



General Assembly

January Session, 2017

Raised Bill No. 943

LCO No. 4537



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

AN ACT CONCERNING THE INSTALLATION OF CERTAIN SOLAR FACILITIES ON PRODUCTIVE FARMLANDS.

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

1 Section 1. Subsection (e) of section 16a-3j of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2017*):

4 (e) The Commissioner of Energy and Environmental Protection, in
5 consultation with the procurement manager identified in subsection (l)
6 of section 16-2, the Office of Consumer Counsel and the Attorney
7 General, shall evaluate project proposals received under any
8 solicitation issued pursuant to subsection (b), (c) or (d) of this section,
9 based on factors including, but not limited to, (1) improvements to the
10 reliability of the electric system, including during winter peak
11 demand; (2) whether the benefits of the proposal outweigh the costs to
12 ratepayers; (3) fuel diversity; (4) the extent to which the proposal
13 contributes to meeting the requirements to reduce greenhouse gas
14 emissions and improve air quality in accordance with sections 16-245a,
15 22a-174, and 22a-200a; (5) whether the proposal is in the best interest of

16 ratepayers; and (6) whether the proposal is aligned with the policy
17 goals outlined in the Integrated Resources Plan, pursuant to section
18 16a-3a, and the Comprehensive Energy Strategy, pursuant to section
19 16a-3d, including, but not limited to, environmental impacts. For
20 purposes of such evaluation, "environmental impacts" shall include,
21 but not be limited to, impacts to forest land and prime farmland, as
22 defined by the United States Department of Agriculture. In conducting
23 such evaluation, the commissioner may also consider the extent to
24 which project proposals provide economic benefits for the state. In
25 evaluating project proposals received under any solicitation issued
26 pursuant to subsection (b), (c) or (d) of this section, the commissioner
27 shall compare the costs and benefits of such proposals relative to the
28 expected or actual costs and benefits of other resources eligible to
29 respond to the other procurements authorized pursuant to this section.

30 Sec. 2. Subsection (a) of section 16-50k of the general statutes is
31 repealed and the following is substituted in lieu thereof (*Effective July*
32 *1, 2017*):

33 (a) Except as provided in subsection (b) of section 16-50z, no person
34 shall exercise any right of eminent domain in contemplation of,
35 commence the preparation of the site for, commence the construction
36 or supplying of a facility, or commence any modification of a facility,
37 that may, as determined by the council, have a substantial adverse
38 environmental effect in the state without having first obtained a
39 certificate of environmental compatibility and public need, hereinafter
40 referred to as a "certificate", issued with respect to such facility or
41 modification by the council. Certificates shall not be required for (1)
42 fuel cells built within the state with a generating capacity of two
43 hundred fifty kilowatts or less, or (2) fuel cells built out of state with a
44 generating capacity of ten kilowatts or less. Any facility with respect to
45 which a certificate is required shall thereafter be built, maintained and
46 operated in conformity with such certificate and any terms, limitations
47 or conditions contained therein. Notwithstanding the provisions of this
48 chapter or title 16a, the council shall, in the exercise of its jurisdiction

49 over the siting of generating facilities, approve by declaratory ruling
50 (A) the construction of a facility solely for the purpose of generating
51 electricity, other than an electric generating facility that uses nuclear
52 materials or coal as fuel, at a site where an electric generating facility
53 operated prior to July 1, 2004, and (B) the construction or location of
54 any fuel cell, unless the council finds a substantial adverse
55 environmental effect, or of any customer-side distributed resources
56 project or facility or grid-side distributed resources project or facility
57 with a capacity of not more than sixty-five megawatts, as long as such
58 project meets air and water quality standards of the Department of
59 Energy and Environmental Protection and as long as such project is
60 not a solar photovoltaic facility with a capacity of two or more
61 megawatts to be located on prime farmland, as defined by the United
62 States Department of Agriculture or on forest land. There shall be a
63 rebuttable presumption that the construction or location of a solar
64 photovoltaic facility with a capacity of two or more megawatts to be
65 located on prime farmland, as defined by the United States
66 Department of Agriculture, or on forest land is not environmentally
67 compatible. Such presumption may be rebutted by evidence that such
68 facility will not materially affect the status of such land as prime
69 farmland or forest land, as applicable, and if such applicant, upon the
70 council's granting of such certificate, posts a bond for the
71 decommissioning of such facility at the end of its useful life. Nothing
72 in this subsection shall be construed to affect any agricultural virtual
73 net metering facility as authorized pursuant to section 16-244u.

74 Sec. 3. (NEW) (*Effective July 1, 2017*) (a) Not later than February 1,
75 2018, the Commissioner of Energy and Environmental Protection, in
76 consultation with the Commissioners of Administrative Services,
77 Correction and Transportation, shall submit a report to the joint
78 standing committee of the General Assembly having cognizance of
79 matters relating to the environment, in accordance with the provisions
80 of section 11-4a of the general statutes, that identifies state properties,
81 including, but not limited to, highway corridors and correctional

82 institutions, that are suitable for lease to private entities for the
83 construction or location of solar photovoltaic facilities with capacities
84 of two or more megawatts.

85 (b) Not later than sixty days following submission of the report
86 described in subsection (a) of this section, the Commissioners of
87 Energy and Environmental Protection, Administrative Services,
88 Correction and Transportation shall cause such report to be posted to
89 the Internet web site of said departments, respectively. Following such
90 posting, the Commissioner of Energy and Environmental Protection
91 shall forward a copy of such report to the chairperson of the
92 Connecticut Siting Council who shall cause a copy of such report to be
93 posted to the Internet web site of the Connecticut Siting Council not
94 later than thirty days following receipt of such report.

95 Sec. 4. (NEW) (*Effective July 1, 2017*) The Commissioner of Energy
96 and Environmental Protection shall work in conjunction with the
97 Connecticut Conference of Municipalities to identify closed landfills
98 that are suitable for the lease to private entities for the construction or
99 location of solar photovoltaic facilities with capacities of two or more
100 megawatts. The commissioner may receive from any municipality
101 notice indicating such municipality's interest in the construction or
102 location of solar photovoltaic facilities with capacities of two or more
103 megawatts upon any closed landfill located in such municipality.
104 Upon receipt of such notice and following a reasonable evaluation of
105 the suitability of such closed landfill for such construction or location,
106 the commissioner may post such notice in the same location on the
107 Internet web site of such department as the report posted pursuant to
108 section 3 of this act.

109 Sec. 5. (NEW) (*Effective July 1, 2017*) Not later than July 1, 2019, the
110 Commissioner of Energy and Environmental Protection, in
111 consultation with the Commissioner of Economic and Community
112 Development and the working group to examine the remediation and
113 development of brownfields in this state, established pursuant to

114 section 32-770 of the general statutes, shall establish a pilot program
115 for the construction or location of solar photovoltaic facilities with
116 capacities of two or more megawatts upon brownfields in this state.
117 Such pilot program shall consist of not fewer than three projects to be
118 located on brownfields that do not: (1) Contain contaminated
119 groundwater or volatile organic compounds that pose a potential
120 threat to human health or safety, and (2) have commercial or industrial
121 activities conducted upon such brownfields. Any such project may
122 consist of brownfields that are not contiguous. The Commissioner of
123 Energy and Environmental Protection shall determine the suitability
124 for participation of any brownfield in such pilot program and,
125 notwithstanding any provision of the general statutes, may undertake
126 any action required to establish such pilot program, including, but not
127 limited to, identifying applicants for the construction or location of
128 solar photovoltaic facilities with capacities of two or more megawatts
129 upon brownfields in this state that may wish to participate in such
130 pilot program. The Commissioner of Economic and Community
131 Development and the working group to examine the remediation and
132 development of brownfields in this state, established pursuant to
133 section 32-770 of the general statutes, shall provide the Commissioner
134 of Energy and Environmental Protection with any information or
135 assistance that said commissioner requests in furtherance of the
136 establishment of such pilot program. Not later than one year following
137 the establishment of such pilot program, the Commissioner of Energy
138 and Environmental Protection shall submit a report to the joint
139 standing committee of the General Assembly having cognizance of
140 matters relating to the environment, in accordance with the provisions
141 of section 11-4a of the general statutes, detailing the status of such pilot
142 program and identifying any recommendations for legislation to
143 further facilitate or expand such pilot program.

144 Sec. 6. (*Effective July 1, 2017*) Not later than February 1, 2018, the
145 Commissioner of Energy and Environmental Protection shall submit a
146 report to the joint standing committee of the General Assembly having

147 cognizance of matters relating to the environment, in accordance with
148 the provisions of section 11-4a of the general statutes, that identifies
149 types of properties in the state, other than prime farmlands and forest
150 lands, that are suitable for the construction or location of solar
151 photovoltaic facilities with capacities of two or more megawatts. Such
152 report shall include, but not be limited to, an analysis of whether: (1)
153 Right-of-ways occupied by overhead transmission facilities, as
154 described in section 16-50hh of the general statutes, may serve as such
155 a suitable situs in areas of such right-of-ways that are not subject to
156 restoration or revegetation orders described in section 16-50hh of the
157 general statutes, and (2) abandoned or underutilized parking facilities
158 in the state may serve as such a suitable situs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2017</i>	16a-3j(e)
Sec. 2	<i>July 1, 2017</i>	16-50k(a)
Sec. 3	<i>July 1, 2017</i>	New section
Sec. 4	<i>July 1, 2017</i>	New section
Sec. 5	<i>July 1, 2017</i>	New section
Sec. 6	<i>July 1, 2017</i>	New section

Statement of Purpose:

To discourage the use of prime farmlands and forest lands as locations for the siting of utility-scale solar photovoltaic facilities.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]