

**Proposed Substitute
Bill No. 350**

LCO No. 3051

**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2 the general statutes is repealed and the following is substituted in lieu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) Except as provided in subsection (b) of section 16-50z, no person
5 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 fuel cells built within the state with a generating capacity of two
14 hundred fifty kilowatts or less, or (2) fuel cells built out of state with a
15 generating capacity of ten kilowatts or less. Any facility with respect to
16 which a certificate is required shall thereafter be built, maintained and
17 operated in conformity with such certificate and any terms, limitations
18 or conditions contained therein. Notwithstanding the provisions of this
19 chapter or title 16a, the council shall, in the exercise of its jurisdiction
20 over the siting of generating facilities, approve by declaratory ruling
21 (A) the construction of a facility solely for the purpose of generating
22 electricity, other than an electric generating facility that uses nuclear
23 materials or coal as fuel, at a site where an electric generating facility

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

51 Sec. 2. (*Effective from passage*) The Commissioner of Agriculture shall
52 convene a working group to develop a recommendation for the
53 standard to be applied by the Departments of Energy and
54 Environmental Protection and Agriculture in evaluating the effect of
55 solar photovoltaic facilities pursuant to subparagraph (B)(iii) of
56 subsection (a) of section 16-50k of the general statutes. Such
57 deliberation shall include, but not be limited to, a consideration of
58 whether such standard shall be that such project will not materially

59 affect the status of such land as prime farmland or core forest or
60 whether such standard shall be that such project will not permanently
61 affect the status of such land as prime farmland or core forest. Such
62 working group shall consist of the Commissioner of Agriculture, or the
63 commissioner's designee, a representative of the solar industry, a
64 representative of the Connecticut Farm Bureau, the Commissioner of
65 Energy and Environmental Protection, or the commissioner's designee,
66 and a representative of the Connecticut Agricultural Experiment
67 Station who shall have expertise in soil restoration. The Commissioner
68 of Agriculture shall submit such recommendation to the joint standing
69 committee of the General Assembly having cognizance of matters
70 relating to the environment 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