



# House of Representatives

General Assembly

**File No. 529**

January Session, 2021

Substitute House Bill No. 6551

*House of Representatives, April 20, 2021*

The Committee on Environment reported through REP. GRESKO of the 121st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING ENVIRONMENTAL AIR QUALITY.***

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

1 Section 1. (NEW) (*Effective from passage*) (a) There is established within  
2 the Department of Energy and Environmental Protection a working  
3 group to be known as the environmental equity working group. Such  
4 working group, in consultation with the Department of Energy and  
5 Environmental Protection, the Department of Public Health and the  
6 Labor Department, shall establish criteria to identify disadvantaged  
7 communities and identify such communities for the purpose of co-  
8 pollutant reductions, greenhouse gas emissions reductions, regulatory  
9 impact statements and the allocation of investments under section 22a-  
10 200a of the general statutes.

11 (b) The environmental equity working group shall consist of the  
12 following members:

13 (1) Five representatives of environmental equity communities,  
14 appointed by the Commissioner of Energy and Environmental

15 Protection in accordance with subsection (e) of this subsection;

16 (2) Two representatives of the Environmental Justice Program within  
17 the Department of Energy and Environmental Protection, appointed by  
18 the Commissioner of Energy and Environmental Protection;

19 (3) Two representatives of the Department of Public Health,  
20 appointed by the Commissioner of Public Health;

21 (4) Two representatives of the Department of Housing, appointed by  
22 the Commissioner of Housing; and

23 (5) Two representatives of the Labor Department, appointed by the  
24 Labor Commissioner.

25 (c) Initial appointments to the working group shall be made not later  
26 than four months after the effective date of this section. Any vacancy  
27 shall be filled by the appointing authority.

28 (d) The Commissioner of Energy and Environmental Protection shall  
29 select the chairpersons of the working group from among the members  
30 of the working group. Such chairpersons shall schedule the first meeting  
31 of the working group, which shall be held not later than six months after  
32 the effective date of this section.

33 (e) Environmental equity community representatives shall be  
34 members of communities of color, low-income communities and  
35 communities bearing disproportionate pollution and climate change  
36 burdens, and may include representatives of community-based  
37 organizations with experience and a history of advocacy on  
38 environmental equity issues.

39 (f) In establishing the criteria pursuant to subsection (a) of this  
40 section, disadvantaged communities shall be identified based on  
41 geographic, public health, environmental hazard and socioeconomic  
42 criteria that shall include, but not be limited to: (1) Areas burdened by  
43 cumulative environmental pollution and other hazards that can lead to  
44 negative public health effects; (2) areas with concentrations of people

45 that are of low income, high unemployment, high rent burden, low  
46 levels of home ownership, low levels of educational attainment or  
47 members of groups that have historically experienced discrimination on  
48 the basis of race or ethnicity; and (3) areas vulnerable to the impacts of  
49 climate change such as flooding, storm surges and urban heat island  
50 effects.

51 (g) Before finalizing the criteria for identifying disadvantaged  
52 communities and finalizing the identification of such communities  
53 pursuant to subsection (a) of this section, which shall occur on or before  
54 October 1, 2022, the Department of Energy and Environmental  
55 Protection shall publish draft criteria and a draft list of disadvantaged  
56 communities and make such information available on the department's  
57 Internet web site. The working group shall hold not less than one public  
58 hearing on the draft criteria and the draft list of disadvantaged  
59 communities and shall allow at least forty-five days for the submission  
60 of public comment.

61 (h) Such working group shall ensure that there are meaningful  
62 opportunities for public comment for all segments of the population that  
63 may be impacted by the criteria, including persons living in areas that  
64 may be identified as disadvantaged communities under the proposed  
65 criteria.

66 (i) The working group shall meet not less than annually to review the  
67 criteria used to identify disadvantaged communities and may modify  
68 such methods to incorporate new data and scientific findings. The  
69 working group shall review such identified disadvantaged  
70 communities and modify such designation as needed.

71 Sec. 2. Section 22a-20a of the general statutes is amended by adding  
72 subsection (f) as follows (*Effective October 1, 2023*):

73 (NEW) (f) Notwithstanding any provision of the general statutes, if  
74 the Department of Energy and Environmental Protection or the  
75 Connecticut Siting Council, as applicable, determines that there are less  
76 harmful alternatives compared to the applicant's proposed facility or

77 new or expanded permit, then the department or council, as applicable,  
78 shall deny the subject application or permit, as received, but allow the  
79 applicant to resubmit such application, if appropriate, with  
80 modifications. Notwithstanding any provision of the general statutes, if  
81 the department or council determines that, together with other  
82 environmental or public health stressors affecting the environmental  
83 justice community, the proposed facility or new or expanded permit  
84 could cause or contribute to adverse cumulative environmental or  
85 public health stressors in such community that are higher than those of  
86 other communities in the state, on average, the department or council,  
87 as applicable, shall deny the subject application or permit or place  
88 conditions on the application or permit as necessary in order to avoid or  
89 reduce such adverse environmental or public health stressors affecting  
90 the environmental justice community. Notwithstanding any provision  
91 of the general statutes, if the department or council, as applicable,  
92 determines that a new facility or expansion or modification of an  
93 existing facility will serve a compelling public interest in the affected  
94 environmental justice community, the department or council, as  
95 applicable, may approve such application or permit and impose  
96 conditions on the construction and operation of the facility to protect the  
97 public health and the environment. The department or council, as  
98 applicable, shall publish any determination, pursuant to this subsection,  
99 made regarding such department's or council's Internet web site, as  
100 applicable.

101 Sec. 3. Subsection (a) of section 22a-200b of the general statutes is  
102 repealed and the following is substituted in lieu thereof (*Effective October*  
103 *1, 2021*):

104 (a) The Commissioner of Energy and Environmental Protection shall,  
105 with the advice and assistance of a nonprofit association organized to  
106 provide scientific, technical, analytical and policy support to the air  
107 quality and climate programs of northeastern states: (1) Not later than  
108 December 1, 2009, publish an inventory of greenhouse gas emissions to  
109 establish a baseline for such emissions for the state and publish a  
110 summary of greenhouse gas emission reduction strategies on the

111 Department of Energy and Environmental Protection's Internet web  
112 site, (2) not later than July 1, 2010, publish results of various modeling  
113 scenarios concerning greenhouse gas emissions, including, but not  
114 limited to, an evaluation of the potential economic and environmental  
115 benefits and opportunities for economic growth based on such  
116 scenarios, (3) not later than July 1, 2011, analyze greenhouse gas  
117 emission reduction strategies and, after an opportunity for public  
118 comment, make recommendations on which such strategies will achieve  
119 the greenhouse gas emission levels specified in section 22a-200a, and (4)  
120 not later than July 1, 2012, and every three years thereafter, develop,  
121 with an opportunity for public comment, a schedule of recommended  
122 regulatory actions by relevant agencies, policies and other actions  
123 necessary to [show reasonable further progress towards achieving the  
124 greenhouse gas emission levels specified in section 22a-200a] ensure  
125 attainment of the state-wide greenhouse gas emission levels established  
126 in section 22a-200a.

127 Sec. 4. (NEW) (*Effective July 1, 2021*) (a) For purposes of this section,  
128 "qualified data center" means a facility that is developed, acquired,  
129 constructed, rehabilitated, renovated, repaired or operated to house a  
130 group of networked computer servers in one physical location or  
131 multiple contiguous locations to centralize the storage, management  
132 and dissemination of data and information pertaining to a particular  
133 business or classification or body of knowledge.

134 (b) The owner or operator of any qualified data center who enters into  
135 an agreement with the Commissioner of Economic and Community  
136 Development on or after July 1, 2021, shall provide that every fossil fuel  
137 burning emergency use generator used in connection with the operation  
138 of such qualified data center, including any such generator used for  
139 testing and maintenance, be of at least EPA Tier 2 standards and that  
140 every fossil fuel burning nonemergency use generator used in  
141 connection with the operation of such qualified data center: (1) Emit not  
142 more than 0.72 g/KW-hr of nitrogen oxides and 0.036 g/KW-hr of  
143 ammonia at all times, (2) exhaust from a stack that is greater than thirty-  
144 four feet tall at all times, and (3) comply with applicable emissions

145 standards as set forth in 40 CFR 60, 40 CFR 63, and section 22a-174-1 of  
 146 the regulations of Connecticut state agencies at all times. Any exception  
 147 to the requirements of this section shall be approved by the  
 148 Commissioner of Energy and Environmental Protection.

149 (c) Not later than one hundred eighty days after commencement of  
 150 operations, the owner or operator of any qualified data center described  
 151 in subsection (b) of this section shall attain certification under one or  
 152 more of the following green building standards: (1) BREEAM for New  
 153 Construction or BREEAM In-Use; (2) ENERGY STAR; (3) Envision; (4)  
 154 ISO 50001-energy management; (5) LEED for Building Design and  
 155 Construction or LEED for Operations and Maintenance; (6) Green  
 156 Globes for New Construction or Green Globes for Existing Buildings; (7)  
 157 UL 3223; or (8) a program that is equivalent to those listed in  
 158 subdivisions (1) to (7), inclusive, of this subsection and that is approved  
 159 by the Commissioner of Economic and Community Development.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2023</i>	22a-20a
Sec. 3	<i>October 1, 2021</i>	22a-200b(a)
Sec. 4	<i>July 1, 2021</i>	New section

**ENV**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Department of Energy and Environmental Protection	GF - Cost	228,118	236,413
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	91,932	95,274
Department of Energy and Environmental Protection	GF - Potential Cost	200,000	200,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill alters various environmental justice (EJ) laws.

**Section 1** requires that the environmental equity working group, in consultation with the Department of Energy and Environmental Protection (DEEP) and the Departments of Public Health (DPH) and Labor (DOL), establish criteria to identify disadvantaged communities. This requirement has no fiscal impact to DEEP, DOL or DPH as they currently have expertise to identify these communities.

**Section 2** of the bill requires DEEP to deny an application or permit for a new or expanded facility if less harmful alternatives are found; it also allows for resubmittal of applications. This provision requires DEEP to obtain new information for certain permit applications in

---

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.3% of payroll in FY 22 and FY 23.

advance of creating new EJ decisions. These new requirements would result in costs to DEEP of \$228,118 in FY 22 and \$236,413 in FY 23 to hire two additional Environmental Analyst 3 (EA) positions and a new Attorney. There would also be associated fringe benefit costs of \$91,932 and \$95,274, respectively for the three new positions.

There are currently two Attorney's covering 125 permitting processes under the Environmental Quality side of DEEP (including materials management/solid waste, air, and industrial waste water programs). The two DEEP staff persons that currently work on EJ programs also cover the "bottle bill" and are not dedicated EJ staff. The additional EA positions are required to handle the bill's provisions and would work on data collection and analysis required for permitting decision-making as required under the bill's expanded EJ thresholds. There may also be costs to DEEP associated with retaining outside consultants, estimated to be approximately \$200,000 in each of FY 22 and FY 23 to the extent consulting with DPH is required to meet the public health criteria set forth under the bill for each EJ project, as DEEP currently does not have expertise in this area.

Additionally, current law requires DEEP to publish a schedule of regulatory actions and policies to demonstrate progress towards meeting a schedule of reduced greenhouse gas levels. **Section 3** of the bill requires action on this schedule of reduced emissions to ensure that the state reach these levels. Changing the scope of the report does not result in a fiscal impact to the state or municipalities.

Lastly, **Section 4** establishes (1) emissions requirements for fossil fuel burning generators used by qualified data centers and (2) green building standards for these centers. The bill requires qualified data centers who enter into agreements with the Department of Economic and Community Development (DECD) that each fossil fuel burning emergency use generator used by that data center meet certain standards of the Federal Environmental Protection Agency. This is not anticipated to result in a fiscal impact to the state or municipalities as it



would apply to private, third-parties.<sup>2</sup>

***The Out Years***

The annualized ongoing fiscal impact identified above may continue into the future subject to the number of EJ projects DEEP is required to review. It is estimated that any consulting costs would only occur in FY 22 and FY 23 and costs for DEEP staff would continue into the future subject to inflation.

---

<sup>2</sup> A data center is a facility used to house networked computer servers in one location or contiguous locations.

---

**OLR Bill Analysis****sHB 6551*****AN ACT CONCERNING ENVIRONMENTAL AIR QUALITY.*****SUMMARY**

This bill does the following:

1. establishes a 13-member environmental equity working group within the Department of Energy and Environmental Protection (DEEP) to identify disadvantaged communities for such things as pollutant reductions and regulatory impact statements (§ 1);
2. beginning October 1, 2023, generally prohibits DEEP or the Connecticut Siting Council, as applicable, from approving an application or permit for certain facilities in environmental justice communities if either one determines that there are less harmful alternatives (§ 2);
3. requires (a) fossil fuel burning generators for qualified data centers to meet certain emissions standards and (b) these centers to be certified as meeting green building standards (§ 4); and
4. requires that DEEP's triennial schedule of recommended policies and actions on greenhouse gas (GHG) emissions be for ensuring that the state meets its statutory GHG targets, rather than for showing reasonable progress towards meeting them (§ 3).

EFFECTIVE DATE: Upon passage for the working group provision; the changes to the environmental justice law take effect October 1, 2023; July 1, 2021, for the data center provision; and the change to the GHG schedule is effective October 1, 2021.

**§ 1 — ENVIRONMENTAL EQUITY WORKING GROUP*****Purpose***

Under the bill, by October 1, 2022, the environmental equity working group must establish criteria to identify disadvantaged communities and use it to identify the communities. The group must do this in consultation with DEEP and the public health and labor departments.

The purpose of identifying the communities is for reducing GHG emissions and co-pollutants, regulatory impact statements, and allocating investments under the state's GHG reduction goals. (By law, the GHG reduction goals do not include investments or methods for allocating them, but provisions on the Regional Greenhouse Gas Initiative do (CGS § 22a-200c).)

### ***Membership***

Under the bill, the working group consists of the following 13 members:

1. five representatives of environmental equity communities (see below), appointed by the DEEP commissioner;
2. two representatives of DEEP's Environmental Justice Program, appointed by the DEEP commissioner; and
3. two representatives each from the public health, housing, and labor departments, appointed by their respective department commissioners.

Under the bill, the representatives of environmental equity communities must be members of (1) communities of color, (2) low-income communities, and (3) communities with disproportionate pollution and climate change effects. The representatives may be from community-based organizations with experience and a history of advocacy on environmental equity issues.

The bill requires initial appointments to be made within four months after the bill's passage and vacancies to be filled by the appointing authorities. The DEEP commissioner must select the working group's chairpersons from among the group's members.

**Meetings**

The bill requires the working group's chairpersons to schedule the group's first meeting, which must be held within six months after the bill's passage. The bill further requires the working group to meet at least annually to (1) review the criteria for identifying disadvantaged communities and (2) modify the criteria to incorporate new data and scientific findings. Similarly, the group must review the identified disadvantaged communities and change the designations as necessary.

**Process for Identifying Criteria**

Under the bill, after creating the draft criteria for identifying disadvantaged communities and the draft list of these communities, DEEP must publish both documents and make them available on the department's website.

The bill requires that disadvantaged communities be identified based on geographic, public health, environmental hazard, and socioeconomic criteria. This includes areas:

1. burdened by cumulative environmental pollution and other hazards that can negatively affect public health;
2. with concentrations of people who have low income, home ownership, or educational attainment levels; high rent burden or unemployment; or historically experienced discrimination based on race or ethnicity; and
3. vulnerable to climate change impacts such as flooding, storm surge, and urban heat island effects.

The bill requires the working group to (1) have at least one public hearing on the draft criteria and draft list and (2) provide a public comment period of at least 45 days. It also requires the working group to ensure that all population segments that may be impacted by the criteria (e.g., people living in areas that may be identified as disadvantaged communities) have meaningful opportunities for public comment.

---

**§ 2 — AFFECTING FACILITY ALTERNATIVES**

The state’s environmental justice law generally requires applicants seeking to construct, site, or modify certain facilities (“affecting facilities”) in environmental justice communities to engage in a public participation process and consult with local officials about mitigating facility impacts (see BACKGROUND). Under the law, an environmental justice community is a (1) distressed municipality or (2) U.S. census block group for which at least 30% of the population consists of low-income people who are not institutionalized and have an income of less than 200% of the federal poverty level.

The bill requires DEEP or the Connecticut Siting Council, as applicable, to deny an application for a proposed facility or a new or expanded permit if it determines there are less harmful alternatives to the request. It allows the applicant to resubmit the application, if appropriate, with modifications.

If DEEP or the council, as applicable, determine that the proposed project could cause or contribute to adverse total environmental or public health stressors that are higher than in other communities, on average, then it must deny the application or permit or impose conditions on it as needed to avoid or reduce the stressors. The agencies must make this determination by considering existing environmental or public health stressors in the community.

The bill, however, allows DEEP or the council, as applicable, to approve an application or permit and impose conditions on the subject facility to protect public health and the environment if it finds that the facility, or its modification or expansion, will serve a compelling interest in the community.

The bill’s environmental justice provisions apply regardless of any other state law. The bill requires DEEP or the council, as applicable, to publish any determination related to this process on its respective website.

**§ 4 — QUALIFIED DATA CENTERS**

The bill establishes (1) emissions requirements for fossil fuel burning generators used by qualified data centers and (2) green building standards for these centers. (PA 21-1 authorizes the Department of Economic and Community Development (DECD) commissioner to enter into agreements to provide tax incentives to qualified data centers that locate in Connecticut and make a minimum investment.)

Under the bill, as under existing law, a “qualified data center” is a facility developed, acquired, constructed, rehabilitated, renovated, repaired, or operated to house a group of networked computer servers in one location or contiguous locations. The purpose of a center is to centralize storing, managing, and disseminating data and information related to a particular business or classification or body of knowledge.

### ***Emissions Requirements***

Under the bill, a qualified data center owner or operator who enters into an agreement with the DECD commissioner beginning July 1, 2021, must provide that each fossil fuel burning emergency use generator the data center uses for its operation, including testing and maintenance, meet at least federal Environmental Protection Agency Tier II standards.

For these data centers, the bill requires each fossil fuel burning nonemergency use generator to continuously (1) emit no more than 0.72 g/KW-hr (grams per kilowatt hour) of nitrogen oxides and 0.036 g/KW-hr of ammonia and (2) comply with state air pollution regulations and federal regulations on stationary emission sources and emission standards for hazardous air pollutants. The bill also requires the exhaust stacks of the nonemergency use generators to be taller than 34 feet high.

Any exemption from the emissions requirements of either generator type must be approved by the DEEP commissioner.

### ***Green Building Certification***

The bill requires the owner or operator of a qualified data center to, within 180 days after beginning operations, become certified under at least one of the following green building standards:

1. BREEAM for New Construction or BREEAM In-Use;
2. ENERGY STAR;
3. Envision;
4. ISO 50001-energy management;
5. LEED for Building Design and Construction or LEED for Operations and Maintenance;
6. Green Globes for New Construction or Green Globes for Existing Buildings;
7. UL 3223; or
8. an equivalent program approved by the DECD commissioner.

### **§ 3 — GHG POLICY AND ACTION SCHEDULE**

By law, the state must reduce its GHG emissions to at least the following levels:

1. 10% below 1990's emission level by January 1, 2020;
2. 45% below 2001's emissions level by January 1, 2030; and
3. 80% below 2001's emissions level by January 1, 2050 (CGS § 22a-200a(a)).

Current law requires the DEEP commissioner, every three years, to publish a schedule of recommended agency regulatory actions, policies, and other actions to show reasonable progress towards meeting these levels. The bill instead requires that these actions ensure that the state reach these levels.

### **BACKGROUND**

#### ***Related Bill***

sSB 882 (File 282), favorably reported by the Energy and Technology Committee, requires the state to eliminate GHG emissions from

electricity supplied to electric customers in the state by January 1, 2040, and establishes this requirement as part of the state's GHG reduction policies.

***Affecting Facilities***

The state's environmental justice law applies to applicants seeking permits, certificates, or approval from DEEP or the Siting Council for the following types of new or expanded facilities:

1. electric generating facilities with a capacity of more than 10 megawatts;
2. sludge and solid waste incinerators or combustors;
3. sewage treatment plants with a capacity of more than 50 million gallons per day;
4. intermediate processing centers, volume reduction facilities, or multi-town recycling facilities with a combined monthly volume of more than 25 tons;
5. landfills, including those with ash, construction and demolition debris, or solid waste;
6. medical waste incinerators; and
7. major air pollution sources under the federal Clean Air Act (e.g., large factories).

The law exempts (1) parts of electric generating facilities that use fuel cells or non-emitting and non-polluting renewable resources such as wind, solar, and hydropower; (2) facilities that obtained a Siting Council certificate by January 1, 2000; and (3) facilities under the state higher education system's control with a satisfactory environmental impact evaluation (CGS § 22a-20a).

**COMMITTEE ACTION**

Environment Committee



Joint Favorable Substitute

Yea 22 Nay 10 (03/31/2021)