



General Assembly

Substitute Bill No. 1176

January Session, 2011

* ____SB01176ET____032311____*

AN ACT CONCERNING ELECTRIC RATE RELIEF.

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

- 1 Section 1. (NEW) (*Effective July 1, 2011*) (a) As used in this section:
- 2 (1) "Person" has the same meaning as provided in section 12-1 of the
3 general statutes;
- 4 (2) "Electric generation services" has the same meaning as provided
5 in section 16-1 of the general statutes;
- 6 (3) "Electric generation facility" means electric generation facility, as
7 the term is used in section 12-94d of the general statutes;
- 8 (4) "Regional bulk power grid" means regional bulk power grid, as
9 the term is used in section 16a-7b of the general statutes;
- 10 (5) "Alternative energy system" has the same meaning as provided
11 in subdivision (21) of subsection (a) of section 12-213 of the general
12 statutes;
- 13 (6) "Fuel cells" has the same meaning as provided in subdivision
14 (113) of section 12-412 of the general statutes;
- 15 (7) "Commissioner" means the Commissioner of Revenue Services;

16 (8) "Department" means the Department of Revenue Services; and

17 (9) "Person subject to tax" means a person providing electric
18 generation services and uploading electricity generated at such
19 person's electric generation facility in this state to the regional bulk
20 power grid.

21 (b) (1) For each calendar quarter commencing on or after July 1,
22 2011, there is hereby imposed a tax on each person subject to tax,
23 which tax shall be one-half of one mill for oil-fueled generation, two
24 cents on nuclear generation, and one-half of one cent on coal-fired
25 generation, multiplied by the net kilowatt hours of electricity
26 generated by such person at such person's electric generation facility in
27 this state and uploaded to the regional bulk power grid, provided the
28 tax imposed by this subsection on coal-fired generation shall only be
29 imposed on the net kilowatt hours of electricity generated by such
30 electric generation facility in this state and uploaded to the regional
31 bulk power grid during the months of January, February, June, July
32 and August.

33 (2) Each person subject to tax shall, on or before the last day of
34 January, April, July and October of each year, render to the
35 commissioner a return, on forms prescribed or furnished by the
36 commissioner, reporting the kilowatt hours of electricity generated by
37 such person at such person's electric generation facility in this state
38 and uploaded to the regional bulk power grid during the calendar
39 quarter ending on the last day of the preceding month and reporting
40 such other information as the commissioner deems necessary for the
41 proper administration of this section. The tax imposed under this
42 section shall be due and payable on the due date of such return. Each
43 person subject to tax shall be required to file such return electronically
44 with the department and to make payment of such tax by electronic
45 funds transfer in the manner provided by chapter 228g of the general
46 statutes, irrespective of whether the person subject to tax would have
47 otherwise been required to file such return electronically or to make
48 such tax payment by electronic funds transfer under the provisions of

49 chapter 228g of the general statutes.

50 (c) Whenever the tax imposed under this section is not paid when
51 due, a penalty of ten per cent of the amount due and unpaid or fifty
52 dollars, whichever is greater, shall be imposed and interest at the rate
53 of one per cent per month or fraction thereof shall accrue on such tax
54 from the due date of such tax until the date of payment.

55 (d) The provisions of section 12-548 of the general statutes, sections
56 12-550 to 12-554, inclusive, of the general statutes and section 12-555a
57 of the general statutes shall apply to the provisions of this section in
58 the same manner and with the same force and effect as if the language
59 of said sections had been incorporated in full into this section and had
60 expressly referred to the tax imposed under this section, except to the
61 extent that any provision is inconsistent with a provision in this
62 section.

63 (e) The tax imposed by this section shall not apply to any net
64 kilowatt hours of electricity generated at an electric generation facility
65 in this state exclusively through the use of fuel cells, natural gas or an
66 alternative energy system.

67 (f) At the end of each fiscal year commencing with the fiscal year
68 ending June 30, 2012, the Comptroller is authorized to record as
69 revenue for such fiscal year the amount of tax imposed under the
70 provisions of this section on electricity generated prior to the end of
71 such fiscal year and which tax is received by the Commissioner of
72 Revenue Services not later than five business days after the last day of
73 July immediately following the end of such fiscal year.

74 (g) Revenues collected from the tax imposed pursuant to this section
75 shall be credited to the resources of the General Fund and directed as
76 follows: (1) Until such time as the economic recovery revenue bonds
77 issued pursuant to sections 16-245e to 16-245k, inclusive, of the general
78 statutes, as amended by this act, and section 16-245m of the general
79 statutes are defeased or paid in full, such revenues shall be directed to
80 the costs of providing, recovering, financing or refinancing the

81 economic recovery transfer, as defined in section 16-245e of the general
82 statutes, as amended by this act, including the costs of issuing,
83 servicing and retiring the economic recovery revenue bonds; (2) after
84 such bonds are defeased, used to provide ratepayer relief; and (3) used
85 to provide funding for clean and renewable energy projects.

86 Sec. 2. Subdivisions (19) and (20) of subsection (a) of section 16-245e
87 of the general statutes are repealed and the following is substituted in
88 lieu thereof (*Effective from passage*):

89 (19) "Economic recovery transfer" means the disbursement to the
90 General Fund of up to nine hundred fifty-six million dollars from
91 proceeds of the issuance of the economic recovery revenue bonds; and

92 (20) "Economic recovery revenue bonds" means rate reduction
93 bonds issued to fund the economic recovery transfer, the costs of
94 issuance, credit enhancements, operating expenses and such other
95 costs as the finance authority deems necessary or advisable, and which
96 shall be payable first from the revenues collected pursuant to the tax
97 imposed by section 1 of this act, and then to the extent necessary, from
98 competitive transition assessment charges that replace the competitive
99 transition assessment charges funding stranded costs and that are
100 offset in part by decreases to the charges funding the Energy
101 Conservation and Load Management Fund, as provided in subdivision
102 (3) of subsection (a) of section 16-245m.

103 Sec. 3. Subsection (b) of section 16-245f of the general statutes is
104 repealed and the following is substituted in lieu thereof (*Effective July*
105 *1, 2011*):

106 (b) Prior to September 1, 2010, each electric distribution company
107 shall submit to the department an application for a financing order
108 with respect to funding the economic recovery transfer through the
109 issuance of economic recovery revenue bonds. The department shall
110 hold a hearing for each such electric distribution company to
111 determine the amount necessary to fund the economic recovery
112 transfer, the payment of economic recovery revenue bonds, costs of

113 issuance, credit enhancements and operating expenses for the
114 economic recovery revenue bonds. Such amount as determined by the
115 department shall constitute transition property. The department shall
116 allocate the responsibility for the funding of the economic recovery
117 transfer and the expenses of the economic recovery revenue bonds
118 equitably between the electric distribution companies. Such allocation
119 may provide that the respective charges payable by the customers of
120 each electric distribution company may commence on different dates
121 and that such rates may vary over the period the economic recovery
122 revenue bonds and the related operating expenses are being paid,
123 provided (1) such charges are equitably allocated to the customers of
124 each electric distribution company, and (2) the department determines
125 that, over such period, and taking into account the timing of charges,
126 the charges on a kilowatt hour basis assessed to the customers of the
127 respective electric distribution companies have substantially the same
128 present value after consultation with the finance authority as to the
129 discount rate to be used in determining such present value. Any
130 hearing with respect to a financing order in respect to the economic
131 recovery transfer and the issuance of economic recovery revenue
132 bonds shall not be a contested case, as defined in section 4-166. The
133 department shall issue a financing order in respect to the economic
134 recovery revenue bonds for each electric distribution company on or
135 before October 1, 2010. In such financing order, the department shall
136 determine the competitive transition assessment in respect of the
137 economic recovery revenue bonds, which shall not be assessed prior to
138 June 30, 2011, unless the department sets an earlier date in the
139 financing order. A component of the competitive transition assessment
140 in respect of the economic recovery revenue bonds shall be equal to the
141 decreases to the charges provided in subdivision (3) of subsection (a)
142 of section 16-245m funding the Energy Conservation and Load
143 Management Fund. The portion of the competitive transition
144 assessment in respect to the economic recovery revenue bonds equal to
145 such decreases shall be assessed and collected from the date such
146 charges are reduced pursuant to the financing order. The department
147 may provide in such financing order that money from other sources,

148 including revenues from the tax assessed pursuant to section 1 of this
149 act and proceeds of charges assessed customers of municipal electric
150 companies, transferred to the trustee under the indenture and
151 intended to be used to pay debt service on the bonds shall be taken
152 into account in making adjustments to the competitive transition
153 assessment pursuant to subdivision (2) of subsection (b) of section 16-
154 245i if such payment is not made from General Fund revenues and
155 would not adversely affect the tax status or credit rating of economic
156 recovery revenue bonds.

157 Sec. 4. Subsection (b) of section 16-245h of the general statutes is
158 repealed and the following is substituted in lieu thereof (*Effective July*
159 *1, 2011*):

160 (b) Any surplus competitive transition assessment described in
161 subparagraph (A) of subdivision (2) of subsection (a) of section 16-245e
162 in excess of the amounts necessary to pay principal, premium, if any,
163 interest and expenses of the issuance of the rate reduction bonds
164 issued prior to January 1, 2002, after such bonds have been defeased or
165 paid in full, shall be remitted to the finance authority who shall apply
166 such charges to the payment of economic recovery revenue bonds and
167 cause such charges to be credited against the payment obligation in
168 respect to the economic recovery revenue bonds of the customers
169 making such excess payments. If the economic recovery revenue bonds
170 are not issued, the finance authority shall transfer such excess charges
171 to the General Fund. Any surplus competitive transition assessment
172 described in subparagraph (A) of subdivision (2) of subsection (a) of
173 section 16-245e in excess of the amounts necessary to pay principal,
174 premium, if any, interest and expenses of the issuance of the rate
175 reduction bonds issued on or after May 1, 2010, shall be remitted to the
176 financing entity and [may] shall be used to benefit customers. No
177 funds shall be remitted, applied or used in accordance with the terms
178 of this subsection if such remittance, application or use would result in
179 a recharacterization of the tax, accounting, and other intended
180 characteristics of the financing, including, but not limited to, the
181 following:

182 (1) Avoiding the recognition of debt on the electric company's or the
183 electric distribution company's balance sheet for financial accounting
184 and regulatory purposes;

185 (2) Treating the rate reduction bonds as debt of the electric company
186 or electric distribution company or its affiliates for federal income tax
187 purposes;

188 (3) Treating the transfer of the transition property by the electric
189 company or electric distribution company as a true sale for bankruptcy
190 purposes; or

191 (4) Avoiding any adverse impact of the financing on the credit
192 rating of the rate reduction bonds or the electric company or electric
193 distribution company.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	New section
Sec. 2	<i>from passage</i>	16-245e(a)(19) and (20)
Sec. 3	<i>July 1, 2011</i>	16-245f(b)
Sec. 4	<i>July 1, 2011</i>	16-245h(b)

ET *Joint Favorable Subst.*