quasi-public authorities regarding procedures, reporting, and audits.

EFFECTIVE DATE: Upon passage

### ***Bonding***

**PA 12-2, June Special Session**, allows CEFIA to issue revenue bonds with terms of up to 20 years. The authority must use the bond proceeds for its

purposes under current law, which include the promotion of renewable energy and the financing of energy efficiency projects.

The act allows the:

1. authority to issue "clean energy" bonds backed by Clean Energy Fund revenues, including the existing renewable energy charge on electric bills;
2. bonds to be backed by the full faith and credit of any public or private body; and
3. authority to issue bonds that are federally taxable.

Under the act, the clean energy bonds are not state obligations and only the authority is liable for them. They do not count towards the state's bond cap.

The act allows CEFIA to establish one or more special capital reserve funds (SCRFs) in connection with its bonds. The issuance of bonds backed by a SCRF requires approval of the OPM secretary or his deputy and the treasurer. The maximum amount in bonds backed by a SCRF is \$50 million. Funding in the SCRF cannot fall below a minimum capital reserve level.

Although the bonds secured by a SCRF are not backed by the state's full faith and credit, the state undertakes a contingent liability for the bonds by allowing the authority to establish these funds. The state's liability is to

maintain the minimum reserve on an annual basis and restore it to the minimum if it falls below the required amount in any particular year. If funding in the SCRF falls below the mandated level as of December 1<sup>st</sup> of any year, the shortfall is “deemed appropriated” from the General Fund. The shortfall must be repaid within one year, subject to bondholder agreements.

EFFECTIVE DATE: July 1, 2012

### ***Private Activity Bonds***

The act entitles CEFIA to part of the allocation of the state's private activity bond cap, which is currently earmarked to municipalities, CT Higher Education Supplemental Loan Authority, and CT Student Loan Foundation (27.5% of the capped amount goes to municipalities and authorities under current law).

Private activity bonds are issued by quasi-public authorities and municipalities. Federal law (1) caps the amount of such bonds that can be issued in each state each year and (2) exempts these bonds from federal tax if they are issued for specified purposes.

EFFECTIVE DATE: July 1, 2012

## **ENERGY EFFICIENCY AND RENEWABLE ENERGY**

### ***Energy Audits For Oil-Heated Homes***

Under prior law, the home energy services audit program subsidized customers who heat with oil or other nonutility fuels. Although the program is funded by charges on gas and electric acts, prior law required that the audit charge be the same, regardless of how the property owner heats his or her home. [PA 12-2, June Special Session](#), instead requires that the charge reflect the contributions made to the Energy Efficiency Fund by each type of customer, subject to a \$99 cap.

Prior law limits the subsidy that customers who heat with gas or electricity provide to those who heat with oil or other nonutility fuels to \$500,000 per year. The act eliminates the subsidy cap until August 1, 2013.

EFFECTIVE DATE: Upon passage

### ***Property Assessed Clean Energy (PACE) Programs***

By law, municipalities may establish PACE programs under which they loan money to local residents and businesses for energy efficiency and renewable energy improvements. The loans are backed by a lien on the improved property that is treated like a property tax lien, other

than not having priority over existing mortgages.

**PA 12-2, June Special Session**, (1) requires CEFIA to establish a separate PACE program for qualifying commercial property (including multifamily buildings with five or more units) and (2) allows municipalities to participate in this program under a written agreement approved by their legislative bodies.

The act allows CEFIA to make appropriations for and issue bonds, notes or other obligations to finance the improvements. The bonds may be secured by a pledge of revenues derived from the commercial program, including revenues from benefit assessments on qualifying commercial real property.

The act's provisions regarding the program are generally similar to current law, with CEFIA taking the place of the municipality.

But, the act:

1. requires that the energy audit or renewable energy feasibility analysis assess the energy cost savings of the proposed project over its useful life and
2. gives the lien priority over existing mortgages, but requires that the property owner give existing mortgage holders at least 30 days' written notice of his or her intent to participate in the program before the lien is recorded.

The act requires the municipality to notify the owner

that he or she may rescind any financing agreement under the program within three business days after entering the agreement.

EFFECTIVE DATE: Upon passage

### ***Combined Heat And Power/Anaerobic Digester Programs***

By law, CEFIA must establish three-year pilot programs to (1) provide financial incentives for installing combined heat and power (CHP) systems with a generating capacity of less than 2 megawatts and (2) anaerobic digesters with a maximum capacity of 1.5 megawatts. **PA 12-2, June Special Session**, expands the maximum size of the (1) CHP systems under the program to 5 megawatts and (2) the anaerobic digesters to 3 megawatts. The act requires CEFIA to examine the appropriate financial assistance for each CHP project and increases the maximum assistance from \$350 to \$450 per kilowatt.

EFFECTIVE DATE: Upon passage

### ***Project 150***

By law, the electric companies must enter into long-term contracts to buy the power produced at certain renewable energy generation plants. Under prior law, the Public Utilities Regulatory Authority (PURA)

could not extend the deadline for the plants approved for this program beyond the deadlines specified in their contracts. The bill creates an exception under which PURA must grant an extension, upon request, of such latest in-service date by 12 months for any project located in a distressed municipality, with a population of more than 125,000 (i.e., Bridgeport and New Haven, according to the 2010 census).

EFFECTIVE DATE: Upon Passage

## **E-911 CHARGES**

### ***Maximum Surcharge***

By law, the E-911 program is supported by a monthly surcharge levied on (1) local telephone, (2) cell phone, (3) voice over Internet protocol, and (4) prepaid wireless telephone service subscribers. [PA 12-134](#) increases from 50 cents to 75 cents per month, per access line, the maximum amount that the Public Utilities Regulatory Authority (PURA) can assess subscribers to fund the program.

EFFECTIVE DATE: Upon passage

### ***Public Safety Data Network***

[PA 12-68](#) requires the Department of Emergency Services and Public Protection (DESPP) to establish a public safety data network (PSDN) to exchange information among public safety and criminal justice

entities. It adds the expenses associated with implementing and maintaining the PSDN to the other E-911 expenses the DESPP commissioner must consider when he reports to PURA on the amount of funding needed for the E-911 system.

EFFECTIVE DATE: July 1, 2012

## **EMERGENCY PREPAREDNESS AND RESPONSE**

[PA 12-148](#) requires PURA to initiate a proceeding to (1) review electric and gas company emergency preparation and service restoration practices, infrastructure adequacy, and coordination efforts; (2) identify the most cost-effective levels of electric company tree trimming and system hardening needed to achieve maximum system reliability and minimize outages; and (3) establish electric and gas company emergency performance standards. The companies must also submit annual reports on their performance during emergencies.

The act requires PURA to review the companies' performance after an emergency and issue orders to enforce the standards. It also allows PURA to issue civil penalties against the electric or gas companies of up to \$10,000 per offense and up to a total of 2.5% of their annual distribution revenue.

The act requires PURA to open a proceeding to establish standards for restoring intrastate

telecommunications under certain circumstances after an emergency. It also requires telephone telecommunications companies to issue credits to customers who lose service under certain circumstances.

Among other things, the act also:

1. requires cell phone service providers to report on the backup power generation capabilities of their cell towers;
2. requires the Department of Energy and Environmental Protection (DEEP), in consultation with the utility companies, the Department of Transportation, DESPP, and an association of municipalities, to develop a procedure for expedited road clearing for public safety personnel after an emergency;
3. establishes a pilot program to fund infrastructure for onsite electricity generation for critical facilities (micro-grids);
4. requires PURA to study the feasibility of creating a program to reimburse residential customers for food and medications lost due to power outages; and
5. expands the scope of the state's civil preparedness and training requirements by requiring all private utility companies, including electric, gas, telephone, water, and cable

TV companies, to comply with the state's comprehensive civil preparedness plan.

EFFECTIVE DATE: Upon passage, except for the provisions regarding civil preparedness planning and training, which are effective July 1, 2012.

## **FINANCE**

### ***Renewable Energy and Efficient Energy Finance Program***

Prior law required Connecticut Innovations, Inc. to establish a municipal renewable energy and efficient energy generation grant program for municipalities to purchase and operate, for municipal buildings, (1) renewable energy sources and (2) energy-efficient generation sources. [PA 12-189](#) eliminates this program and requires the Clean Energy Finance and Investment Authority (CEFIA) to establish a renewable energy and efficient energy finance program for any entities, not just municipalities, undertaking these types of projects. It transfers an existing \$18 million bond authorization for the municipal grant program, which the Bond Commission never allocated, to CEFIA for the financing program. The bonds are subject to standard statutory issuance and repayment requirements and their proceeds go into a separate account within the Clean Energy Fund.

The new law also specifies (1) how CEFIA must administer the program, (2) the types of assistance available through the program, (3) the types of projects eligible for assistance, and (4) reporting requirements.

EFFECTIVE DATE: July 1, 2012

### ***Weather Related Property Damage Grants***

[PA 12-189](#) authorizes \$2 million in general obligation bonds for FY 13 to be used in a DEEP buy-out program for homeowners and businesses receiving Federal Emergency Management (FEMA) funds related to property damage due to the 2011 storms and subsequent events.

EFFECTIVE DATE: July 1, 2012

### **GASOLINE TAX CAP AND PENALTIES FOR ABNORMAL PRICE INCREASES IN CERTAIN PETROLEUM PRODUCTS**

[PA 12-4](#) caps, at \$3 per gallon, the amount of gross earnings from wholesale gasoline and gasohol subject to the petroleum products gross earnings tax.

The act bars petroleum products distributors from including in any billing for the first sale of any petroleum products in the state any amount representing the gross earnings tax that exceeds their gross earnings tax liability. It (1) gives

the Department of Consumer Protection (DCP) commissioner the discretion to investigate complaints to enforce this provision and (2) starting April 15, 2012, makes a violation of this provision an unfair or deceptive trade practice under the Connecticut Unfair Trade Practices Act (CUTPA). It specifies that the CUTPA violation is in lieu of existing penalties under the petroleum products gross earnings tax law.

In addition, the act (1) makes the 90 calendar days after its passage an abnormal market disruption period in the price of energy resources and (2) establishes the amount of any future increase in the wholesale price of gasoline or gasohol that must be deemed an abnormal market disruption. It includes gasohol and number 2 heating oil used exclusively for heating purposes in the definition of an energy resource covered by the law that prohibits excessive pricing.

By law, during the period of a disruption, all energy resources sellers are barred from charging an “unconscionably excessive price.” The act establishes a fine of up to a \$10,000 for each market disruption violation in addition to the unfair and deceptive trade practices penalties that already apply.

EFFECTIVE DATE: April 3, 2012

## **RESIDENTIAL HEATING OIL AND PROPANE CONTRACTS**

With some exceptions, [PA 12-76](#) requires a written contract for (1) residential heating fuel sales and (2) heating fuel tank rentals or leases. It establishes numerous requirements for what must be included and what cannot be included in these contracts. It applies to fuel sales in which the fuel is the primary source of heat for residential heating or domestic hot water for a residential structure having one to four units. The act also establishes various requirements for (1) guaranteed fuel price plans, (2) tank sale and lease contracts, (3) fuel delivery, and (4) fuel dealers.

The act increases and standardizes the penalties for violations. It also allows the DCP to (1) suspend or revoke any registration if the dealer fails to comply with a subpoena, (2) compel by subpoena, the production of any document from any fuel dealer or provider of surety bonds, futures or forwards contracts, physical supply contracts, or other similar commitments regarding compliance with the guaranteed price plan requirements, and (3) adopt regulations establishing a consumer bill of rights.

Except for an underground tank addendum requirement, the bill does not apply the retail contract, delivery, or tank provisions to existing heating fuel consumers who have a valid

written contract on July 1, 2013. But its provisions apply on the contract's renewal or expiration dates.

EFFECTIVE DATE: July 1, 2013

## **TELECOMMUNICATIONS TOWER SITING**

[PA 12-165](#) requires telecommunications tower developers to begin consulting with potentially affected municipalities 90, rather than 60, days before applying to the Siting Council for a certificate approving the tower's location. It also expands the scope of this consultation.

It prohibits the council from approving a telecommunications tower's installation within 250 feet of a school or commercial child day care center unless (1) the municipality's chief elected official approves the location or (2) the council finds that it will not have a substantial adverse effect on the aesthetics or scenic quality of the school or day care center's neighborhood.

The act (1) expands the factors the council must consider when approving cable TV or telecommunications towers and equipment and (2) allows the council to request the attorney general to bring a civil suit under certain circumstances.

The act also (1) adds neighborhood concerns, including public safety, to the factors the council must consider when reviewing power plant

applications; (2) allows the council to consider regional location preferences from municipalities neighboring the municipality subject to a siting certification; and (2) modifies how municipalities are reimbursed from the Municipal Participation Account for participating in council proceedings.

EFFECTIVE DATE: Upon passage for the pre-application consultation and municipal participation account provisions, and July 1, 2012 for the remaining provisions.

## **MISCELLANEOUS**

### ***Energy Assistance***

For FY 13, PA 12-104 transfers \$2 million of the funds collected through the systems benefit charge (SBC) on electric utility customers to the Department of Energy and Environmental Protection to provide energy assistance through Operation Fuel. By law, the SBC covers the cost of implementing various public policies affecting electric companies.

EFFECTIVE DATE: July 1, 2012

### ***GIS Data Sharing***

**PA 12-2, June Special Session**, requires electric companies to provide certain utility pole data to the geographic or geospatial information systems

(GIS) analyst or coordinator, or other equivalent official, of any municipality, regional planning agency, regional council of elected officials, or regional council of governments who requests it.

Under the act, electric companies must share GIS data for poles they own or jointly own that are located in the municipality or the area served by the regional organization. The data include pole ownership, ID number, XY coordinate location, height, classification, and street or post light wattage size. The act also allows the companies to provide the location of medical hardship accounts to a municipality that requests this information for public safety reasons during an emergency.

Before receiving the data, the municipality or regional organization must demonstrate to the electric company that it has appropriate procedures to keep the data confidential. The municipality or regional organization must only use the data internally and cannot publicly disclose it without the company's consent. The act exempts any data shared under the act from disclosure under the Freedom of Information Act.

EFFECTIVE DATE: Upon passage

**Low-Income Energy Advisory Board**

**PA 12-2, June Special Session:**

1. requires the Low-Income Energy Advisory Board to elect its chairperson and vice-chairperson (under current law the Office of Policy and Management (OPM) secretary serves as the chairperson);
2. removes the ability of the OPM secretary and the Department of Social Services commissioner or their designees to vote on board matters;
3. adds the Department of Energy and Environmental Protection (DEEP) commissioner or his designee as a non-voting board member;
4. requires that the DEEP commissioner or his designee, rather than the OPM secretary, provide notice of meetings to board members and space for its meetings, maintain minutes, and publish the board's reports; and
5. allows all, rather than just specified, members of the board to name designees to serve on the board.

EFFECTIVE DATE: July 1, 2012

**Unclassified Misdemeanors**

Prior law classified a public utility company's failure to timely report its formation, consolidation, discontinuance, or name change as an unclassified misdemeanor punishable by up to a \$200 fine, 60 day imprisonment, or both. **PA 12-80** reduces the failure to report to a violation with a maximum \$250 fine and no jail time.

EFFECTIVE DATE: October 1, 2012

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