



General Assembly

February Session, 2020

Raised Bill No. 5103

LCO No. 771



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

AN ACT REQUIRING AN EVALUATION OF THE STATE'S ENVIRONMENTAL JUSTICE LAW.

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

1 Section 1. Section 22a-20a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2020*):

3 (a) As used in this section:

4 (1) "Environmental justice community" means (A) a United States
5 census block group, as determined in accordance with the most recent
6 United States census, for which thirty per cent or more of the population
7 consists of low income persons who are not institutionalized and have
8 an income below two hundred per cent of the federal poverty level; [,]
9 or (B) a distressed municipality, as defined in subsection (b) of section
10 32-9p;

11 (2) "Affecting facility" means any (A) electric generating facility with
12 a capacity of more than ten megawatts; (B) sludge or solid waste
13 incinerator or combustor; (C) sewage treatment plant with a capacity of
14 more than fifty million gallons per day; (D) intermediate processing

15 center, volume reduction facility or multitown recycling facility with a
16 combined monthly volume in excess of twenty-five tons; (E) new or
17 expanded landfill, including, but not limited to, a landfill that contains
18 ash, construction and demolition debris or solid waste; (F) medical
19 waste incinerator; or (G) major source of air pollution, as defined by the
20 federal Clean Air Act. "Affecting facility" shall not include (i) the portion
21 of an electric generating facility that uses nonemitting and nonpolluting
22 renewable resources such as wind, solar and hydro power or that uses
23 fuel cells, (ii) any facility for which a certificate of environmental
24 compatibility and public need was obtained from the Connecticut Siting
25 Council on or before January 1, 2000, or (iii) a facility of a constituent
26 unit of the state system of higher education that has been the subject of
27 an environmental impact evaluation in accordance with the provisions
28 of sections 22a-1b to 22a-1h, inclusive, and such evaluation has been
29 determined to be satisfactory in accordance with section 22a-1e;

30 (3) "Meaningful public participation" means (A) residents of an
31 environmental justice community have an appropriate opportunity to
32 participate in decisions about a proposed facility or the expansion of an
33 existing facility that may adversely affect such residents' environment
34 or health; (B) the public's participation may influence the regulatory
35 agency's decision; and (C) the applicant for a new or expanded permit,
36 certificate or siting approval seeks out and facilitates the participation
37 of those potentially affected during the regulatory process; and

38 (4) "Community environmental benefit agreement" means a written
39 agreement entered into by a municipality and an owner or developer of
40 real property whereby the owner or developer agrees to develop real
41 property that is to be used for any new or expanded affecting facility
42 and to provide financial resources for the purpose of the mitigation, in
43 whole or in part, of impacts reasonably related to the facility, including,
44 but not limited to, impacts on the environment, including, but not
45 limited to, air quality and watercourses, quality of life, asthma rates,
46 traffic, parking and noise.

47 (b) (1) Applicants who, on or after January 1, 2009, seek to obtain any
48 certificate under chapter 277a, new or expanded permit or siting
49 approval from the Department of Energy and Environmental Protection
50 or the Connecticut Siting Council involving an affecting facility that is
51 proposed to be located in an environmental justice community or the
52 proposed expansion of an affecting facility located in such a community,
53 shall (A) file a meaningful public participation plan with such
54 department or council and shall obtain the department's or council's
55 approval of such plan prior to filing any application for such permit,
56 certificate or approval; and (B) consult with the chief elected official or
57 officials of the town or towns in which the affecting facility is to be
58 located or expanded to evaluate the need for a community
59 environmental benefit agreement in accordance with subsection (d) of
60 this section.

61 (2) Each such meaningful public participation plan shall contain
62 measures to facilitate meaningful public participation in the regulatory
63 process and a certification that the applicant will undertake the
64 measures contained in the plan. Such plan shall identify a time and place
65 where an informal public meeting will be held that is convenient for the
66 residents of the affected environmental justice community. In addition,
67 any such plan shall identify the methods, if any, by which the applicant
68 will publicize the date, time and nature of the informal public meeting
69 in addition to the publication required by subdivision (3) of this
70 subsection. Such methods [may] shall include, but not be limited to, (A)
71 posting a reasonably visible sign on the proposed or existing facility
72 property, printed in English, in accordance with any local regulations
73 and ordinances, (B) posting a reasonably visible sign, printed in all
74 languages spoken by at least twenty per cent of the population that
75 reside within a one-half of a mile radius of the proposed or existing
76 facility, in accordance with local regulations and ordinances, (C)
77 notifying neighborhood and environmental groups, in writing, in a
78 language appropriate for the target audience, and (D) notifying local
79 and state elected officials, in writing.

80 (3) Not less than ten days prior to the informal public meeting and
81 not more than thirty days prior to such meeting, the applicant shall
82 publish the date, time and nature of the informal public meeting with a
83 minimum one-quarter page advertisement in a newspaper having
84 general circulation in the area affected, and any other appropriate local
85 newspaper serving such area, in the Monday issue of a daily publication
86 or any day in a weekly or monthly publication. The applicant shall post
87 a similar notification of the informal public meeting on the applicant's
88 web site, if applicable.

89 (4) At the informal public meeting, the applicant shall make a
90 reasonable and good faith effort to provide clear, accurate and complete
91 information about the proposed facility or the proposed expansion of a
92 facility and the potential environmental and health impacts of such
93 facility or such expansion.

94 (5) The Department of Energy and Environmental Protection or the
95 Connecticut Siting Council shall not take any action on the applicant's
96 permit, certificate or approval earlier than sixty days after the informal
97 public meeting. In the event that the applicant fails to undertake the
98 requirements of subparagraphs (B) to (D), inclusive, of subdivision (2)
99 of this subsection or subdivision (3) or (4) of this subsection, any such
100 application shall be deemed insufficient.

101 (6) In the event that the Connecticut Siting Council has approved a
102 meaningful public participation plan concerning a new or expanded
103 facility and an informal public meeting has been held in accordance with
104 this subsection, the Department of Energy and Environmental
105 Protection may approve such plan and waive the requirement that an
106 additional informal public meeting be held in accordance with this
107 subsection.

108 (c) Any municipality, owner or developer may enter into a
109 community environmental benefit agreement in connection with an
110 affecting facility, provided any municipality that hosts five or more

111 permitted affecting facilities shall enter such an agreement in connection
112 with any additional affecting facility. Mitigation may include both on-
113 site and off-site improvements, activities and programs, including, but
114 not limited to: Funding for activities such as environmental education,
115 diesel pollution reduction, establishment of a wellness clinic, ongoing
116 asthma screening, provision of air monitoring performed by a
117 credentialed environmental professional, performance of an ongoing
118 traffic study, watercourse monitoring, construction of biking and
119 walking trails, staffing for parks, urban forestry, support for community
120 gardens or any other negotiated benefit to the environment in the
121 environmental justice community. Prior to negotiating the terms of a
122 community environmental benefit agreement, the municipality shall
123 provide a reasonable and public opportunity for residents of the
124 potentially affected environmental justice community to be heard
125 concerning the requirements of or need for, and terms of, such
126 agreement.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2020</i> | 22a-20a |

Statement of Purpose:

To strengthen the requirements under the state's environmental justice law.

[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.]