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Amendment

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LCO No. 6204

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Offered by:

SEN. DUFF, 25th Dist.

REP. REED, 102nd Dist.

SEN. CHAPIN, 30th Dist.

SEN. LEBEAU, 3rd Dist.

To: Subst. Senate Bill No. 1138

File No. 120

Cal. No. 141

"AN ACT CONCERNING CONNECTICUT'S CLEAN ENERGY GOALS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subdivision (26) of subsection (a) of section 16-1 of the
4 general statutes is repealed and the following is substituted in lieu
5 thereof (*Effective from passage*):

6 (26) "Class I renewable energy source" means (A) [energy] electricity
7 derived from (i) solar power, (ii) wind power, (iii) a fuel cell, [methane
8 gas from landfills,] (iv) geothermal, (v) landfill methane gas, anaerobic
9 digestion or other biogas derived from biological sources, (vi) thermal
10 electric direct energy conversion from a certified Class I renewable
11 energy source, (vii) ocean thermal power, (viii) wave or tidal power,
12 (ix) low emission advanced renewable energy conversion technologies,
13 (x) a run-of-the-river hydropower facility [provided such facility] that

14 began operations after July 1, 2003, and has a generating capacity of
15 not more than [five megawatts, does not cause an appreciable change
16 in the river flow, and began operation after July 1, 2003] thirty
17 megawatts, provided a facility that applies for certification under this
18 clause after January 1, 2013, shall not be based on a new dam or a dam
19 identified by the commissioner as a candidate for removal, and shall
20 meet applicable state and federal requirements, including applicable
21 site-specific standards for water quality and fish passage, or (xi) a
22 [sustainable biomass facility with] biomass facility that uses
23 sustainable biomass fuel and has an average emission rate of equal to
24 or less than .075 pounds of nitrogen oxides per million BTU of heat
25 input for the previous calendar quarter, except that energy derived
26 from a [sustainable] biomass facility with a capacity of less than five
27 hundred kilowatts that began construction before July 1, 2003, may be
28 considered a Class I renewable energy source, or (B) any electrical
29 generation, including distributed generation, generated from a Class I
30 renewable energy source, provided, on and after January 1, 2014, any
31 megawatt hours of electricity from a renewable energy source
32 described under this subparagraph that are claimed or counted by a
33 load-serving entity, province or state toward compliance with
34 renewable portfolio standards or renewable energy policy goals in
35 another province or state, other than the state of Connecticut, shall not
36 be eligible for compliance with the renewable portfolio standards
37 established pursuant to section 16-245a, as amended by this act;

38 Sec. 2. Subdivision (44) of subsection (a) of section 16-1 of the
39 general statutes is repealed and the following is substituted in lieu
40 thereof (*Effective from passage*):

41 (44) "Class III source" means the electricity output from combined
42 heat and power systems with an operating efficiency level of no less
43 than fifty per cent that are part of customer-side distributed resources
44 developed at commercial and industrial facilities in this state on or
45 after January 1, 2006, a waste heat recovery system installed on or after
46 April 1, 2007, that produces electrical or thermal energy by capturing

47 preexisting waste heat or pressure from industrial or commercial
48 processes, or the electricity savings created in this state from
49 conservation and load management programs begun on or after
50 January 1, 2006, provided on and after January 1, 2014, no such
51 programs supported by ratepayers, including programs overseen by
52 the Energy Conservation Management Board or third-party programs
53 pursuant to section 16-245m, shall be considered a Class III source,
54 except that any demand-side management project awarded a contract
55 pursuant to section 16-243m shall remain eligible as a Class III source
56 for the term of such contract;

57 Sec. 3. Subdivision (45) of subsection (a) of section 16-1 of the
58 general statutes is repealed and the following is substituted in lieu
59 thereof (*Effective from passage*):

60 (45) "Sustainable biomass fuel" means biomass that is cultivated and
61 harvested in a sustainable manner. "Sustainable biomass fuel" does not
62 mean construction and demolition waste, as defined in section 22a-
63 208x, finished biomass products from sawmills, paper mills or stud
64 mills, organic refuse fuel derived separately from municipal solid
65 waste, or biomass from old growth timber stands, except where (A)
66 such biomass is used in a biomass gasification plant that received
67 funding prior to May 1, 2006, from the Clean Energy Fund established
68 pursuant to section 16-245n, or (B) the energy derived from such
69 biomass is subject to a long-term power purchase contract pursuant to
70 subdivision (2) of subsection (j) of section 16-244c entered into prior to
71 May 1, 2006; [(C) such biomass is used in a renewable energy facility
72 that is certified as a Class I renewable energy source by the authority
73 until such time as the authority certifies that any biomass gasification
74 plant, as defined in subparagraph (A) of this subdivision, is
75 operational and accepting such biomass, in an amount not to exceed
76 one hundred forty thousand tons annually, is used in a renewable
77 energy facility that was certified as a Class I renewable energy source
78 by the authority prior to December 31, 2007, and uses biomass,
79 including construction and demolition waste as defined in section 22a-

80 208x, from a Connecticut-sited transfer station and volume-reduction
81 facility that generated biomass during calendar year 2007 that was
82 used during calendar year 2007 to generate Class I renewable energy
83 certificates, or (D) in the event there is no facility as described in
84 subparagraph (A) or (C) of this subdivision accepting such biomass, in
85 an amount not to exceed one hundred forty thousand tons annually, is
86 used in one or more other renewable energy facilities certified either as
87 a Class I or Class II renewable energy source by the authority,
88 provided such facilities use biomass, including construction and
89 demolition waste as defined in said section 22a-208x, from a
90 Connecticut-sited transfer station and volume-reduction facility that
91 generated biomass during calendar year 2007 that was used during
92 calendar year 2007 to generate Class I renewable energy certificates.
93 Notwithstanding the provisions of subparagraphs (C) and (D) of this
94 subdivision, the amount of biomass specified in said subparagraphs
95 shall not apply to a biomass gasification plant, as defined in
96 subparagraph (A) of this subdivision;]

97 Sec. 4. Subsection (a) of section 16-1 of the general statutes is
98 amended by adding subdivision (53) as follows (*Effective from passage*):

99 (NEW) (53) "Large-scale hydropower" means any hydropower
100 facility that (A) began operation on or after January 1, 2003, (B) is
101 located in the New England Power Pool Generation Information
102 System geographic eligibility area in accordance with Rule 2.3 or an
103 area abutting the northern boundary of the New England Power Pool
104 Generation Information System geographic eligibility area that is not
105 interconnected with any other control area that is not a part of the New
106 England Power Pool Generation Information System geographic
107 eligibility area, (C) delivers power into such geographic eligibility area,
108 and (D) has a generating capacity of more than thirty megawatts.

109 Sec. 5. Section 16-245a of the general statutes is amended by adding
110 subsection (h) as follows (*Effective from passage*):

111 (NEW) (h) On or before January 1, 2014, the Commissioner of

112 Energy and Environmental Protection shall, in developing or
113 modifying an Integrated Resources Plan in accordance with sections
114 16a-3a and 16a-3e, establish a schedule to commence on January 1,
115 2015, for assigning a gradually reduced renewable energy credit value
116 to all biomass or landfill methane gas facilities that qualify as a Class I
117 renewable energy source pursuant to section 16-1, as amended by this
118 act, provided this subsection shall not apply to anaerobic digestion or
119 other biogas facilities, and further provided any reduced renewable
120 energy credit value established pursuant to this section shall not apply
121 to any biomass or landfill methane gas facility that has entered into a
122 power purchase agreement (1) with an electric supplier or electric
123 distribution company in the state of Connecticut on or before the
124 effective date of this act, or (2) executed in accordance with section 6 or
125 8 of this act. The Commissioner of Energy and Environmental
126 Protection may review the schedule established pursuant to this
127 subsection in preparation of each subsequent Integrated Resources
128 Plan developed pursuant to section 16a-3a and make any necessary
129 changes thereto to ensure that the rate of reductions in renewable
130 energy credit value for biomass or landfill methane gas facilities is
131 appropriate given the availability of other Class I renewable energy
132 sources.

133 Sec. 6. (NEW) (*Effective from passage*) On or after January 1, 2013, the
134 Commissioner of Energy and Environmental Protection, in
135 consultation with the procurement manager identified in subsection (l)
136 of section 16-2 of the general statutes, the Office of Consumer Counsel
137 and the Attorney General, may, in coordination with other states in the
138 region of the regional independent system operator, as defined in
139 section 16-1 of the general statutes, as amended by this act, or on the
140 commissioner's own, solicit proposals, in one solicitation or multiple
141 solicitations, from providers of Class I renewable energy sources, as
142 defined in section 16-1 of the general statutes, as amended by this act,
143 constructed on or after January 1, 2013. If the commissioner finds such
144 proposals to be in the interest of ratepayers including, but not limited
145 to, the delivered price of such sources, and consistent with the

146 requirements to reduce greenhouse gas emissions in accordance with
147 section 22a-200a of the general statutes, and in accordance with the
148 policy goals outlined in the Comprehensive Energy Strategy, adopted
149 pursuant to section 16a-3d of the general statutes, the commissioner
150 may select proposals from such resources to meet up to four per cent
151 of the load distributed by the state's electric distribution companies.
152 The commissioner may direct the electric distribution companies to
153 enter into power purchase agreements for energy, capacity and
154 environmental attributes, or any combination thereof, for periods of
155 not more than twenty years. Certificates issued by the New England
156 Power Pool Generation Information System for any Class I renewable
157 energy sources procured under this section shall be sold in the New
158 England Power Pool Generation Information System renewable energy
159 credit market to be used by any electric supplier or electric distribution
160 company to meet the requirements of section 16-245a of the general
161 statutes, as amended by this act. Any such agreement shall be subject
162 to review and approval by the Public Utilities Regulatory Authority,
163 which review shall commence upon the filing of the signed power
164 purchase agreement with the authority. The authority shall issue a
165 decision on such agreement not later than thirty days after such filing.
166 In the event the authority does not issue a decision within thirty days
167 after such agreement is filed with the authority, the agreement shall be
168 deemed approved. The net costs of any such agreement shall be
169 recovered through a fully reconciling component of electric rates for all
170 customers of electric distribution companies. Such costs may include
171 reasonable costs incurred by electric distribution companies pursuant
172 to this section.

173 Sec. 7. (NEW) (*Effective from passage*) On or after July 1, 2013, the
174 Commissioner of Energy and Environmental Protection, in
175 consultation with the procurement manager identified in subsection (l)
176 of section 16-2 of the general statutes, the Office of Consumer Counsel
177 and the Attorney General, may, in coordination with other states in the
178 region of the regional independent system operator, as defined in
179 section 16-1 of the general statutes, as amended by this act, or on the

180 commissioner's own, solicit proposals, in one solicitation or multiple
181 solicitations, from providers of Class I renewable energy sources, as
182 defined in section 16-1 of the general statutes, as amended by this act,
183 or verifiable large-scale hydropower, as defined in section 16-1 of the
184 general statutes, as amended by this act, for periods not to exceed
185 fifteen years and not in excess of five per cent of the load distributed
186 by the state's electric distribution companies. If the commissioner finds
187 such proposals to be in the interest of ratepayers, including, but not
188 limited to, the delivered price of such sources, and consistent with the
189 requirements to reduce greenhouse gas emissions in accordance with
190 section 22a-200a of the general statutes, and in accordance with the
191 policy goals outlined in the Comprehensive Energy Strategy, adopted
192 pursuant to section 16a-3d of the general statutes and section 129 of
193 public act 11-80, including, but not limited to, base load capacity, peak
194 load shaving and promotion of wind, solar and other renewable and
195 low carbon energy technologies, the commissioner may direct the
196 electric distribution companies to enter into power purchase
197 agreements for energy, capacity and any environmental attributes, or
198 any combination thereof, for periods of not more than fifteen years on
199 behalf of all customers of electric distribution companies. Certificates
200 issued by the New England Power Pool Generation Information
201 System for any Class I renewable energy sources procured under this
202 section shall be sold in the New England Power Pool Generation
203 Information System renewable energy credit market to be used by any
204 electric supplier or electric distribution company to meet the
205 requirements of section 16-245a of the general statutes, as amended by
206 this act. Any such agreement shall be subject to review and approval
207 by the Public Utilities Regulatory Authority, which review shall be
208 completed not later than sixty days after the date on which such
209 agreement is filed with the authority. The net costs of any such
210 agreement shall be recovered through a fully reconciling component of
211 electric rates for all customers of electric distribution companies. Such
212 costs may include the reasonable costs incurred by the electric
213 distribution companies pursuant to this section.

214 Sec. 8. (NEW) (*Effective from passage*) On or after July 1, 2014, the
215 Commissioner of Energy and Environmental Protection, in
216 consultation with the procurement manager identified in subsection (l)
217 of section 16-2 of the general statutes, the Office of the Consumer
218 Counsel and the Attorney General, may solicit proposals, in one
219 solicitation or multiple solicitations, from providers of run-of-the-river
220 hydropower, landfill methane gas or biomass for a period not to
221 exceed ten years, provided such source meets the definition of a Class I
222 renewable energy source pursuant to section 16-1 of the general
223 statutes, as amended by this act. If the commissioner finds such
224 proposals to be in the interest of ratepayers, including, but not limited
225 to, the delivered price of such sources, and consistent with
226 requirements to reduce greenhouse gas emissions in accordance with
227 section 22a-200a of the general statutes, and in accordance with the
228 policy goals outlined in the Comprehensive Energy Strategy, adopted
229 pursuant to section 16a-3d of the general statutes, the commissioner
230 may direct the electric distribution companies to enter into power
231 purchase agreements for energy, capacity and environmental
232 attributes, or any combination thereof, for periods of not more than ten
233 years on behalf of all customers of the state's electric distribution
234 companies. Certificates issued by the New England Power Pool
235 Generation Information System for any Class I renewable energy
236 sources procured under this section shall be sold in the New England
237 Power Pool Generation Information System renewable energy credit
238 market to be used by any electric supplier or electric distribution
239 company to meet the requirements of section 16-245a of the general
240 statutes, as amended by this act. Any such agreement shall be subject
241 to review and approval by the Public Utilities Regulatory Authority,
242 which review shall be completed not later than sixty days after the
243 date on which such agreement is filed with the authority. The net costs
244 of any such agreement shall be recovered through a fully reconciling
245 component of electric rates for all customers of electric distribution
246 companies. Such costs may include the reasonable costs incurred by
247 the electric distribution companies pursuant to this section.

248 Sec. 9. (NEW) (*Effective from passage*) (a) During the calendar year
249 commencing January 1, 2014, and continuing each calendar year
250 thereafter, if alternative compliance payments pursuant to subsection
251 (j) of section 16-244c of the general statutes, as amended by this act,
252 and subsection (k) of section 16-245 of the general statutes, as amended
253 by this act, are made for failure to meet the renewable portfolio
254 standards, there shall be a presumption for the calendar year the
255 alternative compliance payments are made that there is an insufficient
256 supply of Class I renewable energy sources, as defined in section 16-1
257 of the general statutes, as amended by this act, for electric suppliers or
258 electric distribution companies to comply with the requirements of
259 section 16-245a of the general statutes, as amended by this act.

260 (b) In the event there is a presumption of insufficient supply of
261 Class I renewable energy sources pursuant to subsection (a) of this
262 section for the calendar year the alternative compliance payments are
263 made, the Commissioner of Energy and Environmental Protection may
264 determine whether such payments resulted from a material shortage of
265 Class I renewable energy sources. In making this determination, the
266 commissioner shall consider whether such payments resulted from
267 intentional or negligent action by an electric supplier or electric
268 distribution company to purchase renewable energy credits available
269 in the New England Power Pool Generation Information System
270 market.

271 (c) In the event there is such a presumption pursuant to subsection
272 (a) of this section and the commissioner finds that the alternative
273 compliance payments were due to a material shortage of Class I
274 renewable energy sources pursuant to subsection (b) of this section, the
275 commissioner shall determine the adequacy, or potential adequacy, of
276 Class I renewable energy sources to meet the succeeding years'
277 renewable portfolio standard. In making this determination, the
278 commissioner may consider (1) future cost and availability of
279 certificates issued by the New England Power Pool Generation
280 Information System based on the status of projects under development

281 in the region, (2) future requirements of certificates issued by the New
282 England Power Pool Generation Information System in other states,
283 and (3) the projected compliance costs of Class I renewable energy
284 sources.

285 (d) Notwithstanding subsection (b) of section 16-245a of the general
286 statutes, as amended by this act, in the event that, for any calendar
287 year commencing on or after January 1, 2014, there is such a
288 presumption pursuant to subsection (a) of this section and the
289 commissioner finds material shortage of Class I renewable energy
290 sources pursuant to subsection (b) of this section, and after concluding
291 the determination of adequacy pursuant to subsection (c) of this
292 section, commencing on or after January 1, 2016, the commissioner
293 may allow not more than one percentage point of the Class I renewable
294 portfolio standards established pursuant to section 16-245a of the
295 general statutes, as amended by this act, effective for the succeeding
296 and subsequent calendar years to be satisfied by large-scale
297 hydropower procured pursuant to section 7 of this act. The
298 requirements applicable to electric suppliers and electric distribution
299 companies pursuant to section 16-245a of the general statutes, as
300 amended by this act, shall consequently be reduced by not more than
301 one percentage point in proportion to the commissioner's action,
302 provided (1) the commissioner shall not allow a total of more than five
303 percentage points of the Class I renewable portfolio standard to be met
304 by large-scale hydropower by December 31, 2020, and (2) no such
305 large-scale hydropower shall be eligible to trade in the New England
306 Power Pool Generation Information System renewable energy credit
307 market.

308 Sec. 10. Subdivision (1) of subsection (j) of section 16-244c of the
309 general statutes is repealed and the following is substituted in lieu
310 thereof (*Effective from passage*):

311 (j) (1) Notwithstanding the provisions of subsection (d) of this
312 section regarding an alternative transitional standard offer option or
313 an alternative standard service option, an electric distribution

314 company providing transitional standard offer service, standard
315 service, supplier of last resort service or back-up electric generation
316 service in accordance with this section shall contract with its wholesale
317 suppliers to comply with the renewable portfolio standards. The
318 Public Utilities Regulatory Authority shall annually conduct a
319 contested case, in accordance with the provisions of chapter 54, in
320 order to determine whether the electric distribution company's
321 wholesale suppliers met the renewable portfolio standards during the
322 preceding year. An electric distribution company shall include a
323 provision in its contract with each wholesale supplier that requires the
324 wholesale supplier to pay the electric distribution company an amount
325 of five and one-half cents per kilowatt hour if the wholesale supplier
326 fails to comply with the renewable portfolio standards during the
327 subject annual period. The electric distribution company shall
328 promptly transfer any payment received from the wholesale supplier
329 for the failure to meet the renewable portfolio standards to the Clean
330 Energy Fund for the development of Class I renewable energy sources,
331 [. Any payment made pursuant to this section shall not be considered
332 revenue or income to the electric distribution company.] provided on
333 and after January 1, 2014, any such payment shall be refunded to
334 ratepayers by using such payment to offset the costs to all customers of
335 electric distribution companies of the costs of contracts entered into
336 pursuant to sections 16-244r and 16-244t. Any excess amount
337 remaining from such payment shall be applied to reduce the costs of
338 contracts entered into pursuant to subdivision (2) of subsection (j) of
339 section 16-244c, and if any excess amount remains, such amount shall
340 be applied to reduce costs collected through nonbypassable, federally-
341 mandated congestion charges, as defined in section 16-1, as amended
342 by this act.

343 Sec. 11. Subsection (k) of section 16-245 of the general statutes is
344 repealed and the following is substituted in lieu thereof (*Effective from*
345 *passage*):

346 (k) Any licensee who fails to comply with a license condition or who

347 violates any provision of this section, except for the renewable
 348 portfolio standards contained in subsection (g) of this section, shall be
 349 subject to civil penalties by the Public Utilities Regulatory Authority in
 350 accordance with section 16-41, or the suspension or revocation of such
 351 license or a prohibition on accepting new customers following a
 352 hearing that is conducted as a contested case in accordance with
 353 chapter 54. Notwithstanding the provisions of subsection (d) of section
 354 16-244c regarding an alternative transitional standard offer option or
 355 an alternative standard service option, the authority shall require a
 356 payment by a licensee that fails to comply with the renewable portfolio
 357 standards in accordance with subdivision (4) of subsection (g) of this
 358 section in the amount of five and one-half cents per kilowatt hour. The
 359 authority shall allocate such payment to the Clean Energy Fund for the
 360 development of Class I renewable energy sources, provided on and
 361 after January 1, 2014, any such payment shall be refunded to
 362 ratepayers by using such payment to offset the costs to all customers of
 363 electric distribution companies of the costs of contracts entered into
 364 pursuant to sections 16-244r and 16-244t. Any excess amount
 365 remaining from such payment shall be applied to reduce the costs of
 366 contracts entered into pursuant to subdivision (2) of subsection (j) of
 367 section 16-244c, and if any excess amount remains, such amount shall
 368 be applied to reduce costs collected through nonbypassable, federally-
 369 mandated congestion charges, as defined in section 16-1, as amended
 370 by this act."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-1(a)(26)
Sec. 2	<i>from passage</i>	16-1(a)(44)
Sec. 3	<i>from passage</i>	16-1(a)(45)
Sec. 4	<i>from passage</i>	16-1(a)
Sec. 5	<i>from passage</i>	16-245a
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	New section

Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>from passage</i>	16-244c(j)(1)
Sec. 11	<i>from passage</i>	16-245(k)