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## OLR Bill Analysis

### HB 5002 (as amended by House "A")\*

## **AN ACT CONCERNING A GREEN ECONOMY AND ENVIRONMENTAL PROTECTION.**

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BACKGROUND

**SUMMARY**

This bill makes various changes to energy-related statutes and programs. These changes include:

1. extending existing renewable energy programs, and, for new programs required under PA 18-50, delaying certain deadlines, allowing for a longer netting period, and requiring the Public Utilities Regulatory Authority (PURA) to study the value of distributed energy resources and incorporate their findings into aspects of these new programs;
2. requiring the Department of Transportation (DOT) and the Department of Energy and Environmental Protection (DEEP) to identify and create an inventory of land suitable for siting certain renewable projects and allowing DEEP to give preference in certain procurements for proposals on such land;
3. extending or expanding other programs, including virtual net metering and the EnergizeCT Heating Loan Program; and
4. various other provisions, including allowing electric distribution companies (EDCs, i.e., Eversource and United Illuminating) to own energy storage systems, authorizing anaerobic digestion procurements, creating and publishing a “green jobs ladder,” expanding DEEP’s authorization to use consultants for certain proceedings, and establishing new construction requirements for certain buildings.

\*House Amendment "A" replaces the underlying bill, which (1) authorized an anaerobic digestion procurement that was not specific to animal feeding operations and (2) required the Office of Policy and Management to study and report on the state's Lead by Example Program.

EFFECTIVE DATE: Various, see below.

## **§§ 1-2 & 4-5 — EXTENSIONS OF EXISTING PROGRAMS**

*Extends existing renewable energy programs, including traditional net metering, the LREC/ZREC program, and the Green Bank's Residential Solar Investment Program*

### ***Traditional Net Metering Extension (§ 1)***

Historically, the state's net metering program has generally allowed customers who own certain renewable energy resources to earn billing credits when they generate more power than they use. These customers' generation and usage is netted on a monthly basis and the customers receive billing credits for their monthly excess generation at the retail electric rate (essentially "running the meter backwards").

Current law ends opportunities to begin this type of net metering for (1) residential customers when the Green Bank's Residential Solar Investment Program expires and (2) all other customers when PURA approves the procurement plan for new zero-emission, low-emission, and shared clean energy program required under PA 18-50. The bill instead requires opportunities to begin this type of net metering to end for all types of customers on December 31, 2021.

Under current law, customers who begin traditional net metering before it sunsets may continue to do so until December 31, 2039, after which they will be subject to a PURA-determined rate. The bill extends this by two years to 2041 and specifies that customers that have a PURA-approved contract under the LREC/ZREC program (see below) before December 31, 2021, may similarly continue their net metering until 2041.

### ***LREC/ZREC Extension (§ 2)***

Under the state's LREC/ZREC program, electric distribution companies (EDCs, i.e., Eversource and United Illuminating) must enter

into 15-year contracts to procure \$8 million in RECs from certain low-emission (L-REC) and zero emission (Z-REC) clean energy generation projects each year. The bill extends this requirement, which is currently scheduled to expire after 2019, for an additional two years.

As was required during each of the program's previous eight years, in years nine and ten the EDCs must annually enter into 15-year contracts to procure \$8 million of renewable energy certificates (RECs). And as in the previous three years, in years nine and ten the bill allows EDCs to procure up to \$4 million in RECs from Class I generation projects that are less than 1 megawatt (MW) in size and emit no pollutants. For the previous three years of the program, current law allowed EDCs to also procure up to \$4 million in RECs from Class I technologies that are less than 2 MW in size and have low emissions (i.e., no more than 0.07 pounds per megawatt-hour (MWh) of nitrogen oxides, 0.10 pounds per MWh of carbon monoxide, 0.02 pounds per MWh of volatile organic compounds, and one grain (presumably of particulate matter) per 100 standard cubic feet). For the two extended years, the bill allows EDCs to procure an aggregate of up to \$4 million in RECs from these low emission projects and Class I technologies that use anaerobic digestion. (This provision also applies to years six through eight, but as these solicitations have already occurred, presumably the provision only affects years nine and ten in practice.) Under existing law, unchanged by the bill, all projects must be on the customer's side of the meter and serve the EDC's distribution system.

By law, any unallocated money for the program's procurements expires when PURA approves the procurement plan for the new zero-emission, low emission, and shared clean energy programs required under PA 18-50.

When this program began in 2012, the law established a \$350 price cap per REC and allowed PURA to lower the cap by 3% to 7% annually in subsequent years. For contracts entered into in calendar years 2020 and 2021, the bill allows PURA to lower the price cap by 64% at least 90 days before EDC solicitation (i.e., the same cap that applied in 2019). As was the case for past program years, PURA must (1) provide notice

and an opportunity for public comment and (2) consider such factors as the actual bid results from the most recent solicitation and reasonably foreseeable reductions in the cost of eligible technologies.

***Residential Solar Investment Program Extension (§§ 4 & 5)***

The Residential Solar Investment Program, administered by the Connecticut Green Bank, offers financial incentives to purchase or lease certain residential solar photovoltaic systems and requires the EDCs to purchase the renewable energy credits produced through the program. Under current law, the program must expire on December 31, 2022, or when the program deploys 300 MW of residential solar photovoltaic installations, whichever occurs earlier. The bill increases, from 300 MW to 350 MW, the MW threshold that triggers the program's expiration.

EFFECTIVE DATE: Upon passage

**§§ 3 & 6 — NEW RENEWABLE ENERGY PROGRAMS AND STUDY**

*Requires PURA to study the value of distributed energy resources and take findings into account when determining tariffs for new renewable programs required under PA 18-50; delays certain related deadlines; and allows for a longer netting period*

The law (as enacted by PA 18-50) generally requires DEEP and PURA to establish new tariff-based programs through which the EDCs would purchase energy and RECs from qualifying (1) low-emission, zero-emission, and shared clean energy facilities and (2) residential customers with clean energy facilities. In developing these programs, the agencies and EDCs must, among other things, develop (1) a procurement plan for the EDCs to procure qualifying energy and RECs and (2) the tariffs (detailed rate schedules and rules) under which energy and RECs would be purchased.

***Value of Distributed Energy Resources Study (§ 6)***

The bill requires DEEP and PURA to open a proceeding to jointly study the value of distributed energy resources. They must report the study's findings to the Energy and Technology Committee by July 1, 2020. The bill also requires PURA to consider the study's findings when determining tariffs for certain new renewable energy programs established under PA 18-50 (see below).

***Low-emission and Zero-emission Programs (§ 3)***

The law requires PURA to begin a proceeding to establish tariffs for the new low-emission and zero-emission projects. In this proceeding, PURA must establish the period of time that will be used to calculate the net amount of energy produced by a facility and not consumed, which must be (1) in real time (i.e., simultaneous generation and use); (2) one day; or (3) in any fraction of a day. The bill allows PURA to also establish a netting period that is greater than one day, up to and including one month. It also requires PURA to consider the findings of the bill's value of distributed generation study in the proceeding.

Current law requires the EDCs, by July 1, 2020, to begin soliciting and filing for PURA's approval the low-emission, zero-emission, and shared clean energy projects it selected under the procurement plans that are consistent with PURA-approved tariffs. The bill extends this deadline to July 1, 2022.

***Residential Program (§ 3)***

Current law similarly requires PURA to open a proceeding to establish tariffs for the new residential clean energy program. The bill delays the deadline for PURA to do this from September 1, 2019, to July 1, 2020.

As with the proceeding to establish low-emission and zero-emission tariffs, current law also requires PURA's proceeding for the residential tariffs to determine the period of time that will be used for calculating the net amount of energy produced by a facility and not consumed. The bill also (1) allows PURA to establish a netting period that is greater than one day, up to and including one month, and (2) requires PURA to consider the findings of the bill's value of distributed generation study in the proceeding.

The bill requires PURA to issue a final decision in the proceeding by July 1, 2021. The bill requires EDCs to offer the new tariffs to residential customers beginning January 1, 2022, rather than when the Green Bank's Residential Solar Investment Program expires.

EFFECTIVE DATE: Upon passage

## **§ 7 — VIRTUAL NET METERING**

*Increases, from \$10 million to \$20 million, the amount of credits authorized under the state's virtual net metering program*

The bill increases, from \$10 million to \$20 million, the virtual net metering cap.

Under existing law, net metering allows an electric company customer who owns a renewable energy resource to earn billing credits from that company when the customer generates more power than he or she uses (essentially “running the meter backwards”). Virtual net metering allows the customer to share these credits to lower the electricity bills of other “beneficial accounts” the customer designates.

Existing law, unchanged by the bill, requires PURA to apportion credits authorized under the cap to EDCs based on their loads. Within the cap described above, each eligible customer type (municipal, state agency, and agricultural) is further limited to 40% of the allowed credits. Existing law has also authorized more credits above the cap for certain circumstances (e.g., anaerobic digestion for agricultural customers).

EFFECTIVE DATE: Upon passage

## **§ 8 — LAND INVENTORY**

*Requires DOT to prepare an inventory of its land that is suitable for installation of Class I resources; requires DEEP to analyze DOT's land inventory; and allows DEEP to grant preference in certain procurements for proposals that use such land*

The bill requires DOT, by December 1, 2020, to (1) conduct a preliminary screening of land that it owns to identify any land suitable to site Class I renewable energy sources (e.g., wind and solar) and evaluate its suitability and (2) submit an inventory of such land to DEEP.

The bill requires DEEP to perform an analysis of land included in DOT's inventory that includes a technical, legal, and financial feasibility analysis and considers:

1. setback requirements;
2. access to the land;
3. the land's physical and environmental characteristics;
4. developmental characteristics of a Class I renewable energy source;
5. current and future transportation needs;
6. the eligibility of Class I renewable energy sources that may be installed on the land for net metering, virtual net metering, renewable energy tariffs, and grid-scale solicitation programs; and
7. other relevant feasibility factors.

Existing law authorizes DEEP to solicit proposals for various types of Class I renewable energy sources and direct the EDCs to enter into contracts under selected proposals. Under the bill, for any solicitations issued after DEEP analyzes DOT's land inventory, DEEP may provide preference to proposals that use land included on DOT's inventory and determined by DEEP to be feasible for siting Class I renewable energy sources.

EFFECTIVE DATE: Upon passage

### **§§ 9 & 10 — THERMAL ENERGY PORTFOLIO STANDARD**

*Specifies that the next IRP is due January 1, 2020, and requires it to include recommendations for, rather than consider, creation of a portfolio standard for thermal energy*

The bill requires the next Integrated Resources Plan (IRP) to include recommendations for, rather than consider, creation of a portfolio standard for thermal energy. Current law allows DEEP's consideration of a thermal portfolio standard to include biodiesel blended into home heating oil and requires DEEP to consult with heating oil industry representatives and biodiesel producers during their consideration. The bill retains these provisions for DEEP's development of



recommendations.

By law, DEEP, in consultation with the EDCs, develops the IRP every two years by reviewing the state's energy capacity and needs and developing a plan for procuring various energy resources (CGS § 16a-3a). The bill specifies that the next IRP is due by January 1, 2020.

EFFECTIVE DATE: Upon passage

## **§ 11 — STATE BUILDING CONSTRUCTION STANDARDS**

*Establishes new requirements for DEEP regulations on energy efficiency for certain state-funded construction projects*

Existing law requires DEEP's regulations to establish construction standards that apply to the following types of projects:

1. new state facility construction projected to cost at least \$5 million for which all budgeted project bond funds are allocated by the State Bond Commission on or after January 1, 2008;
2. state facility renovation projected to cost at least \$2 million in state funding, approved and funded after January 1, 2008;
3. new public school building construction projected to cost at least \$5 million, of which at least \$2 million is state funding authorized by the legislature on or after January 1, 2009; and
4. renovation of public school facilities projected to cost at least \$2 million in state funding authorized by the legislature on or after January 1, 2009.

Under current law, DEEP's regulations must establish state building construction standards that achieve at least 75 points on the U.S. Environmental Protection Agency's national energy performance rating system, as determined by its Energy Star Target Finder Tool.

The bill instead requires DEEP's regulations to establish state building construction standards by January 1, 2020, but retains previously adopted regulations until the new ones are adopted. Under the bill, the standards must be based on a nationally recognized model

for sustainable construction codes that promotes the construction of high performance green buildings that:

1. have reduced emissions;
2. have enhanced building occupant health and comfort;
3. are designed to conserve water resources;
4. are designed to promote sustainable and regenerative materials cycles; and
5. provide enhanced resilience to natural, technological, and human-caused hazards.

The bill retains provisions from current law that require standards (1) to include a standard for inclusion of electric vehicle charging stations and (2) allowing DEEP to update the standards as the commissioner deems necessary. The bill removes provisions that allow DEEP, in consultation with the Department of Administrative Services, to (1) exempt facilities from complying with these standards if the facility cannot be defined as an eligible building type in the Energy Star Target Finder tool and (2) establish a separate standard for exempted facilities.

EFFECTIVE DATE: Upon passage

## **§ 12 — DEEP CONSULTANTS**

*Expands DEEP's ability to retain consultants for certain state and federal proceedings*

Current law allows PURA and the Office of Consumer Counsel (OCC) to retain consultants for PURA proceedings. The bill additionally allows DEEP to retain consultants to assist DEEP staff during PURA proceedings under the same circumstances and limits that apply to PURA and OCC consultants. As under current law for OCC and PURA, DEEP generally may not hire a consultant for telecommunications proceedings that is also consulting for the affected company.

Current law already allows DEEP, in consultation with PURA and

OCC, to retain consultants to supplement staff expertise for proceedings before or negotiations with various federal agencies (e.g., the Federal Energy Regulatory Commission (FERC), the U.S. Department of Energy). The bill additionally allows DEEP, in consultation with PURA and OCC, to retain consultants for Federal Communications Commission (FCC) proceedings, under the same circumstances and limits that apply to DEEP and PURA consultants for other federal agency proceedings.

Under existing law, for both PURA and federal proceedings, expenses for consultants are borne by the companies affected by the proceeding, subject to certain limits. The law requires PURA to consider consultant-related expenses proper business expenses for purposes of rate making (which allows those companies subject to rate regulation to recover these expenses through their rates).

EFFECTIVE DATE: October 1, 2019

### **§ 13 — EDC OWNERSHIP OF STORAGE**

*Explicitly allows EDCs to own energy storage systems and allows them to recover from ratepayers prudently incurred costs for these systems*

Existing law prohibits EDCs from owning or operating generation assets, with certain exceptions. Under the bill, this prohibition does not apply to EDCs building, owning, or operating energy storage systems (e.g., battery storage). Under the bill, provisions in existing law that allow EDCs to submit proposals to DEEP to build, own, or operate storage as part of a grid-side system enhancement pilot program similarly do not prohibit or limit an EDC's ability to build, own, or operate storage.

By law, energy storage systems are any commercially available technology capable of absorbing energy, storing it for a period of time and thereafter dispatching it, among other things (CGS § 16-1(a)(48)).

Under the bill, PURA may authorize an EDC to recover its prudently incurred costs and investments for any energy storage system it builds, owns, or operates. EDCs may do so through a fully reconciling component of electric ratepayer bills, until the EDC's next

rate case, when the EDC must recover the cost through its base distribution rates.

EFFECTIVE DATE: Upon passage

**§ 14 — RESIDENTIAL FURNACES, BOILERS, AND PROPANE TANKS**

*Extends the EnergizeCT Heating Loan Program through 2024*

The bill extends, for five additional years, the duration of a program that provides financing for furnace and boiler replacements and purchases of new or leased residential propane fuel tanks (i.e., the EnergizeCT Heating Loan Program). Under current law, the program expires at the end of its sixth year (2019). The bill instead requires the program to expire at the end of its eleventh year (2024). By law, the program is funded through the systems benefits charge on ratepayer bills.

EFFECTIVE DATE: Upon passage

**§§ 15-18 — ANAEROBIC DIGESTION AT ANIMAL FEEDING OPERATIONS**

*Exempts certain anaerobic digestion facilities at animal feeding operations from DEEP permit requirements; allows the DEEP commissioner to procure up to 10 MW of energy and related products from such facilities; and requires PURA to establish interconnection standards for biogas derived from certain farm and other waste*

The bill exempts certain anaerobic digestion facilities from the requirement to obtain a permit from DEEP to construct and operate a solid waste facility.

***Requirements for Exemption from Permit Requirement***

In order to be exempt, such facilities must be collocated with an animal feeding operation, which, under the bill, is a lot or facility on a farm, other than an aquatic animal production facility, where (1) animals have been, are currently, or will be stabled or confined and fed or maintained for a total of at least 45 days in a 12-month period and (2) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of such lot or facility.

In addition, exempt facilities must (1) use feed stock that is at least 50% by volume farm-generated organic waste from an animal feeding operation and not more than 5% by volume food scraps, food processing residuals, and soiled or unrecycled paper and (2) beneficially use any discharge that is not energy end products. Specifically, the bill requires liquid material end products to be used as fertilizer and solid material end products to be used for animal bedding, soil or soil amendment, fertilizer, or other value-added products. Under the bill, any discharge applied to land in Connecticut must be applied at an agronomic rate consistent with the nutrient management plan on the farm where the facility is located. The bill defines farm-generated organic waste as waste associated with animal feeding operations including animal bedding, manure, urine, silage, leachate, wastewaters associated with egg or dairy production, animal feed waste, and barnyard runoff.

The bill requires animal feeding operations that have an exempt facility to annually submit to the DEEP commissioner, by July 31, the amount of farm-generated organic waste that is processed by the facility. The bill requires it to indicate the amount of waste processed from the animal feeding operation and from other sources on a form DEEP prescribes.

#### ***DEEP Enforcement***

Under the bill, if DEEP determines that a facility is operating without a permit but is not collocated with an animal feeding operation or is processing more than 5% by volume food scraps, food processing residuals, and soiled or unrecyclable paper, the facility's operator must apply for a DEEP permit within five days of receiving notice of the DEEP commissioner's determination. If the permit application is denied, the facility must close within five days after receiving notice of the denial.

The bill allows DEEP to adopt regulations to carry out the bill's provisions on exempt facilities.

#### ***Anaerobic Digestion Procurement (§ 17)***

The bill allows the DEEP commissioner, in consultation with the procurement manager, the Office of Consumer Counsel, and the attorney general, to conduct one or more solicitations for energy derived from anaerobic digestion. The bill requires bidders to submit one or more proposals for facilities that are animal feeding operations and located on land used for farming.

The bill allows the DEEP commissioner to select proposals from resources with a total nameplate capacity of up to 10 MW in the aggregate if she finds proposals to be:

1. in ratepayers' interest, including the delivered price;
2. consistent with the state's greenhouse gas reduction requirements; and
3. in accordance with policy goals outlined in the state's Comprehensive Energy Strategy and state-wide solid waste management plan.

The bill allows the DEEP commissioner to direct the EDCs to enter into power purchase agreements for any combination of energy, capacity, and environmental attributes (e.g., RECs) for up to 20 years. The bill allows EDCs to retain the RECs to meet their requirements under the state's renewable portfolio standard or sell the RECs to suppliers or other EDCs to use to meet their renewable portfolio standard requirements. The bill requires EDCs, when deciding whether to sell or retain RECs, to select the option that is in ratepayers' best interest.

Under the bill, power purchase agreements are subject to PURA's review and approval. The bill requires PURA to begin its review when the agreement is filed and issue a decision within 60 days. After 60 days, if PURA does not issue a decision, the agreement is deemed approved.

The bill requires EDCs to recover the net costs of the agreement through a fully reconciling component of electric rates for all

customers, including the EDC's costs under the agreement and reasonable costs incurred in connection with the agreement. EDCs must credit customers for any net revenues from the sale of products purchased under the agreement in the same rate component.

The bill also allows the DEEP commissioner to hire consultants with expertise in quantitative modeling of gas and electric markets to assist in implementing the solicitation and procurement, including proposal evaluation. The bill requires DEEP's costs associated with the solicitation and review of proposals to be recovered through the same component of ratepayer bills.

***Biogas Interconnection Standard (§ 18)***

The bill requires PURA to initiate a docket, by October 1, 2019, to define and adopt a gas quality interconnection standard for biogas derived from the decomposition of farm-generated organic waste or source separated organic material that has been processed through gas conditioning systems to remove impurities (e.g., carbon dioxide, hydrogen sulfide). The bill requires the standard to make the biogas of a quality suitable for injection in the state's natural gas distribution system.

The bill requires the docket to also include cleanliness standards for the biogas and a process by which biogas producers may request and be approved for interconnection to the state's natural gas distribution system. PURA must issue a final decision in the docket by September 1, 2021.

EFFECTIVE DATE: Upon passage

**§§ 19 & 20 — GREEN JOBS CAREER LADDER**

*Requires the Office of Workforce Competitiveness, in consultation with other entities, to establish a career ladder for jobs in the green technology industry and requires DOL and OHE to publish it on their websites*

The bill requires the Office of Workforce Competitiveness, in consultation with the Office of Higher Education (OHE), the Department of Education (SDE), the Department of Labor (DOL), DEEP, regional workforce development boards, and employers to

establish a career ladder for jobs in the green technology industry by January 1, 2020 and update it as needed. Under the bill, the career ladder must list:

1. careers at each level of the green technology industry and the requisite level of education and salary offered for each career
2. all course, certificate, and degree programs in green jobs offered by technical education and career schools within the Technical Education and Career System and higher education institutions in Connecticut; and
3. green technology industry jobs available in Connecticut.

The bill makes a corresponding change by requiring OHE and the DOL, by July 1, 2020, to publish the green jobs career ladder on their respective websites, instead of requiring OHE in consultation with the SDE to annually publish green jobs courses and degree and certificate programs offered by technical education and career schools and public higher education institutions on OHE's website.

The bill also requires OHE and DOL to each publish an inventory of green jobs related equipment used by technical education and career schools and higher education institutions on their respective websites by July 1, 2020. Current law requires just OHE, in consultation with SDE, to publish such inventory on its website.

EFFECTIVE DATE: July 1, 2019

## **BACKGROUND**

### ***Related Bills***

sHB 7154 (File 422), favorably reported by the Energy and Technology Committee, contains the same provisions on construction standards and DEEP consultants.

sHB 7251 (File 431), favorably reported by the Energy and Technology Committee, contains similar provisions extending current renewable programs, and, for new programs required under PA 18-50,



delaying deadlines and requiring a value of distributed energy resources study.

sHB 5828 (File 241), favorably reported by the Higher Education and Employment Advancement Committee, contains the same provisions on establishment and publication of a green jobs ladder.

SB 468 (File 217), favorably reported by the Energy and Technology Committee, contains similar provisions on land inventories for Class I resources.

**COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable  
Yea 25 Nay 0 (03/19/2019)

Appropriations Committee

Joint Favorable  
Yea 40 Nay 5 (05/17/2019)