

Office of Legislative Research  
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**OLR ACTS AFFECTING**

**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 2011 regular and special legislative sessions, most notably PA 11-80, An Act Concerning the Establishment of the Department of Energy and Environmental Protection and Planning for Connecticut's Energy Future. In each summary we indicate the public act (PA) number. 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 2011 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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## **CHARGES ON ELECTRIC BILLS**

Prior law authorized the issuance of economic recovery revenue bonds (ERRBs) to provide up to \$956 million in revenue for transfer to the General Fund and to pay the bond financing costs. The bonds were payable from revenue generated by (1) extending a per-kilowatt-hour surcharge (the competitive transition assessment or CTA) on electric bills beyond the dates when it would otherwise have expired and (2) diverting 35% of the revenue from an electric conservation charge that would otherwise go to the Energy Conservation and Load Management Fund (ECLM).

### **PA 11-61:**

1. repeals the state treasurer's authority to issue ERRBs,
2. bars the use of any CTA charge to secure and pay off the ERRBs, and
3. eliminates the ECLM revenue diversion.

Prior law required all excess revenue from extended CTA charges beyond that needed to repay rate reduction bonds issued before January 1, 2002 to be used to pay off the ERRBs or, if ERRBs were not issued, deposited in the General Fund. The act instead requires the excess to be used to benefit customers as long as it does not lead to a recharacterization of the

tax, accounting, or other characteristics of the financing of the pre-2002 rate reduction bonds.

EFFECTIVE DATE: Upon passage

## **DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

**PA 11-80** creates the Department of Energy and Environmental Protection (DEEP) by merging the Department of Environmental Protection (DEP) and the Department of Public Utility Control (DPUC) and transferring their powers and duties, and those of the DEP commissioner, to DEEP and its commissioner. It reconstitutes DPUC as the Public Utilities Regulatory Authority (PURA), and places PURA and several existing energy-related entities, such as the Connecticut Siting Council, within DEEP. It also transfers the energy-related powers and duties of Office of Policy and Management (OPM) and its secretary regarding energy to DEEP and its commissioner.

EFFECTIVE DATE: July 1, 2011

## **ELECTRIC AND GAS SERVICE**

### **PA 11-80:**

1. requires PURA to study the feasibility of establishing discounted electric and gas rates for low-income

- customers by reallocating existing supports for these customers;
2. bars electric and gas utilities from terminating service at any time to hardship customers with children under 24 months old who are hospitalized if the attending physician determines that utility service is needed for the child's well-being;
  3. establishes a code of conduct for competitive electric suppliers, that regulates door-to-door sales, limits early termination fees, bars unfair trade practices, makes related changes, and establishes civil and administrative penalties for violations;
  4. requires DEEP to employ an electric power procurement manager and requires the manager, rather than the electric companies, to develop the plan for procuring power for the standard service the companies must provide to small customers who do not choose a competitive supplier; and
  5. modifies how this power is procured, eliminating a requirement for laddering, allowing for short term contracts, and making other changes.

EFFECTIVE DATE: July 1, 2011

## **ENERGY ASSISTANCE**

**PA 11-6** requires the annual \$1.1 million appropriation for FY 12 and FY 13 to DEEP for Operation Fuel to be used for emergency energy assistance for households with income levels under 200% of the applicable federal poverty level (FPL) that cannot make timely payments on energy bills. Operation Fuel must pay companies directly for all energy sources provided to qualified households. The emergency assistance can be for any energy use, including cooling.

EFFECTIVE DATE: July 1, 2011

**PA 11-6** also allocates \$100,000 of the appropriated funds in each fiscal year to OPM for a grant to Operation Fuel for its operating expenses in administering emergency home cooling assistance. **PA 11-48** transfers the appropriations from OPM to DEEP. Under PA 11-6 and PA 11-80, DEEP assumes OPM's energy-related powers and duties. PA 11-48 also corrects a reference to the services that Operation Fuel, Inc. provides to include all emergency energy assistance, not just home cooling.

EFFECTIVE DATE: July 1, 2011

## **ENERGY EFFICIENCY**

**PA 11-6** eliminates funding for natural gas conservation plans by repealing a provision that dedicates to such plans any utility company tax revenue that exceeds the legislatively adopted annual revenue estimate, up to a maximum of \$10 million per year. Under prior law, the comptroller transferred the dedicated revenue to the Energy Conservation Management Board account to be used to reimburse gas companies for their conservation expenditures.

EFFECTIVE DATE: Upon passage

### **PA 11-80:**

1. requires DEEP to establish programs to finance replacement residential heating equipment that is more energy efficient than the customer's current equipment and to provide financial incentives for such equipment and combined heat and power systems;
2. requires DEEP to develop a plan to reduce energy use in state buildings by at least 10% by 2013 and another 10% by 2018;
3. explicitly authorizes state agencies and municipalities to enter into energy saving performance contracts;
4. requires the Energy Conservation Management

Board to develop standardized performance contracting procedures, and authorizes municipalities to use these procedures or ones they develop themselves;

5. expands evaluation requirements for efficiency programs; and
6. establishes energy efficiency standards for televisions, DVD players, and similar products and broadens circumstances when efficiency standards would be implemented for other consumer products.

The act requires that each electric, gas, or heating fuel customer, regardless of heating source, be assessed the same fees, charges, co-pays, or other similar terms to access any audits administered by the Home Energy Solutions efficiency program. The costs of subsidizing audits for ratepayers whose primary source of heat is not electricity or natural gas may not exceed \$500,000 per year.

EFFECTIVE DATE: July 1, 2011

**PA 11-140** requires all principal payments for loans made from the Energy Conservation Loan Fund go directly back into the fund. Under prior law, the payments were deposited in the Housing Repayment and Revolving Loan Fund.

EFFECTIVE DATE: July 1, 2011

## **ENERGY PLANNING**

**PA 11-80** requires DEEP to develop a comprehensive plan integrating current efficiency and renewable energy plans. It also requires DEEP, rather than the electric companies, to prepare the integrated resources plan, which seeks to meet electric needs through a mix of efficiency programs and power generation, and modifies the planning process.

EFFECTIVE DATE: July 1, 2011

## **FINANCE AND TAXATION**

### ***Tax on Generators***

**PA 11-6** imposes a temporary tax on electric generation facilities of  $\frac{1}{4}$  of a cent per net kilowatt hour (kwh) of electricity generated and uploaded into the regional bulk power grid at Connecticut facilities. The tax, which expires on June 30, 2013, applies to all electricity except that generated through use of a fuel cell or alternative energy system, such as a solar or wind system.

The tax is payable quarterly starting by October 31, 2011 and thereafter, by the last day of January, April, July, and October, through June 30, 2013. Each taxpayer must file a Department of Revenue Services (DRS)-prescribed return that reports the kwhs generated during the calendar quarter

ending the preceding month and whatever other information the DRS commissioner considers necessary. Taxpayers must file returns and pay taxes electronically. Late payments are subject to a penalty of 10% of the tax due or \$50, whichever is greater, plus interest of 1% per month. The DRS audit, collection, and other tax administration procedures applicable to the admissions and dues taxes apply to the generator tax except where inconsistent.

The act allows the comptroller to count as revenue for FY 12 and FY 13, respectively, any generation tax revenue DRS receives within five business days after the July 31<sup>st</sup> following the end of those fiscal years.

EFFECTIVE DATE: July 1, 2011

**PA 11-61** exempts electricity generated by a resources recovery facility from a temporary electricity tax imposed by PA 11-6. The exemption applies to any facility using processes that reclaim material or energy values from solid waste.

EFFECTIVE DATE: July 1, 2011

**PA 11-233** exempts electricity generated by customer-side distributed resources from the temporary electricity tax imposed by PA 11-6. The exemption applies to any generating unit with a rating of 65 megawatts or less located on a customer's premises within the electric

transmission and distribution system. It includes fuel cells, photovoltaic systems, and small wind turbines.

EFFECTIVE DATE: July 1, 2011

### ***Other Taxation and Finance Acts***

**PA 11-6** also eliminates the sales tax exemption for property or services used in operating solid waste-to-energy facilities, but PA 11-61 restores this exemption.

**PA 11-57** merges three programs with separate general obligation bond authorizations for funding energy efficiency and renewable energy projects in businesses and state buildings. It does so by (1) limiting the program to state buildings, (2) requiring all three authorizations to fund the same types of projects, (3) transferring responsibility for all three programs to DEEP, and (4) eliminating separate program requirements.

The act also eliminates requirements that formerly applied to one or more of the separate programs. These are that:

1. bond funds be used only to pay the net project cost or the balance after applying available private incentives;
2. the funds be available through the Renewable

Energy Investment Fund;  
and

3. the state building where the project is performed (a) be certified or in the process of being certified in the Leadership in Energy and Environmental Design (LEED) program, (b) be in the process of becoming LEED silver-rated, or (c) have received or be in the process of receiving a two-globe rating in the Green Globes USA design program.

EFFECTIVE DATE: July 1, 2011

### **MISCELLANEOUS**

**PA 11-80** requires DEEP to conduct a number of studies including one on the rules governing the regional wholesale electric market and how it affects the state's ratepayers.

The act also requires utilities that cut and permanently patch a public highway in the course of repairs or installations to, one year after the permanent patch is made (1) inspect the patch, (2) make any additional repairs as may be necessary, and (3) certify to the municipality where it is located that it meets generally accepted standards of repair.

EFFECTIVE DATE: July 1, 2011

**PA 11-98** 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

**PA 11-221** expands the definition of criminal impersonation to include the use of an electronic device to impersonate another person (commonly called spoofing) with intent to defraud, deceive, or injure, that results in personal injury, financial loss, or the initiation of judicial proceedings. It does not apply to law enforcement officers performing their official duties. Under existing law, unchanged by the

act, criminal impersonation is a class A misdemeanor, punishable by up to one year in prison, a fine of up to \$2,000, or both.

EFFECTIVE DATE: October 1, 2011

**PA 11-140** requires the departments of transportation (DOT) and administrative services commissioners to jointly study the costs of converting up to 25% of the state's auto fleet to alternative energy sources. They must do this by July 1, 2011 within available appropriations and submit their findings and recommendations to the governor and the Commerce, Energy and Technology, Environment, and Transportation committees by February 1, 2012.

The study must include DOT's vehicles; identify the costs and environmental benefits of converting the fleet to electric power, alternative fuels, or natural gas; and establish deadlines for completing the conversion.

The law already sets goals for converting the state fleet to alternative energy sources. It requires all cars and light duty trucks purchased or leased on or after January 1, 2012 to be alternative fuel, hybrid electric, or plug-in vehicles. As of January 1, 2008, all alternative-fueled vehicles and all gas-powered light duty and hybrid vehicles had to be certified to the California Air Resources Board's Low Emission Vehicle II Ultra Low Emission Vehicle Standard.

EFFECTIVE DATE: Upon passage

### **MUNICIPAL ENERGY LOAN PROGRAM**

**PA 11-80** allows municipalities to establish a loan program to finance energy efficiency and renewable energy projects, and to recover costs by an assessment on the benefitted property.

EFFECTIVE DATE: July 1, 2011

### **POWER PLANT SAFETY**

**PA 11-101** codifies Executive Order No. 45 (issued by former Governor Rell), which prohibits anyone from using flammable gas to clean or blow an electric generating facility's (power plant) gas piping. It prohibits the Connecticut Siting Council from issuing a certificate to build a power plant unless the applicant demonstrates, to the council's satisfaction, that he or she (1) has retained, for the project's duration, at least one special inspector to help the local fire marshal review construction plans and inspect the facility during construction and (2) paid a fee the act establishes to be used to help train local fire marshals in power plant construction issues.

The act subjects to a fine of up to \$100,000, imprisonment for up to two years, or both, for each offense, anyone who (1) uses flammable gas to clean or

blow a power plant's gas piping or (2) obtains a power plant building certificate and fails to retain the required special inspector or pay the fire marshal training fee.

The act requires the Siting Council to meet with and solicit comments from specified state agencies when considering applications to build power plants. It requires that at least once during construction, the council and some of the named agencies meet to discuss any known or potential safety issue at the plant and submit any proposed resolutions to the plant's special inspector.

EFFECTIVE DATE: Upon passage

**PA 11-80** establishes a 16-member task force to study power plant safety. It must examine developing regulations for power plant safety, training protocols, audits, reporting requirements, qualifications and potential licensing requirements for a power plant inspector or operator, penalties for failing to comply with the requirements, and the best practices of other states. It must also evaluate which agency should be responsible for plant safety oversight and given access to facilities and records. It must cover plants being built and those in operation.

EFFECTIVE DATE: July 1, 2011

## **RENEWABLE ENERGY**

### **PA 11-80:**

1. expands the resources that can go into the Clean Energy Fund to include private capital and revenues reallocated to the fund by the legislature;
2. expands the types of projects the fund can support to include electric and natural gas vehicle infrastructure, electricity storage, and the financing of energy efficiency;
3. creates a quasi-public authority (the Clean Energy Finance and Investment Authority, CEFIA) to administer the fund, rather than Connecticut Innovations, Inc.;
4. requires CEFIA to implement a residential photovoltaic (PV) solar energy program, which must result in at least 30 megawatts of new PV generating capacity being installed in the state by December 31, 2022;
5. establishes a program that requires electric companies to enter into long-term contracts to buy renewable energy credits from zero-emission generators (e. g., solar, wind, hydro);
6. establishes a similar program for low-emission technologies;

7. allows municipal customers of electric companies to share net metering credits among buildings the municipality owns (virtual net metering);
8. allows municipalities to adopt ordinances exempting renewable energy projects from municipal building permit fees; and
9. allows electric companies to own up to 10 megawatts of renewable energy generating capacity.

EFFECTIVE DATE: July 1, 2011 except for the virtual net metering provisions, which are effective upon passage.

**PA 11-245** requires the Connecticut Siting Council, by July 1, 2012, to adopt regulations concerning the siting of wind turbines. The regulations must at least consider (1) setbacks, including tower height and distance from neighboring properties; (2) flicker; (3) a requirement for the developer to decommission the facility at the end of its useful life; (4) different requirements for different size projects; (5) ice throw; (6) blade shear; (7) noise; and (8) impact on natural resources. The regulations must also require a public hearing for wind turbine projects.

By law, the council can approve proposals for electric generating facilities by (1) granting a certificate of environmental compatibility and

public need or (2) issuing a declaratory ruling, depending on the facility's characteristics. The act bars the council from acting on any application or petition for siting a wind turbine until the regulations are adopted.

EFFECTIVE DATE: July 1, 2011

## **TELECOMMUNICATIONS**

**PA 11-1** allows municipal tax collectors to bill telecommunications companies for half the personal property taxes due in 2011 before they would otherwise be due. It allows them to mail or deliver the bill in two installments, the first one before the July 1, 2011 due date and the second on or after that date. The first installment must equal half the company's 2010 assessment multiplied by the municipality's mill rate for FY 11. The second installment must equal the other half of the 2010 assessment multiplied by the municipality's FY 12 mill rate. The installments are due, payable, collectible, and subject to the same liens and collection processes as other municipal taxes (i.e., payment is due within 30 days after receiving the tax bill).

The act subjects telecommunications companies to generally applicable property tax collection laws for assessment years beginning on or after October 1, 2011.

EFFECTIVE DATE: Upon passage

## **WATER COMPANIES**

The law requires certain water companies to get a certificate of public convenience and necessity from the Department of Public Utility Control (DPUC, moved into DEEP under PA 11-80) and the Department of Public Health (DPH) before they begin constructing and expanding their systems. **PA 11-242** adds two conditions under which DPUC and DPH must issue these certificates: (1) the proposed water supply system will not adversely affect the adequacy of nearby water systems and (2) any existing or potential pollution threat DPH deems to be adverse to public health will not affect any new water supply source.

EFFECTIVE DATE: October 1, 2011

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