



House of Representatives

General Assembly

File No. 323

February Session, 2022

House Bill No. 5118

House of Representatives, April 6, 2022

The Committee on Energy and Technology reported through REP. ARCONTI of the 109th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING WASTE MANAGEMENT AND ANAEROBIC DIGESTION.

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

1 Section 1. Subsection (a) of section 16-245a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective October*
3 *1, 2022*):

4 (a) Subject to any modifications required by the Public Utilities
5 Regulatory Authority for retiring renewable energy certificates on
6 behalf of all electric ratepayers pursuant to subsection (h) of this section
7 and sections 16a-3f, 16a-3g, 16a-3h, 16a-3i, 16a-3j, 16a-3m and 16a-3n, an
8 electric supplier and an electric distribution company providing
9 standard service or supplier of last resort service, pursuant to section 16-
10 244c, shall demonstrate:

11 (1) On and after January 1, 2006, that not less than two per cent of the
12 total output or services of any such supplier or distribution company
13 shall be generated from Class I renewable energy sources and an

14 additional three per cent of the total output or services shall be from
15 Class I or Class II renewable energy sources;

16 (2) On and after January 1, 2007, not less than three and one-half per
17 cent of the total output or services of any such supplier or distribution
18 company shall be generated from Class I renewable energy sources and
19 an additional three per cent of the total output or services shall be from
20 Class I or Class II renewable energy sources;

21 (3) On and after January 1, 2008, not less than five per cent of the total
22 output or services of any such supplier or distribution company shall be
23 generated from Class I renewable energy sources and an additional
24 three per cent of the total output or services shall be from Class I or Class
25 II renewable energy sources;

26 (4) On and after January 1, 2009, not less than six per cent of the total
27 output or services of any such supplier or distribution company shall be
28 generated from Class I renewable energy sources and an additional
29 three per cent of the total output or services shall be from Class I or Class
30 II renewable energy sources;

31 (5) On and after January 1, 2010, not less than seven per cent of the
32 total output or services of any such supplier or distribution company
33 shall be generated from Class I renewable energy sources and an
34 additional three per cent of the total output or services shall be from
35 Class I or Class II renewable energy sources;

36 (6) On and after January 1, 2011, not less than eight per cent of the
37 total output or services of any such supplier or distribution company
38 shall be generated from Class I renewable energy sources and an
39 additional three per cent of the total output or services shall be from
40 Class I or Class II renewable energy sources;

41 (7) On and after January 1, 2012, not less than nine per cent of the total
42 output or services of any such supplier or distribution company shall be
43 generated from Class I renewable energy sources and an additional
44 three per cent of the total output or services shall be from Class I or Class

45 II renewable energy sources;

46 (8) On and after January 1, 2013, not less than ten per cent of the total
47 output or services of any such supplier or distribution company shall be
48 generated from Class I renewable energy sources and an additional
49 three per cent of the total output or services shall be from Class I or Class
50 II renewable energy sources;

51 (9) On and after January 1, 2014, not less than eleven per cent of the
52 total output or services of any such supplier or distribution company
53 shall be generated from Class I renewable energy sources and an
54 additional three per cent of the total output or services shall be from
55 Class I or Class II renewable energy sources;

56 (10) On and after January 1, 2015, not less than twelve and one-half
57 per cent of the total output or services of any such supplier or
58 distribution company shall be generated from Class I renewable energy
59 sources and an additional three per cent of the total output or services
60 shall be from Class I or Class II renewable energy sources;

61 (11) On and after January 1, 2016, not less than fourteen per cent of
62 the total output or services of any such supplier or distribution company
63 shall be generated from Class I renewable energy sources and an
64 additional three per cent of the total output or services shall be from
65 Class I or Class II renewable energy sources;

66 (12) On and after January 1, 2017, not less than fifteen and one-half
67 per cent of the total output or services of any such supplier or
68 distribution company shall be generated from Class I renewable energy
69 sources and an additional three per cent of the total output or services
70 shall be from Class I or Class II renewable energy sources;

71 (13) On and after January 1, 2018, not less than seventeen per cent of
72 the total output or services of any such supplier or distribution company
73 shall be generated from Class I renewable energy sources and an
74 additional four per cent of the total output or services shall be from Class
75 I or Class II renewable energy sources;

76 (14) On and after January 1, 2019, not less than nineteen and one-half
77 per cent of the total output or services of any such supplier or
78 distribution company shall be generated from Class I renewable energy
79 sources and an additional four per cent of the total output or services
80 shall be from Class I or Class II renewable energy sources;

81 (15) On and after January 1, 2020, not less than twenty-one per cent
82 of the total output or services of any such supplier or distribution
83 company shall be generated from Class I renewable energy sources and
84 an additional four per cent of the total output or services shall be from
85 Class I or Class II renewable energy sources, except that for any electric
86 supplier that has entered into or renewed a retail electric supply contract
87 on or before May 24, 2018, on and after January 1, 2020, not less than
88 twenty per cent of the total output or services of any such electric
89 supplier shall be generated from Class I renewable energy sources;

90 (16) On and after January 1, 2021, not less than twenty-two and one-
91 half per cent of the total output or services of any such supplier or
92 distribution company shall be generated from Class I renewable energy
93 sources and an additional four per cent of the total output or services
94 shall be from Class I or Class II renewable energy sources;

95 (17) On and after January 1, 2022, not less than twenty-four per cent
96 of the total output or services of any such supplier or distribution
97 company shall be generated from Class I renewable energy sources and
98 an additional four per cent of the total output or services shall be from
99 Class I or Class II renewable energy sources;

100 (18) On and after January 1, 2023, not less than twenty-six per cent of
101 the total output or services of any such supplier or distribution company
102 shall be generated from Class I renewable energy sources and an
103 additional four per cent of the total output or services shall be from
104 [Class I or] Class II renewable energy sources;

105 (19) On and after January 1, 2024, not less than twenty-eight per cent
106 of the total output or services of any such supplier or distribution
107 company shall be generated from Class I renewable energy sources and

108 an additional four per cent of the total output or services shall be from
109 [Class I or] Class II renewable energy sources;

110 (20) On and after January 1, 2025, not less than thirty per cent of the
111 total output or services of any such supplier or distribution company
112 shall be generated from Class I renewable energy sources and an
113 additional four per cent of the total output or services shall be from
114 [Class I or] Class II renewable energy sources;

115 (21) On and after January 1, 2026, not less than thirty-two per cent of
116 the total output or services of any such supplier or distribution company
117 shall be generated from Class I renewable energy sources and an
118 additional four per cent of the total output or services shall be from
119 [Class I or] Class II renewable energy sources;

120 (22) On and after January 1, 2027, not less than thirty-four per cent of
121 the total output or services of any such supplier or distribution company
122 shall be generated from Class I renewable energy sources and an
123 additional four per cent of the total output or services shall be from
124 [Class I or] Class II renewable energy sources;

125 (23) On and after January 1, 2028, not less than thirty-six per cent of
126 the total output or services of any such supplier or distribution company
127 shall be generated from Class I renewable energy sources and an
128 additional four per cent of the total output or services shall be from
129 [Class I or] Class II renewable energy sources;

130 (24) On and after January 1, 2029, not less than thirty-eight per cent
131 of the total output or services of any such supplier or distribution
132 company shall be generated from Class I renewable energy sources and
133 an additional four per cent of the total output or services shall be from
134 [Class I or] Class II renewable energy sources;

135 (25) On and after January 1, 2030, not less than forty per cent of the
136 total output or services of any such supplier or distribution company
137 shall be generated from Class I renewable energy sources and an
138 additional four per cent of the total output or services shall be from

139 [Class I or] Class II renewable energy sources.

140 Sec. 2. Subdivision (1) of subsection (h) of section 16-244c of the
141 general statutes is repealed and the following is substituted in lieu
142 thereof (*Effective October 1, 2022*):

143 (h) (1) Notwithstanding the provisions of subsection (b) of this
144 section regarding an alternative standard service option, an electric
145 distribution company providing standard service, supplier of last resort
146 service or back-up electric generation service in accordance with this
147 section shall contract with its wholesale suppliers to comply with the
148 renewable portfolio standards. The Public Utilities Regulatory
149 Authority shall annually conduct an uncontested proceeding in order to
150 determine whether the electric distribution company's wholesale
151 suppliers met the renewable portfolio standards during the preceding
152 year. On or before December 31, 2013, the authority shall issue a decision
153 on any such proceeding for calendar years up to and including 2012, for
154 which a decision has not already been issued. Not later than December
155 31, 2014, and annually thereafter, the authority shall, following such
156 proceeding, issue a decision as to whether the electric distribution
157 company's wholesale suppliers met the renewable portfolio standards
158 during the preceding year. An electric distribution company shall
159 include a provision in its contract with each wholesale supplier that
160 requires the wholesale supplier to pay the electric distribution company
161 an amount of: (A) For calendar years up to and including calendar year
162 2017, five and one-half cents per kilowatt hour if the wholesale supplier
163 fails to comply with the renewable portfolio standards during the
164 subject annual period, (B) for calendar years commencing on January 1,
165 2018, up to and including the calendar year commencing on January 1,
166 2020, five and one-half cents per kilowatt hour if the wholesale supplier
167 fails to comply with the renewable portfolio standards during the
168 subject annual period for Class I renewable energy sources, and two and
169 one-half cents per kilowatt hour if the wholesale supplier fails to comply
170 with the renewable portfolio standards during the subject annual period
171 for Class II renewable energy sources, and (C) for calendar years
172 commencing on and after January 1, 2021, four cents per kilowatt hour

173 if the wholesale supplier fails to comply with the renewable portfolio
174 standards during the subject annual period for Class I renewable energy
175 sources, and two and one-half cents per kilowatt hour if the wholesale
176 supplier fails to comply with the renewable portfolio standards during
177 the subject annual period for Class II renewable energy sources. The
178 electric distribution company shall promptly transfer any payment
179 received from the wholesale supplier for the failure to meet the
180 renewable portfolio standards to the Clean Energy Fund for the
181 development of Class I renewable energy sources, provided, on and
182 after June 5, 2013, any such payment shall be refunded to ratepayers by
183 using such payment to offset the costs to all customers of electric
184 distribution companies of the costs of contracts and tariffs entered into
185 pursuant to sections 16-244r, 16-244t and 16-244z, except that, on or after
186 January 1, 2023, any such payment that is attributable to a failure to
187 comply with the Class II renewable portfolio standards shall be
188 deposited in the sustainable materials management account established
189 pursuant to section 5 of this act. Any excess amount remaining from
190 such payment shall be applied to reduce the costs of contracts entered
191 into pursuant to subdivision (2) of this subsection, and if any excess
192 amount remains, such amount shall be applied to reduce costs collected
193 through nonbypassable, federally mandated congestion charges, as
194 defined in section 16-1.

195 Sec. 3. Subsection (k) of section 16-245 of the 2022 supplement to the
196 general statutes is repealed and the following is substituted in lieu
197 thereof (*Effective October 1, 2022*):

198 (k) Any licensee who fails to comply with a license condition or who
199 violates any provision of this section, except for the renewable portfolio
200 standards contained in subsection (g) of this section, shall be subject to
201 civil penalties by the Public Utilities Regulatory Authority in accordance
202 with section 16-41, including direction that a portion of the civil penalty
203 be paid to a nonprofit agency engaged in energy assistance programs
204 named by the authority in its decision or notice of violation, the
205 suspension or revocation of such license and a prohibition on accepting
206 new customers following a hearing that is conducted as a contested case

207 in accordance with chapter 54. Notwithstanding the provisions of
208 subsection (b) of section 16-244c regarding an alternative transitional
209 standard offer option or an alternative standard service option, the
210 authority shall require a payment by a licensee that fails to comply with
211 the renewable portfolio standards in accordance with subdivision (4) of
212 subsection (g) of this section in the amount of: (1) For calendar years up
213 to and including calendar year 2017, five and one-half cents per kilowatt
214 hour, (2) for calendar years commencing on January 1, 2018, and up to
215 and including the calendar year commencing on January 1, 2020, five
216 and one-half cents per kilowatt hour if the licensee fails to comply with
217 the renewable portfolio standards during the subject annual period for
218 Class I renewable energy sources, and two and one-half cents per
219 kilowatt hour if the licensee fails to comply with the renewable portfolio
220 standards during the subject annual period for Class II renewable
221 energy sources, and (3) for calendar years commencing on and after
222 January 1, 2021, four cents per kilowatt hour if the licensee fails to
223 comply with the renewable portfolio standards during the subject
224 annual period for Class I renewable energy sources, and two and one-
225 half cents per kilowatt hour if the licensee fails to comply with the
226 renewable portfolio standards during the subject annual period for
227 Class II renewable energy sources. On or before December 31, 2013, the
228 authority shall issue a decision, following an uncontested proceeding,
229 on whether any licensee has failed to comply with the renewable
230 portfolio standards for calendar years up to and including 2012, for
231 which a decision has not already been issued. On and after June 5, 2013,
232 the Public Utilities Regulatory Authority shall annually conduct an
233 uncontested proceeding in order to determine whether any licensee has
234 failed to comply with the renewable portfolio standards during the
235 preceding year. Not later than December 31, 2014, and annually
236 thereafter, the authority shall, following such proceeding, issue a
237 decision as to whether the licensee has failed to comply with the
238 renewable portfolio standards during the preceding year. The authority
239 shall allocate such payment to the Clean Energy Fund for the
240 development of Class I renewable energy sources, provided, on and
241 after June 5, 2013, any such payment shall be refunded to ratepayers by

242 using such payment to offset the costs to all customers of electric
243 distribution companies of the costs of contracts and tariffs entered into
244 pursuant to sections 16-244r, 16-244t and section 16-244z, except that, on
245 and after January 1, 2023, any such payment that is attributable to a
246 failure to comply with the Class II renewable portfolio standards shall
247 be deposited in the sustainable materials management account
248 established pursuant to section 5 of this act. Any excess amount
249 remaining from such payment shall be applied to reduce the costs of
250 contracts entered into pursuant to subdivision (2) of subsection (j) of
251 section 16-244c, and if any excess amount remains, such amount shall be
252 applied to reduce costs collected through nonbypassable, federally
253 mandated congestion charges, as defined in section 16-1.

254 Sec. 4. Subsection (a) of section 16a-3i of the general statutes is
255 repealed and the following is substituted in lieu thereof (*Effective October*
256 *1, 2022*):

257 (a) During the calendar year commencing January 1, 2014, and
258 continuing each calendar year thereafter, if alternative compliance
259 payments pursuant to subsection [(j)] (h) of section 16-244c or subsection
260 (k) of section 16-245 are made for failure to meet the renewable portfolio
261 standards, there shall be a presumption for the calendar year the
262 alternative compliance payments are made that there is an insufficient
263 supply of Class I renewable energy sources, as defined in section 16-1,
264 for electric suppliers or electric distribution companies to comply with
265 the requirements of section 16-245a.

266 Sec. 5. (NEW) (*Effective October 1, 2022*) (a) There is established an
267 account to be known as the sustainable materials management account
268 which shall be a separate, nonlapsing account within the General Fund. The
269 account shall contain moneys collected by the alternative compliance payment
270 for Class II renewable portfolio standards pursuant to subsection (h) of section
271 16-244c of the general statutes, as amended by this act, and subsection (k) of
272 section 16-245 of the general statutes, as amended by this act. The
273 Commissioner of Energy and Environmental Protection shall expend moneys
274 from the account for the purposes of the program established under this
275 section.

276 (b) On and after January 1, 2023, the Commissioner of Energy and
277 Environmental Protection shall establish and administer a sustainable
278 materials management program to support solid waste reduction in the state
279 through the provision of funding from the sustainable materials management
280 account for purposes, including, but not limited to, grants, revolving loans,
281 technical assistance, consulting services and waste characterization studies, to
282 support programs and projects implemented by entities, including, but not
283 limited to, municipalities, nonprofits and regional waste authorities. Such
284 programs and projects shall promote affordable, sustainable and self-sufficient
285 management of waste within the state by reducing solid waste generation or
286 diverting solid waste from disposal, consistent with the state-wide solid waste
287 management plan established pursuant to section 22a-228 of the general
288 statutes.

289 (c) Not later than January 1, 2024, and annually thereafter, the Department
290 of Energy and Environmental Protection shall submit a report, in accordance
291 with the provisions of section 11-4a of the general statutes, to the joint standing
292 committees of the General Assembly having cognizance of matters relating to
293 the environment and energy and technology detailing the expenditures of any
294 funds disbursed from the sustainable materials management account
295 established in subsection (a) of this section and the outcomes associated with
296 such expenditures.

297 Sec. 6. (NEW) (*Effective October 1, 2022*) (a) The Commissioner of Energy and
298 Environmental Protection, in consultation with the Office of Consumer
299 Counsel and the Attorney General, may solicit proposals for the supply of
300 biogas for injection into the natural gas distribution systems in the state, in one
301 solicitation or multiple solicitations, from anaerobic digestion facilities that
302 have obtained a permit pursuant to section 22a-208a of the general statutes and
303 produce biogas derived from the decomposition of farm-generated organic
304 waste or source-separated organic material. The commissioner may select
305 proposals from such anaerobic digestion facilities that produce biogas from
306 not more than three hundred thousand tons of organic waste annually.

307 (b) In making any selection of such proposals, the commissioner shall
308 consider factors, including, but not limited to, (1) whether the proposal is in
309 the best interest of natural gas ratepayers, (2) whether the proposal promotes
310 the policy goals outlined in the state-wide solid waste management plan
311 developed pursuant to section 22a-241a of the general statutes, (3) any positive

312 impacts on the state's economic development, including any positive impacts
313 on the state's agricultural industry, (4) whether the proposal is consistent with
314 the requirements to reduce greenhouse gas emissions in accordance with
315 section 22a-200a of the general statutes, (5) the characteristics of a relevant
316 facility that produces renewable natural gas, including, but not limited to,
317 whether the proposed gas conditioning system or systems and the biogas
318 complies with the interconnection standards developed in accordance with
319 section 18 of public act 19-35, and (6) whether the proposal promotes natural
320 gas distribution system benefits.

321 (c) The commissioner may direct the gas companies, as defined in section
322 16-1 of the general statutes, to enter into gas purchase agreements with biogas
323 suppliers selected pursuant to this section for biogas and associated attributes
324 for periods of not more than twenty years on behalf of all customers of gas
325 companies in the state.

326 (d) Any gas purchase agreement entered into pursuant to this section shall
327 be subject to review and approval by the Public Utilities Regulatory Authority,
328 which review shall be completed not later than one hundred twenty days after
329 the date on which such agreement is filed with the authority. The authority
330 shall review and approve such agreements if they meet the criteria in the
331 request for proposals issued pursuant to subsection (a) of this section and are
332 in the best interest of ratepayers.

333 (e) (1) The reasonable costs incurred by the gas companies in negotiating
334 and executing such gas purchase agreements and the net costs for the supply
335 of biogas under any such gas purchase agreement shall be recovered from all
336 customers of such company through the purchased gas adjustment clause in
337 section 16-19b of the general statutes. Any net revenues from the sale of
338 products purchased in accordance with any such agreements entered into
339 pursuant to this section shall be credited to customers through the same fully
340 reconciling rate component for all customers of the contracting gas company.
341 Any such net costs or net revenues, as applicable, of any such agreements shall
342 be apportioned in proportion to the revenues of each contracting gas company
343 as reported to the authority pursuant to section 16-49 of the general statutes
344 for the most recent fiscal year.

345 (2) A gas company shall recover the costs incurred by such gas company
346 related to constructing, operating and maintaining infrastructure arising from
347 such gas purchase agreement from the biogas supplier through a contribution

348 in aid of construction or other provision of the gas purchase agreement. Any
349 incurred costs not to be recovered from the biogas supplier shall be identified
350 and approved by the authority at the time the authority approves any gas
351 purchase agreement. Such prudently incurred costs shall be recovered in any
352 existing rate tracking mechanism for the recovery of natural gas infrastructure
353 investments, or if no mechanism currently exists, a newly established rate
354 tracking mechanism established by the authority.

355 (f) A gas company can elect to either (1) use any renewable natural gas
356 procured pursuant to this section to meet the needs of its customers, or (2) sell
357 any such renewable natural gas into applicable markets or through bilateral
358 contracts with third parties with the net benefits or costs thereof reflected in
359 the purchased gas adjustment clause in section 16-19b of the general statutes.

360 (g) The commissioner may retain consultants to assist in implementing the
361 provisions of this section, including, but not limited to, the evaluation of
362 proposals submitted pursuant to this section. All reasonable costs associated
363 with the commissioner's solicitation and review of proposals pursuant to this
364 section shall be recoverable through the same fully reconciling rate component
365 for all customers of the gas companies. Such costs shall be recoverable even if
366 the commissioner does not select any proposals pursuant to any solicitation
367 issued pursuant to this section.

368 (h) (1) Any dispute arising from a contract that is approved by the authority
369 pursuant to this section shall be brought to the authority. A party may petition
370 the authority for a declaratory ruling or make an application for review
371 pursuant to this subsection. Notwithstanding subsection (a) of section 4-176 of
372 the general statutes, the authority may not on its own motion initiate a
373 proceeding to review a contract entered into pursuant to this subsection.

374 (2) The authority shall review such contract claims brought pursuant to
375 subdivision (1) of this subsection. The authority shall decide such contract
376 claims by issuing a declaratory ruling or a final decision in a contested case
377 proceeding, including ordering legal and equitable contract remedies. Any
378 party to the contract shall have the right to appeal to the superior court from
379 any such declaratory ruling or final decision adjudicating such contract claims
380 pursuant to this subsection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2022</i>	16-245a(a)
Sec. 2	<i>October 1, 2022</i>	16-244c(h)(1)
Sec. 3	<i>October 1, 2022</i>	16-245(k)
Sec. 4	<i>October 1, 2022</i>	16a-3i(a)
Sec. 5	<i>October 1, 2022</i>	New section
Sec. 6	<i>October 1, 2022</i>	New section

ET *Joint Favorable*

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: See Below

Municipal Impact: See Below

Explanation

Currently, the Renewable Portfolio Standard (RPS) contains a requirement that a certain percentage of the electric power provided to electric ratepayers be derived from specific certain renewable energy sources. The bill, instead, limits the Class II RPS requirement to only Class II renewable energy sources (i.e., trash to energy facilities).

A typical waste to energy plant generates about 550 kilowatt hours (kWh) of energy per ton of waste. At an average price of four cents per kWh, this form of generating electricity is less expensive than other renewable sources, and as such, a shift to less expensive forms of supplying electricity is anticipated to lead to lower rates for the state and municipalities ratepayers.

The bill also requires that certain compliance payments for failing to meet the new Class II requirement be deposited into a sustainable materials management account established by the bill, rather than be refunded to ratepayers as current law requires. To the extent there are compliance payments made under the bill's provisions, the bill could result in a revenue gain to the newly established account administered by the Department of Energy and Environmental Protection (DEEP). Also, this provision could result in a minimal cost to the state and municipalities as ratepayers, to the extent refunds are no longer made.

Further, it requires that the Department of Energy and

Environmental Protection (DEEP) establish and administer a sustainable materials management program to support solid waste reduction in the state using funds from the account. This is anticipated to result in a cost to DEEP for this purpose to the extent funding is provided in FY 23 and FY 24.

Additionally, the bill allows DEEP to solicit proposals that are in the ratepayers best interest, for anaerobic digestion facilities to supply biogas for use by the natural gas distribution systems. It also requires that the gas companies recover their: (1) net costs for purchasing the biogas from their ratepayers, and (2) related infrastructure costs from the biogas supplier. It also requires that DEEP's reasonable costs associated with the solicitations be recoverable from gas company ratepayers. These provisions are anticipated to have a net zero impact on the state and municipalities as a ratepayer.

Lastly, the bill makes a technical change that has no fiscal impact.

Ratepayer Impact Statement

Similarly, to the impacts on the state and municipalities as ratepayers, the bill is anticipated to result in a savings to ratepayers associated with the shift to a less expensive form of supplying electricity.

The Out Years

The annualized ongoing fiscal impact described above would continue into the future subject to the price of electricity and the volume of electricity consumed.

OLR Bill Analysis**HB 5118*****AN ACT CONCERNING WASTE MANAGEMENT AND ANAEROBIC DIGESTION.*****SUMMARY**

In general, the state's Renewable Portfolio Standard (RPS) requires a portion of the power supplied to electric ratepayers to come from certain renewable energy sources. Starting on January 1, 2023, this bill limits the Class II RPS requirement to only Class II renewable energy sources (i.e., trash to energy facilities). Under current law, both Class I (e.g., wind and solar) and Class II renewables may be used to meet the Class II requirement.

Starting on that same date, the bill also requires that the alternative compliance payments for failing to meet the Class II requirement be deposited into a sustainable materials management account established by the bill, rather than be refunded to ratepayers as current law requires. It requires the Department of Energy and Environmental Protection (DEEP) commissioner to establish and administer a sustainable materials management program to support solid waste reduction in the state using funds from the account.

The bill also allows the DEEP commissioner, in consultation with certain other officials, to solicit proposals for certain anaerobic digestion facilities to supply biogas for injection into the state's natural gas distribution systems. The commissioner may select proposals that meet certain criteria (e.g., are in ratepayers' best interests) and direct natural gas utility companies to enter into long-term agreements to purchase a selected facility's biogas. The Public Utilities Regulatory Authority (PURA) must review and approve these agreements, and any dispute arising from them must be brought to PURA.

The bill requires that the gas companies recover their (1) net costs for

purchasing the biogas from their ratepayers and (2) related infrastructure costs from the biogas supplier. It also requires that DEEP's reasonable costs associated with the solicitations be recoverable from gas company ratepayers.

Lastly, the bill makes a technical change to fix an incorrect statutory reference (§ 4).

EFFECTIVE DATE: October 1, 2022

§§ 1-4 — CLASS II RENEWABLE PORTFOLIO STANDARD

Under the state's current RPS law, electric distribution companies (EDCs, i.e., Eversource and United Illuminating) and electric suppliers must get 4% of their energy from either Class I or Class II renewable energy sources. Beginning January 1, 2023, the bill requires the EDCs and suppliers to meet this 4% requirement with only Class II energy sources.

By law, unchanged by the bill, the 4% requirement is in addition to the Class I RPS requirement. The Class I RPS is 24% in 2022 and increases annually until it reaches 40% in 2030.

Alternative Compliance Payments

By law, if an EDC or electric supplier fails to meet the Class II RPS requirement, it must make a 2.5 cent per kilowatt hour alternative compliance payment (ACP) for the shortfall. Current law requires that the ACP be refunded to ratepayers, but starting January 1, 2023, the bill instead requires that it be deposited in the sustainable materials management account created by the bill.

§ 5 — SUSTAINABLE MATERIALS MANAGEMENT ACCOUNT & PROGRAM

The bill establishes the sustainable materials management account as separate, nonlapsing account in the General Fund. The account must contain money collected by the Class II ACP, as described above, and the DEEP commissioner must spend it for the Sustainable Materials Management Program's purposes.

Starting January 1, 2023, the bill requires the DEEP commissioner to establish and administer the Sustainable Materials Management Program to support solid waste reduction in the state. It must do so by providing funding from the account for programs and projects that promote affordable, sustainable, and self-sufficient waste management in the state by reducing solid waste generation or diverting it from disposal, consistent with the state's solid waste management plan. The funding may be used for grants, revolving loans, technical assistance, consulting services, and waste characterization studies that support those programs and projects implemented by entities that include municipalities, nonprofits, and regional waste authorities.

The bill requires DEEP, starting by January 1, 2024, to annually submit a report to the Environment and Energy and Technology committees. The report must detail the expenditures of any funds disbursed from the account and the outcomes associated with those expenditures.

§ 6 — BIOGAS SOLICITATION

The bill allows the DEEP commissioner, in consultation with the Office of Consumer General and attorney general, to solicit proposals to supply biogas for injection into the state's natural gas distribution systems. The proposals must be from anaerobic digestion facilities that have a solid waste facility permit and produce biogas derived from the decomposition of farm-generated organic waste or source separated organic material. The commissioner may issue one or multiple solicitations, but she cannot select proposals from anaerobic digestion facilities that annually produce biogas from more than 300,000 tons of organic waste.

When selecting proposals, the bill requires the commissioner to at least consider whether the proposal (1) is in natural gas ratepayers' best interests, (2) promotes the statewide solid waste management plan's policy goals, (3) is consistent with the state's requirement to reduce greenhouse gas emissions, and (4) promotes natural gas distribution system benefits.

She must also consider (1) any positive impacts on the state's economic development, including those on the agricultural industry, and (2) the relevant facility's characteristics, including whether the proposed gas conditioning system and biogas comply with state interconnection standards for biogas.

Gas Purchasing Agreements

The bill allows the commissioner to direct gas utility companies, on behalf of the state's gas companies' customers, to enter into an agreement to purchase biogas and associated attributes from a selected proposal's biogas supplier.

The agreements may have a term of up to 20 years, and PURA must review and approve them. The bill requires PURA to finish the review within 120 days after the agreement is filed. It must approve the agreement if it is in ratepayers' best interest and meets the solicitation proposal criteria described above.

Gas Company Cost Recovery

The bill requires that a gas company's reasonable costs incurred in negotiating and executing an agreement, and the net costs for the biogas supplied under it, be recovered from all the company's customers through the purchased gas adjustment clause on gas bills. Any net revenue from selling products purchased under the agreement must be credited to customers through the same fully reconciling rate component for all the company's customers. Any of these net costs or revenues must be apportioned proportionally to each contracting gas company's annual revenues as reported to PURA for the most recent fiscal year.

The bill also requires that a gas company's costs related to building, operating, and maintaining the infrastructure arising from the agreement be recovered from the biogas supplier through a contribution in aid of construction charge or other provision of the agreement. When PURA approves the gas purchasing agreement, it must identify and approve any costs not recoverable from the biogas supplier. These

prudently incurred costs must be recovered through an existing rate tracking mechanism for recovering natural gas infrastructure investments or, if no mechanism currently exists, through a new rate tracking mechanism that PURA establishes.

Under the bill, a gas company can choose to (1) use the renewable natural gas it procured through an agreement to meet its customers' needs or (2) sell it into applicable markets or through bilateral contracts with third parties, reflecting the net benefits or costs in the purchased gas adjustment clause on their customers' bills.

DEEP Cost Recovery

The bill allows the DEEP commissioner to retain consultants to help implement its provisions, including evaluating the proposals. It requires that all reasonable costs associated with a solicitation and review be recoverable from ratepayers through the same fully reconciling rate component for all customers of the gas companies. These costs must be recoverable even if the commissioner does not select any proposals.

Contract Disputes

The bill requires that parties bring to PURA contract disputes for contracts approved under the bill's provisions. A party may petition PURA for a declaratory ruling or apply for review. The bill prohibits PURA from initiating a contract review proceeding on its own.

Under the bill, PURA must review any of these contract disputes and may decide it by issuing a declaratory ruling or a final decision in a contested case proceeding, including ordering legal and equitable remedies. A party to the contract may appeal the declaratory ruling or final decision to the Superior Court.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 20 Nay 6 (03/22/2022)