



General Assembly

**Substitute Bill No. 869**

*January Session, 2001*

**AN ACT CONCERNING LOCAL PARTICIPATION IN THE SITING OF  
CELLULAR TOWERS.**

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

1 Section 1. Subsection (a) of section 16-50i of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (a) "Facility" means: (1) An electric transmission line of a design  
4 capacity of sixty-nine kilovolts or more, including associated  
5 equipment but not including a transmission line tap, as defined in  
6 subsection (e) of this section; (2) a fuel transmission facility, except a  
7 gas transmission line having a design capability of less than two  
8 hundred pounds per square inch gauge pressure; (3) any electric  
9 generating or storage facility using any fuel, including nuclear  
10 materials, including associated equipment for furnishing electricity but  
11 not including an emergency generating device, as defined in  
12 subsection (f) of this section, or a facility (i) owned and operated by a  
13 private power producer, as defined in section 16-243b, (ii) which is a  
14 qualifying small power production facility or a qualifying  
15 cogeneration facility under the Public Utility Regulatory Policies Act of  
16 1978, as amended, or a facility determined by the council to be  
17 primarily for a producer's own use, and (iii) which has, in the case of a  
18 facility utilizing renewable energy sources, a generating capacity of  
19 one megawatt of electricity or less and, in the case of a facility utilizing  
20 cogeneration technology, a generating capacity of twenty-five

21 megawatts of electricity or less; (4) any electric substation or  
22 switchyard designed to change or regulate the voltage of electricity at  
23 sixty-nine kilovolts or more or to connect two or more electric circuits  
24 at such voltage, which substation or switchyard may have a substantial  
25 adverse environmental effect, as determined by the council established  
26 under section 16-50j, and other facilities which may have a substantial  
27 adverse environmental effect as the council may, by regulation,  
28 prescribe; (5) such community antenna television towers and head-end  
29 structures, including associated equipment, which may have a  
30 substantial adverse environmental effect, as said council shall, by  
31 regulation, prescribe; and (6) such telecommunication towers,  
32 including associated telecommunications equipment, owned or  
33 operated by the state, a public service company or a certified  
34 telecommunications provider or used in a cellular system, as defined  
35 in the Code of Federal Regulations Title 47, Part 22, as amended, or  
36 used in personal communications services, as defined in the Code of  
37 Federal Regulations Title 47, Part 24, as amended, which may have a  
38 substantial adverse environmental effect, as said council shall, by  
39 regulation, prescribe.

40 Sec. 2. Subsection (a) of section 16-50k of the general statutes is  
41 repealed and the following is substituted in lieu thereof:

42 (a) Except as provided in subsection (b) of section 16-50z, no person  
43 shall exercise any right of eminent domain in contemplation of,  
44 commence the preparation of the site for, or commence the  
45 construction or supplying of a facility, or any modification of a facility,  
46 that may, as determined by the council, have a substantial adverse  
47 environmental effect, in the state without having first obtained a  
48 certificate of environmental compatibility and public need, hereinafter  
49 referred to as a "certificate", issued with respect to such facility or  
50 modification by the council, except fuel cells with a generating  
51 capacity of ten kilowatts or less which shall not require such certificate.  
52 Any facility with respect to which a certificate is required shall  
53 thereafter be built, maintained and operated in conformity with such  
54 certificate and any terms, limitations or conditions contained therein.

55 Notwithstanding the provisions of this subsection, the council shall, (1)  
56 in the exercise of its jurisdiction over the siting of generating facilities,  
57 approve by declaratory ruling ~~[(1)]~~ (A) the construction of a facility  
58 solely for the purpose of generating electricity other than an electric  
59 generating facility that uses nuclear materials or coal as fuel, at a site  
60 where an electric generating facility operated prior to July 1, 1998, and  
61 ~~[(2)]~~ (B) the construction or location of any fuel cell, unless the council  
62 finds a substantial adverse environmental effect, or (2) in the exercise  
63 of its jurisdiction over the siting of a telecommunications tower, as  
64 specified in subdivision (6) of subsection (a) of section 16-50i, as  
65 amended by this act, declare the pending certification proceeding moot  
66 and approve by declaratory ruling the construction of such a tower  
67 when such tower has been approved or has been found to be in  
68 compliance with municipal regulations or a telecommunications plan  
69 of development by the site municipality, unless the council finds that  
70 the relevant pending proceeding is necessary because there is evidence  
71 that such tower may be unnecessary or may cause a substantial  
72 adverse environmental effect.

73 Sec. 3. Subsection (e) of section 16-50l of the general statutes is  
74 repealed and the following is substituted in lieu thereof:

75 (e) At least sixty days prior to the filing of any application with the  
76 council, the applicant shall consult with the municipality in which the  
77 facility may be located and with any other municipality required to be  
78 served with a copy of the application under subdivision (1) of  
79 subsection (b) of this section concerning the proposed and alternative  
80 sites of the facility. Such consultation with the municipality shall  
81 include, but not be limited to good faith efforts to meet with the chief  
82 elected official of the municipality. At the time of the consultation, the  
83 applicant shall provide the chief elected official and the chairpersons of  
84 the zoning commission, planning commission, planning and zoning  
85 commission, conservation commission or inland wetland agency of  
86 each municipality in which any portion of a facility is to be located  
87 with any other technical reports concerning the public need, the site  
88 selection process and the environmental effects of the proposed

89 facility. The municipality may conduct public hearings and meetings  
90 as it deems necessary for it to advise the applicant of its  
91 recommendations concerning the proposed facility. Within sixty days  
92 of the initial consultation, the municipality [shall] may develop a  
93 written record and issue its recommendations to the applicant. No  
94 later than fifteen days after submitting the application to the council,  
95 the applicant shall provide to the council all materials provided to the  
96 municipality and a summary of the consultations with the  
97 municipality including all recommendations issued by the  
98 municipality.

99 Sec. 4. Subsection (d) of section 16-50m of the general statutes is  
100 repealed and the following is substituted in lieu thereof:

101 (d) Hearings, including general hearings on issues which may be  
102 common to more than one application, may be held before [a majority  
103 of the] three or more members of the council.

104 Sec. 5. Subsection (a) of section 16-50n of the general statutes is  
105 repealed and the following is substituted in lieu thereof:

106 (a) The parties to a certification or amendment proceeding or to a  
107 declaratory ruling proceeding shall include: (1) The applicant,  
108 certificate holder, or petitioner; (2) each person entitled to receive a  
109 copy of the application or resolution under section 16-50l, if such  
110 person has filed with the council a notice of intent to be a party; (3) any  
111 domestic or qualified nonprofit corporation or association formed in  
112 whole or in part to promote conservation or natural beauty, to protect  
113 the environment, personal health or biological values, to preserve  
114 historical sites, to promote consumer interests, to represent commercial  
115 and industrial groups or to promote the orderly development of the  
116 areas in which the facility is to be located, if it has filed with the  
117 council a notice of intent to be a party; [and] (4) the zoning  
118 commission, planning commission, planning and zoning commission,  
119 conservation commission or inland wetland agency of each  
120 municipality in which any portion of a facility is to be located, unless

121 such local bodies decline to participate as parties to the proceeding;  
122 and (5) such other persons as the council may at any time deem  
123 appropriate.

124 Sec. 6. Subsection (d) of section 16-50x of the general statutes is  
125 repealed and the following is substituted in lieu thereof:

126 (d) Any town, city or borough zoning commission and inland  
127 wetland agency may regulate and restrict the proposed location of a  
128 facility, as defined in subdivisions (3), [and] (4) and (6) of subsection  
129 (a) of section 16-50i, as amended by this act. The application to such a  
130 local body shall be the same application filed with the council. The  
131 applicant shall file the application with such a local body at the same  
132 time the applicant files it with the council. Such local bodies may apply  
133 standards developed by town ordinances, regulations or a plan of  
134 development created in accordance with section 8-35a, and make all  
135 orders necessary to the exercise of such power to regulate and restrict,  
136 which orders shall be in writing and recorded in the records of their  
137 respective communities, and written notice of any order shall be given  
138 to each party affected thereby. Such a local body shall make any such  
139 order (1) not more than sixty-five days after an application has been  
140 filed with the council for the siting of a facility described in  
141 subdivision (3) of subsection (a) of section 16-50i, or (2) not more than  
142 thirty days after an application has been filed with the council for the  
143 siting of a facility described in subdivision (4) of subsection (a) of  
144 section 16-50i. Each such order shall be subject to the right of appeal  
145 within thirty days after the giving of such notice by any municipality  
146 required to be served with a copy of the application under subdivision  
147 (1) of subsection (b) of section 16-50l or by any party aggrieved to the  
148 council, which shall have jurisdiction, in the course of any proceeding  
149 on an application for a certificate or otherwise, to affirm, modify or  
150 revoke such order or make any order in substitution thereof by a vote  
151 of six members of the council. In the case of a facility described in  
152 subdivision (6) of subsection (a) of section 16-50i, each such order shall  
153 be subject to the right of appeal within thirty days after the giving of  
154 such notice by any municipality required to be served with a copy of

