



General Assembly

**Substitute Bill No. 350**

February Session, 2018



**AN ACT REQUIRING THE POSTING OF A DECOMMISSIONING BOND FOR CERTAIN SOLAR PROJECTS.**

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

1 Section 1. Subsection (a) of section 16-50k of the 2018 supplement to  
2 the general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2018*):

4 (a) (1) Except as provided in subsection (b) of section 16-50z, no  
5 person shall exercise any right of eminent domain in contemplation of,  
6 commence the preparation of the site for, commence the construction  
7 or supplying of a facility, or commence any modification of a facility,  
8 that may, as determined by the council, have a substantial adverse  
9 environmental effect in the state without having first obtained a  
10 certificate of environmental compatibility and public need, hereinafter  
11 referred to as a "certificate", issued with respect to such facility or  
12 modification by the council. Certificates shall not be required for ~~[(1)]~~  
13 (A) fuel cells built within the state with a generating capacity of two  
14 hundred fifty kilowatts or less, or ~~[(2)]~~ (B) fuel cells built out of state  
15 with a generating capacity of ten kilowatts or less. Any facility with  
16 respect to which a certificate is required shall thereafter be built,  
17 maintained and operated in conformity with such certificate and any  
18 terms, limitations or conditions contained therein. (2) Notwithstanding  
19 the provisions of this chapter or title 16a, the council shall, in the

20 exercise of its jurisdiction over the siting of generating facilities,  
21 approve by declaratory ruling (A) the construction of a facility solely  
22 for the purpose of generating electricity, other than an electric  
23 generating facility that uses nuclear materials or coal as fuel, at a site  
24 where an electric generating facility operated prior to July 1, 2004, and  
25 (B) the construction or location of any fuel cell, unless the council finds  
26 a substantial adverse environmental effect, or of any customer-side  
27 distributed resources project or facility or grid-side distributed  
28 resources project or facility with a capacity of not more than sixty-five  
29 megawatts, as long as: (i) Such project meets air and water quality  
30 standards of the Department of Energy and Environmental Protection,  
31 (ii) the council does not find a substantial adverse environmental  
32 effect, and (iii) for a solar photovoltaic facility with a capacity of two or  
33 more megawatts, to be located on prime farmland or forestland,  
34 excluding any such facility that was selected by the Department of  
35 Energy and Environmental Protection in any solicitation issued prior  
36 to July 1, 2017, pursuant to section 16a-3f, 16a-3g or 16a-3j, the  
37 Department of Agriculture represents, in writing, to the council that  
38 such project will not materially affect the status of such land as prime  
39 farmland or the Department of Energy and Environmental Protection  
40 represents, in writing, to the council that such project will not  
41 materially affect the status of such land as core forest. In conducting an  
42 evaluation of a project for purposes of subparagraph (B)(iii) of this  
43 [subsection] subdivision, the Departments of Agriculture and Energy  
44 and Environmental Protection may consult with the United States  
45 Department of Agriculture and soil and water conservation districts.  
46 (3) If the council approves a facility described in subparagraph (B)(iii)  
47 of subdivision (2) of this subsection, the council shall require the  
48 posting of a decommissioning bond by the person seeking such  
49 certificate in an amount sufficient to restore such prime farmland to a  
50 productive agricultural condition or to restore such land as core forest,  
51 as applicable. The provisions of this subdivision shall not apply to  
52 prime farmland or core forest owned by the state or any municipality.

53 Sec. 2. (*Effective from passage*) The Commissioner of Agriculture shall

54 convene a working group to develop a recommendation for the  
55 standard to be applied by the Departments of Energy and  
56 Environmental Protection and Agriculture in evaluating the effect of  
57 solar photovoltaic facilities pursuant to subparagraph (B)(iii) of  
58 subsection (a) of section 16-50k of the general statutes, as amended by  
59 this act. Such deliberation shall include, but not be limited to, a  
60 consideration of whether such standard shall be that such project will  
61 not materially affect the status of such land as prime farmland or core  
62 forest or whether such standard shall be that such project will not  
63 permanently affect the status of such land as prime farmland or core  
64 forest. Such working group shall consist of the Commissioner of  
65 Agriculture, or the commissioner's designee, a representative of the  
66 solar industry, a representative of the Connecticut Farm Bureau, the  
67 Commissioner of Energy and Environmental Protection, or the  
68 commissioner's designee, and a representative of the Connecticut  
69 Agricultural Experiment Station who shall have expertise in soil  
70 restoration. The Commissioner of Agriculture shall submit such  
71 recommendation to the joint standing committee of the General  
72 Assembly having cognizance of matters relating to the environment  
73 not later than January 1, 2019.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	16-50k(a)
Sec. 2	<i>from passage</i>	New section

**APP**      *Joint Favorable Subst.*