



# House of Representatives

General Assembly

**File No. 315**

January Session, 2023

Substitute House Bill No. 6764

*House of Representatives, March 29, 2023*

The Committee on Energy and Technology reported through REP. STEINBERG of the 136th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING A SOLAR UNIFORM CAPACITY TAX AND MODIFICATIONS TO THE STATE'S RENEWABLE ENERGY PROGRAMS.***

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

1 Section 1. Subdivision (57) of section 12-81 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective October*  
3 *1, 2023*):

4 (57) (A) (i) Any Class I renewable energy source, as defined in section  
5 16-1, or hydropower facility described in subdivision (21) of subsection  
6 (a) of section 16-1, installed for the generation of electricity where such  
7 electricity is intended for private residential use or on a farm, as defined  
8 in subsection (q) of section 1-1, provided (I) such installation occurs on  
9 or after October 1, 2007, (II) the estimated annual production of such  
10 source or facility does not exceed the estimated annual load for the  
11 location where such source or facility is located, where such load and  
12 production are estimated as of the date of installation of the source or

13 facility as indicated in the written application filed pursuant to  
14 subparagraph [(E)] (F) of this subdivision, and (III) such installation is  
15 for a single family dwelling, a multifamily dwelling consisting of two to  
16 four units or a farm; (ii) any passive or active solar water or space  
17 heating system; or (iii) any geothermal energy resource. In the case of  
18 clause (i) of this subparagraph, the utilization of or participation in any  
19 net metering or tariff policy or program implemented by the state or  
20 ownership of such source or facility by a party other than the owner of  
21 the real property upon which such source or facility is installed shall not  
22 disqualify such source or facility from exemption pursuant to this  
23 section. In the case of clause (ii) or (iii) of this subparagraph, such  
24 exemption shall apply only to the amount by which the assessed  
25 valuation of the real property equipped with such system or resource  
26 exceeds the assessed valuation of such real property equipped with the  
27 conventional portion of the system or resource;

28 (B) For assessment years commencing on and after October 1, 2013,  
29 any Class I renewable energy source, as defined in section 16-1,  
30 hydropower facility described in subdivision (21) of subsection (a) of  
31 section 16-1, or solar thermal or geothermal renewable energy source,  
32 installed for generation or displacement of energy, provided (i) such  
33 installation occurs on or after January 1, 2010, (ii) such installation is for  
34 commercial or industrial purposes, (iii) the nameplate capacity of such  
35 source or facility does not exceed the load for the location where such  
36 generation or displacement is located, and (iv) such source or facility is  
37 located in a distressed municipality, as defined in section 32-9p, with a  
38 population between one hundred twenty-five thousand and one  
39 hundred thirty-five thousand;

40 (C) For assessment years commencing on and after October 1, 2013,  
41 any municipality may, upon approval by its legislative body or in any  
42 town in which the legislative body is a town meeting, by the board of  
43 selectmen, abate up to one hundred per cent of property tax for any  
44 Class I renewable energy source, as defined in section 16-1, hydropower  
45 facility described in subdivision (21) of subsection (a) of section 16-1, or  
46 solar thermal or geothermal renewable energy source, installed for

47 generation or displacement of energy, provided (i) such installation  
48 occurs between January 1, 2010, and December 31, 2013, (ii) such  
49 installation is for commercial or industrial purposes, (iii) the nameplate  
50 capacity of such source or facility does not exceed the load for the  
51 location where such generation or displacement is located, and (iv) such  
52 source or facility is not located in a municipality described in  
53 subparagraph (B) of this subdivision;

54 (D) For assessment years commencing on and after October 1, 2014,  
55 any (i) Class I renewable energy source, as defined in section 16-1, (ii)  
56 hydropower facility described in subdivision (21) of subsection (a) of  
57 section 16-1, or (iii) solar thermal or geothermal renewable energy  
58 source, installed for generation or displacement of energy, provided (I)  
59 such installation occurs on or after January 1, 2014, (II) is for commercial  
60 or industrial purposes, (III) the nameplate capacity of such source or  
61 facility does not exceed the load for the location where such generation  
62 or displacement is located or the aggregated load of the beneficial  
63 accounts for any Class I renewable energy source participating in virtual  
64 net metering pursuant to section 16-244u, and (IV) in the case of clause  
65 (iii) of this subparagraph, such exemption shall apply only to the  
66 amount by which the assessed valuation of the real property equipped  
67 with such source exceeds the assessed valuation of such real property  
68 equipped with the conventional portion of the source;

69 (E) For assessment years commencing on and after October 1, 2023,  
70 any Class I renewable energy source that is a solar photovoltaic system,  
71 as defined in section 2 of this act;

72 ~~[(E)]~~ (E) Any person claiming [the] an exemption provided in this  
73 subdivision, other than the exemption provided in subparagraph (E) of  
74 this subdivision, for any assessment year shall, on or before the first day  
75 of November in such assessment year, file with the assessor or board of  
76 assessors in the town in which such hydropower facility, Class I  
77 renewable energy source, solar thermal or geothermal renewable  
78 energy source or passive or active solar water or space heating system  
79 or geothermal energy resource is located, a written application claiming

80 such exemption. Such application shall be made on a form prepared for  
81 such purpose by the Secretary of the Office of Policy and Management,  
82 in consultation with the Connecticut Association of Assessing Officers  
83 and the Connecticut Green Bank established pursuant to section 16-  
84 245n, and shall include, but not be limited to, a statement of the  
85 estimated annual load and production of a source or facility described  
86 in clause (i) of subparagraph (A) of this subdivision as of the date of the  
87 installation of such source or facility. Said secretary shall make such  
88 application available to the public on the Internet web site of the Office  
89 of Policy and Management. Failure to file such application in the  
90 manner and form as provided by the secretary within the time limit  
91 prescribed shall constitute a waiver of the right to such exemption for  
92 such assessment year. Such application shall not be required for any  
93 assessment year following that for which the initial application is filed,  
94 provided if such hydropower facility, Class I renewable energy source,  
95 solar thermal or geothermal renewable energy source or passive or  
96 active solar water or space heating system or geothermal energy  
97 resource is altered in a manner which would require a building permit,  
98 such alteration shall be deemed a waiver of the right to such exemption  
99 until a new application, applicable with respect to such altered source,  
100 is filed and the right to such exemption is established as required  
101 initially. In the event that a person owns more than one such source or  
102 facility in a municipality, such person may file a single application  
103 identifying each source or facility;

104 [(F)] (G) For assessment years commencing on and after October 1,  
105 2015, any municipality may, by vote of its legislative body or, in a  
106 municipality where the legislative body is a town meeting, by vote of  
107 the board of selectmen, abate up to one hundred per cent of the property  
108 taxes due for any tax year, for not longer than the term of the power  
109 purchase agreement, with respect to any Class I renewable energy  
110 source, as defined in section 16-1, other than a solar photovoltaic system,  
111 as defined in section 2 of this act, that is the subject of such power  
112 purchase agreement approved by the Public Utilities Regulatory  
113 Authority pursuant to section 16a-3f;

114 Sec. 2. (NEW) (*Effective October 1, 2023*) (a) As used in this section:

115 (1) "Solar photovoltaic system" means equipment and devices that  
116 have the primary purpose of collecting solar energy and generating  
117 electricity by photovoltaic effect and have a capacity greater than  
118 twenty-five kilowatts;

119 (2) "Municipality" means any town, city, consolidated town and city  
120 or consolidated town and borough; and

121 (3) "Capacity" means the aggregate alternating current nameplate  
122 capacity of all inverters used to convert a solar photovoltaic system's  
123 output to alternating current power.

124 (b) (1) For each calendar year commencing on or after January 1, 2024,  
125 each person that owns a solar photovoltaic system in the state for  
126 generation or displacement of energy shall pay a tax to the  
127 Commissioner of Revenue Services. The tax shall be the product of five  
128 dollars multiplied by the number of kilowatts of capacity for any solar  
129 photovoltaic system in the state owned by such person.

130 (2) Each person subject to the tax in subdivision (1) of this subsection  
131 shall, on or before the last day of July in each year, render to the  
132 commissioner a return, on forms prescribed or furnished by the  
133 commissioner, reporting: (A) The capacity of each solar photovoltaic  
134 system owned by such person in the state during the year ending with  
135 the last day of the previous calendar year; (B) the physical address and  
136 municipality where each solar photovoltaic system owned by such  
137 person was located during such year; (C) the calculated tax amount for  
138 each solar photovoltaic system owned by such person during such year;  
139 (D) the calculated tax amount for all solar photovoltaic systems owned  
140 by such person in a municipality, aggregated for each municipality  
141 where any such solar photovoltaic system was located during such year;  
142 and (E) the calculated total tax due under this section. The tax imposed  
143 under this section shall be due and payable on the due date of such  
144 return. Each person subject to tax shall be required to file such return  
145 electronically with the department and to make payment of such tax by

146 electronic funds transfer in the manner provided by chapter 228g of the  
147 general statutes, irrespective of whether the person subject to tax would  
148 have otherwise been required to file such return electronically or to  
149 make such tax payment by electronic funds transfer under the  
150 provisions of chapter 228g of the general statutes.

151 (3) The commissioner shall maintain (A) an accounting of all sums  
152 paid under this subsection, (B) an accounting of the sums paid under  
153 this subsection attributable to each municipality that contains the  
154 location of any solar photovoltaic system, aggregated by municipality,  
155 and (C) such other information as the commissioner deems necessary  
156 for the purposes of this section.

157 (c) Whenever the tax imposed under this section is not paid when  
158 due, a penalty of ten per cent of the amount due and unpaid or fifty  
159 dollars, whichever is greater, shall be imposed and interest at the rate of  
160 one per cent per month or fraction thereof shall accrue on such tax from  
161 the due date of such tax until the date of payment.

162 (d) The commissioner shall deposit fifty per cent of all sums received  
163 by the state pursuant to this section into the account established  
164 pursuant to subsection (e) of this section and fifty per cent in the General  
165 Fund.

166 (e) There is established an account to be known as the "solar uniform  
167 capacity tax account" which shall be a separate, nonlapsing account  
168 within the General Fund. The account shall contain any moneys  
169 required by law to be deposited into the account. Moneys in the account  
170 shall be expended by the Secretary of the Office of Policy and  
171 Management, or the secretary's designee, for the purpose of providing  
172 direct financial assistance to municipalities. The secretary shall allocate  
173 direct financial assistance among municipalities in proportion to the  
174 share of the total capacity of solar photovoltaic systems in the state that  
175 is located in each municipality.

176 (f) The commissioner shall make available to the Office of Policy and  
177 Management information concerning the tax under this section,

178 including, but not limited to, information reported pursuant to  
179 subdivision (2) of subsection (b) of this section.

180 Sec. 3. Section 16-244z of the general statutes is repealed and the  
181 following is substituted in lieu thereof (*Effective October 1, 2023*):

182 (a) (1) (A) On or before September 1, 2018, the Public Utilities  
183 Regulatory Authority shall initiate a proceeding to establish a  
184 procurement plan for each electric distribution company pursuant to  
185 this subsection and may give a preference to technologies  
186 manufactured, researched or developed in the state, provided such  
187 procurement plan is consistent with and contributes to the requirements  
188 to reduce greenhouse gas emissions in accordance with section 22a-  
189 200a. Each electric distribution company shall develop such  
190 procurement plan in consultation with the Department of Energy and  
191 Environmental Protection and shall submit such procurement plan to  
192 the authority not later than sixty days after the authority initiates the  
193 proceeding pursuant to this subdivision, provided the department shall  
194 submit the program requirements pursuant to subparagraph (C) of this  
195 subdivision on or before July 1, 2019. The authority may require such  
196 electric distribution companies to conduct separate solicitations  
197 pursuant to subdivision (4) of this subsection for the resources in  
198 subparagraphs (A), (B) and (C) of said subdivision, including separate  
199 solicitations based upon the size of such resources to allow for a  
200 diversity of selected projects.

201 (B) On or before September 1, 2018, the authority shall initiate a  
202 proceeding to establish tariffs that provide for twenty-year terms of  
203 service described in subdivision (3) of this subsection for each electric  
204 distribution company pursuant to subparagraphs (A) and (B) of  
205 subdivision (2) of this subsection. In such proceeding, the authority shall  
206 establish the period of time that will be used for calculating the net  
207 amount of energy produced by a facility and not consumed, provided  
208 the authority shall assess whether to incorporate time-of-use rates or  
209 other dynamic pricing and such period of time shall be either (i) in real  
210 time, (ii) in one day, (iii) in any fraction of a day not to exceed one day,

211 or (iv) in any period of time greater than one day up to and including  
212 one month. In such proceeding, the authority shall consider the findings  
213 of the study of the value of distributed energy resources conducted  
214 pursuant to section 16a-3o. The rate for such tariffs shall be established  
215 by the solicitation pursuant to subdivision (2) of this subsection.

216 (C) On or before September 1, 2018, the Department of Energy and  
217 Environmental Protection shall (i) initiate a proceeding to develop  
218 program requirements and tariff proposals for shared clean energy  
219 facilities eligible pursuant to subparagraph (C) of subdivision (2) of this  
220 subsection, including, but not limited to, the requirements in  
221 subdivision (6) of this subsection, and (ii) establish either or both of the  
222 following tariff proposals: (I) A tariff proposal that includes a price cap  
223 on a cents-per-kilowatt-hour basis for any procurement for such  
224 resources based on the procurement results of any other procurement  
225 issued pursuant to this subsection, and (II) a tariff proposal that includes  
226 a tariff rate for customers eligible under subparagraph (C) of  
227 subdivision (2) of this subsection based on energy policy goals identified  
228 by the department in the Comprehensive Energy Strategy pursuant to  
229 section 16a-3d. On or before July 1, 2019, the department shall submit  
230 any such program requirements and tariff proposals to the authority for  
231 review and approval. On or before January 1, 2020, the authority shall  
232 approve or modify such program requirements and tariff proposals  
233 submitted by the department. If the authority approves two tariff  
234 proposals pursuant to this subparagraph, the authority shall determine  
235 how much of the total compensation authorized for customers eligible  
236 under this subparagraph pursuant to subparagraph [(A)] (C) of  
237 subdivision (1) of subsection (c) of this section shall be available under  
238 each tariff.

239 (2) Not later than July 1, 2022, and annually thereafter, each electric  
240 distribution company shall solicit and file with the Public Utilities  
241 Regulatory Authority for its approval one or more projects selected  
242 resulting from any procurement issued pursuant to subdivision (1) of  
243 this subsection that are consistent with the tariffs approved by the  
244 authority pursuant to subparagraphs (B) and (C) of subdivision (1) of



245 this subsection and that are applicable to (A) customers that own or  
246 develop new generation projects on a customer's own premises that are  
247 less than five megawatts in size, serve the distribution system of the  
248 electric distribution company, are constructed after the solicitation  
249 conducted pursuant to subdivision (4) of this subsection to which the  
250 customer is responding, and use a Class I renewable energy source that  
251 either (i) uses anaerobic digestion, or (ii) has emissions of no more than  
252 0.07 pounds per megawatt-hour of nitrogen oxides, 0.10 pounds per  
253 megawatt-hour of carbon monoxide, 0.02 pounds per megawatt-hour of  
254 volatile organic compounds and one grain per one hundred standard  
255 cubic feet, (B) customers that own or develop new generation projects  
256 on a customer's own premises that are less than five megawatts in size,  
257 serve the distribution system of the electric distribution company, are  
258 constructed after the solicitation conducted pursuant to subdivision (4)  
259 of this subsection to which the customer is responding, and use a Class  
260 I renewable energy source that emits no pollutants, and (C) customers  
261 that own or develop new generation projects that are a shared clean  
262 energy facility, consistent with the program requirements developed  
263 pursuant to subparagraph (C) of subdivision (1) of this subsection. For  
264 purposes of this section, "shared clean energy facility" means a Class I  
265 renewable energy source, as defined in section 16-1, that (i) is served by  
266 an electric distribution company, as defined in section 16-1, (ii) is within  
267 the same electric distribution company service territory as the  
268 individual billing meters for subscriptions, (iii) has a nameplate capacity  
269 rating of five megawatts or less, and (iv) has at least two subscribers.  
270 Any project that is eligible pursuant to subparagraph (C) of this  
271 subdivision shall not be eligible pursuant to subparagraph (A) or (B) of  
272 this subdivision.

273 (3) A customer that is eligible pursuant to subparagraph (A) or (B) of  
274 subdivision (2) of this subsection may elect in any such solicitation to  
275 utilize either (A) a tariff for the purchase of all energy and renewable  
276 energy certificates on a cents-per-kilowatt-hour basis, or (B) a tariff for  
277 the purchase of any energy produced by a facility and not consumed in  
278 the period of time established by the authority pursuant to  
279 subparagraph (B) of subdivision (1) of this subsection and all renewable

280 energy certificates generated by such facility on a cents-per-kilowatt-  
281 hour basis.

282 (4) Each electric distribution company shall conduct an annual  
283 solicitation or solicitations, as determined by the authority, for the  
284 purchase of energy and renewable energy certificates produced by  
285 eligible generation projects under this subsection over the duration of  
286 each applicable tariff. Generation projects eligible pursuant to  
287 subparagraphs (A) and (B) of subdivision (2) of this subsection shall be  
288 sized so as not to exceed the load at the customer's individual electric  
289 meter or a set of electric meters, when such meters are combined for  
290 billing purposes, from the electric distribution company providing  
291 service to such customer, as determined by such electric distribution  
292 company, unless such customer is a state, municipal or agricultural  
293 customer, then such generation project shall be sized so as not to exceed  
294 the load at such customer's individual electric meter or a set of electric  
295 meters at the same customer premises, when such meters are combined  
296 for billing purposes, and the load of up to five state, municipal or  
297 agricultural beneficial accounts, as defined in section 16-244u, identified  
298 by such state, municipal or agricultural customer, and such state,  
299 municipal or agricultural customer may include the load of up to five  
300 additional nonstate or municipal beneficial accounts, as defined in  
301 section 16-244u, when sizing such generation project, provided such  
302 accounts are critical facilities, as defined in subdivision (2) of subsection  
303 (a) of section 16-243y, and are connected to a microgrid.

304 (5) The maximum selected purchase price of energy and renewable  
305 energy certificates on a cents-per-kilowatt-hour basis in any given  
306 solicitation shall not exceed such maximum selected purchase price for  
307 the same resources in the prior year's solicitation, unless the authority  
308 makes a determination that there are changed circumstances in any  
309 given year. For the first year solicitation issued pursuant to this  
310 subsection, the authority shall establish a cap for the selected purchase  
311 price for energy and renewable energy certificates on a cents-per-  
312 kilowatt-hour basis for any resources authorized under this subsection.

313 (6) The program requirements for shared clean energy facilities  
314 developed pursuant to subparagraph (C) of subdivision (1) of this  
315 subsection shall include, but not be limited to, the following:

316 (A) The department shall allow cost-effective projects of various  
317 nameplate capacities that may allow for the construction of multiple  
318 projects in the service area of each electric distribution company that  
319 operates within the state.

320 (B) The department shall determine the billing credit for any  
321 subscriber of a shared clean energy facility that may be issued through  
322 the electric distribution companies' monthly billing systems, and  
323 establish consumer protections for subscribers and potential subscribers  
324 of such a facility, including, but not limited to, disclosures to be made  
325 when selling or reselling a subscription.

326 (C) Such program shall utilize one or more tariff mechanisms with  
327 the electric distribution companies for a term not to exceed twenty years,  
328 subject to approval by the Public Utilities Regulatory Authority, to pay  
329 for the purchase of any energy products and renewable energy  
330 certificates produced by any eligible shared clean energy facility, or to  
331 deliver any billing credit of any such facility.

332 (D) The department shall limit subscribers to (i) low-income  
333 customers, (ii) moderate-income customers, (iii) small business  
334 customers, (iv) state or municipal customers, (v) commercial customers,  
335 and (vi) residential customers who can demonstrate, pursuant to criteria  
336 determined by the department in the program requirements  
337 recommended by the department and approved by the authority, that  
338 they are unable to utilize the tariffs offered pursuant to subsection (b) of  
339 this section.

340 (E) The department shall require that (i) not less than twenty per cent  
341 of the total capacity of each shared clean energy facility is sold, given or  
342 provided to low-income customers, and (ii) not less than sixty per cent  
343 of the total capacity of each shared clean energy facility is sold, given or  
344 provided to low-income customers, moderate-income customers or

345 low-income service organizations.

346 (F) The department may allow preferences to projects that serve low-  
347 income customers and shared clean energy facilities that benefit  
348 customers who reside in environmental justice communities.

349 (G) The department may create incentives or other financing  
350 mechanisms to encourage participation by low-income customers.

351 (H) The department may require that not more than fifty per cent of  
352 the total capacity of each shared clean energy facility is sold to  
353 commercial customers.

354 (7) For purposes of this subsection:

355 (A) "Environmental justice community" has the same meaning as  
356 provided in subsection (a) of section 22a-20a;

357 (B) "Low-income customer" means an in-state retail end user of an  
358 electric distribution company (i) whose income [does not exceed sixty]  
359 is less than eighty per cent of the [state] area median income, as defined  
360 by the United States Department of Housing and Urban Development,  
361 adjusted for family size, [or] (ii) whose income is less than two hundred  
362 per cent of the federal poverty line, as defined in Section 36B(d)(3)(A) of  
363 the Internal Revenue Code of 1986, or any subsequent corresponding  
364 internal revenue code of the United States, as amended from time to  
365 time, or (iii) that is an affordable housing facility;

366 (C) "Low-income service organization" means a for-profit or  
367 nonprofit organization that provides service or assistance to low-income  
368 individuals;

369 (D) "Moderate-income customer" means an in-state retail end user of  
370 an electric distribution company whose income is between sixty per cent  
371 and [one hundred] eighty per cent of the area median income as defined  
372 by the United States Department of Housing and Urban Development,  
373 adjusted for family size.

374 (b) (1) On or before July 1, 2020, the authority shall initiate a  
375 proceeding to establish (A) tariffs for each electric distribution company  
376 pursuant to subdivision (2) of this subsection, (B) a rate for such tariffs,  
377 which may be based upon the results of one or more competitive  
378 solicitations issued pursuant to subsection (a) of this section, or on the  
379 average cost of installing the generation project and a reasonable rate of  
380 return that is just, reasonable and adequate, as determined by the  
381 authority, and shall be guided by the Comprehensive Energy Strategy  
382 prepared pursuant to section 16a-3d, and (C) the period of time that will  
383 be used for calculating the net amount of energy produced by a facility  
384 and not consumed, provided the authority shall assess whether to  
385 incorporate time-of-use rates or other dynamic pricing and such period  
386 of time shall be either (i) in real time, (ii) in one day, (iii) in any fraction  
387 of a day not to exceed one day, or (iv) in any period of time greater than  
388 one day up to and including one month. In such proceeding, the  
389 authority shall consider the findings of the study of the value of  
390 distributed energy resources conducted pursuant to section 16a-3o. The  
391 authority shall issue a final decision in such proceeding on or before July  
392 1, 2021. The authority may modify such rate for new customers under  
393 this subsection based on changed circumstances and may establish an  
394 interim tariff rate prior to the expiration of the residential solar  
395 investment program pursuant to subsection (b) of section 16-245ff as an  
396 alternative to such program, provided any residential customer  
397 utilizing a tariff pursuant to this subsection at such customer's electric  
398 meter shall not be eligible for any incentives offered pursuant to section  
399 16-245ff at the same such electric meter and any residential customer  
400 utilizing any incentives offered pursuant to section 16-245ff at such  
401 customer's electric meter shall not be eligible for a tariff pursuant to this  
402 subsection at the same such electric meter.

403 (2) On and after January 1, 2022, each electric distribution company  
404 shall offer the following options to residential customers for the  
405 purchase of products generated from a Class I renewable energy source  
406 that is located on a customer's own premises and has a nameplate  
407 capacity rating of twenty-five kilowatts or less for a term not to exceed  
408 twenty years: (A) A tariff for the purchase of all energy and renewable

409 energy certificates on a cents-per-kilowatt-hour basis; and (B) a tariff for  
410 the purchase of any energy produced and not consumed in the period  
411 of time established by the authority pursuant to subparagraph (C) of  
412 subdivision (1) of this subsection and all renewable energy certificates  
413 generated by such facility on a cents-per-kilowatt-hour basis. A  
414 residential customer shall select either option authorized pursuant to  
415 subparagraph (A) or (B) of this subdivision, consistent with the  
416 requirements of this section. Such generation projects shall be sized so  
417 as not to exceed the load at the customer's individual electric meter or,  
418 in the case of a multifamily dwelling that qualifies under this subsection,  
419 the load of the premises, from the electric distribution company  
420 providing service to such customer, as determined by such electric  
421 distribution company. For purposes of this section, "residential  
422 customer" means a customer of a single-family dwelling, a multifamily  
423 dwelling consisting of two to four units, or a multifamily dwelling  
424 consisting of five or more units, provided in the case of a multifamily  
425 dwelling consisting of five or more units, (i) not less than sixty per cent  
426 of the units of the multifamily dwelling are occupied by persons and  
427 families with income that is not more than sixty per cent of the area  
428 median income for the municipality in which it is located, as determined  
429 by the United States Department of Housing and Urban Development,  
430 or (ii) such multifamily dwelling is determined to be affordable housing  
431 by the Public Utilities Regulatory Authority in consultation with the  
432 Department of Energy and Environmental Protection, Department of  
433 Housing, Connecticut Green Bank, Connecticut Housing Finance  
434 Authority and United States Department of Housing and Urban  
435 Development. In the case of a multifamily dwelling consisting of five or  
436 more units, a generation project shall only qualify under this subsection  
437 if: (I) Each of the dwelling units receives an appropriate share of the  
438 benefits from the generation project, and (II) no greater than an  
439 appropriate share of the benefits from the generation project is used to  
440 offset common area usage. The Public Utilities Regulatory Authority  
441 shall initiate an uncontested proceeding to implement the distribution  
442 of the benefits from the generation project pursuant to this section.

443 (c) (1) (A) As used in this subdivision:

444 (i) "Program" means any tariff offered by electric distribution  
445 companies pursuant to subsection (a) of this section;

446 (ii) "Low-emissions, nonresidential program" means any tariff  
447 offered by electric distribution companies pursuant to subparagraph (A)  
448 of subdivision (2) of subsection (a) of this section;

449 (iii) "Zero-emissions, nonresidential program" means any tariff  
450 offered by electric distribution companies pursuant to subparagraph (B)  
451 of subdivision (2) of subsection (a) of this section;

452 (iv) "Shared clean energy facility program" means any tariff offered  
453 by electric distribution companies pursuant to subparagraph (C) of  
454 subdivision (2) of subsection (a) of this section;

455 (v) "Procurement round" means any annual solicitation for a program  
456 pursuant to this section other than a solicitation used to allocate  
457 additional megawatts pursuant to subparagraph (D) of this subdivision;

458 (vi) "Actual program capacity" means the total capacity of all projects  
459 approved by the authority for a program in a given year after the final  
460 procurement round that year;

461 (vii) "Available program capacity" means the total megawatts  
462 available to customers in a program in a given year pursuant to  
463 subparagraph (C) of this subdivision as adjusted to account for any  
464 megawatts transferred from the previous year pursuant to  
465 subparagraph (E) of this subdivision; and

466 (viii) "Fully subscribed" means the actual program capacity is greater  
467 than or equal to ninety-five per cent of the available program capacity.

468 [(c) (1) (A)] (B) The aggregate total megawatts available to all  
469 customers [utilizing a procurement and tariff offered by electric  
470 distribution companies pursuant to subsection (a) of this section] in all  
471 programs shall be up to eighty-five megawatts in year one and increase  
472 by up to an additional one hundred sixty megawatts per year [in each  
473 of the years two through six of such a tariff, provided] on and after

474 January 1, 2023.

475 (C) Except as provided in subparagraph (D) of this subdivision, the  
476 total megawatts available to customers [eligible under subparagraph  
477 (A) of subdivision (2) of subsection (a) of this section shall not exceed  
478 ten] in each program are as follows: (i) Ten megawatts per year [, the  
479 total megawatts available to customers eligible under subparagraph (B)  
480 of subdivision (2) of subsection (a) of this section shall not exceed one]  
481 for the low-emissions, nonresidential program; (ii) two hundred  
482 megawatts per year for the zero-emissions, nonresidential program; and  
483 [the total megawatts available to customers eligible under  
484 subparagraph (C) of subdivision (2) of subsection (a) of this section shall  
485 not exceed] (iii) fifty megawatts per year for the shared clean energy  
486 facility program.

487 (D) In any given year, if the actual program capacity for any program  
488 is less than ninety-five per cent of the available program capacity, the  
489 authority shall make available additional megawatts, in an amount  
490 equal to the difference between such actual and available program  
491 capacities, to customers in one or two programs that are fully  
492 subscribed, as determined by the authority. The authority shall permit  
493 electric distribution companies to solicit additional projects for such  
494 reallocated megawatts in the given year or the year immediately  
495 following the given year, consistent with the procurement plans  
496 approved pursuant to subdivisions (1) and (4) of subsection (a) of this  
497 section.

498 (E) The authority shall monitor the competitiveness of any  
499 procurements authorized pursuant to subsection (a) of this section and  
500 may adjust the annual purchase amount established in this subsection  
501 or other procurement parameters to maintain competitiveness. Any  
502 megawatts not allocated in any given year shall [roll] transfer into the  
503 next year's available megawatts, unless the megawatts are reallocated  
504 pursuant to subparagraph (D) of this subdivision. The obligation to  
505 purchase energy and renewable energy certificates shall be apportioned  
506 to electric distribution companies based on their respective distribution



507 system loads, as determined by the authority.

508 [(B)] (2) The electric distribution companies shall offer any tariffs  
509 developed pursuant to subsection (b) of this section for six years. At the  
510 end of the tariff term pursuant to subparagraph (B) of subdivision (2) of  
511 subsection (b) of this section, residential customers that elected the  
512 option pursuant to said subparagraph shall be credited all cents-per-  
513 kilowatt-hour charges pursuant to the tariff rate for such customer for  
514 energy produced by the Class I renewable energy source against any  
515 energy that is consumed in real time by such residential customer.

516 [(C)] (3) The authority shall establish tariffs for the purchase of energy  
517 on a cents-per-kilowatt-hour basis at the expiration of any tariff terms  
518 authorized pursuant to this section.

519 [(2)] (d) At the beginning of year six of the procurements authorized  
520 pursuant to this [subsection] section, the department, in consultation  
521 with the authority, shall assess the tariff offerings pursuant to this  
522 section and determine if such offerings are competitive compared to the  
523 cost of the technologies. The department shall report, in accordance with  
524 section 11-4a, the results of such determination to the General Assembly.

525 [(3)] (e) For any tariff established pursuant to this section, the  
526 authority shall examine how to incorporate the following energy system  
527 benefits into the rate established for any such tariff: [(A)] (1) Energy  
528 storage systems that provide electric distribution benefits, [(B)] (2)  
529 location of a facility on the distribution system, [(C)] (3) time-of-use rates  
530 or other dynamic pricing, and [(D)] (4) other energy policy benefits  
531 identified in the Comprehensive Energy Strategy prepared pursuant to  
532 section 16a-3d.

533 [(d)] (f) In accordance with subsection (h) of section 16-245a, the  
534 authority shall determine which of the following two options is in the  
535 best interest of ratepayers and shall direct each electric distribution  
536 company to either (1) retire the renewable energy certificates it  
537 purchases pursuant to subsections (a) and (b) of this section on behalf of  
538 all ratepayers to satisfy the obligations of all electric suppliers and

539 electric distribution companies providing standard service or supplier  
540 of last resort service pursuant to section 16-245a, or (2) sell such  
541 renewable energy certificates into the New England Power Pool  
542 Generation information system renewable energy credit market. The  
543 authority shall establish procedures for the retirement of such  
544 renewable energy certificates. Any net revenues from the sale of  
545 products purchased in accordance with this section shall be credited to  
546 customers through a nonbypassable fully reconciling component of  
547 electric rates for all customers of the electric distribution company.

548 [(e)] (g) The costs incurred by an electric distribution company  
549 pursuant to this section shall be recovered on a timely basis through a  
550 nonbypassable fully reconciling component of electric rates for all  
551 customers of the electric distribution company. Any net revenues from  
552 the sale of products purchased in accordance with any tariff offered  
553 pursuant to this section shall be credited to customers through the same  
554 fully reconciling rate component for all customers of such electric  
555 distribution company.

556 [(f)] (h) Notwithstanding the size-to-load provisions of subdivision  
557 (4) of subsection (a) of this section, the entire rooftop space of a  
558 customer's own premises developed pursuant to subparagraph (B) of  
559 subdivision (1) of subsection (a) of this section and owned by a  
560 commercial or industrial customer may be used for purposes of  
561 electricity generation and participation in the solicitation conducted by  
562 each electric distribution company pursuant to subdivision (4) of  
563 subsection (a) of this section.

564 Sec. 4. (Effective July 1, 2023) (a) Not later than February 1, 2024, the  
565 Commissioner of Energy and Environmental Protection, in consultation  
566 with the Commissioners of Administrative Services, Correction and  
567 Transportation, shall submit a report, in accordance with the provisions  
568 of section 11-4a of the general statutes, to the joint standing committee  
569 of the General Assembly having cognizance of matters relating to  
570 energy and technology that identifies state properties, including, but not  
571 limited to, highway corridors and correctional institutions, that are

572 suitable for lease to private entities for the construction or location of  
573 solar photovoltaic facilities with capacities of two or more megawatts.

574 (b) Not later than sixty days following submission of the report  
575 described in subsection (a) of this section, the Commissioners of Energy  
576 and Environmental Protection, Administrative Services, Correction and  
577 Transportation shall cause such report to be posted to the Internet web  
578 site of each department, respectively. Following such posting, the  
579 Commissioner of Energy and Environmental Protection shall forward a  
580 copy of such report to the chairperson of the Connecticut Siting Council,  
581 who shall cause a copy of such report to be posted to the Internet web  
582 site of the Connecticut Siting Council not later than thirty days following  
583 receipt of such report.

584 Sec. 5. (Effective July 1, 2023) Not later than February 1, 2024, the  
585 Commissioner of Energy and Environmental Protection shall submit a  
586 report, in accordance with the provisions of section 11-4a of the general  
587 statutes, to the joint standing committee of the General Assembly  
588 having cognizance of matters relating to energy and technology that  
589 identifies types of properties in the state, other than prime farmlands  
590 and forest lands, that are suitable for the construction or location of solar  
591 photovoltaic facilities with capacities of two or more megawatts. Such  
592 report shall include, but need not be limited to, an analysis of whether:  
593 (1) Right-of-ways occupied by overhead transmission facilities, as  
594 described in section 16-50hh of the general statutes, may serve as such a  
595 suitable situs in areas of such right-of-ways that are not subject to  
596 restoration or revegetation orders described in section 16-50hh of the  
597 general statutes, and (2) abandoned or underutilized parking facilities  
598 in the state may serve as such a suitable situs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	12-81(57)
Sec. 2	October 1, 2023	New section
Sec. 3	October 1, 2023	16-244z
Sec. 4	July 1, 2023	New section

Sec. 5	July 1, 2023	New section
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**Statement of Legislative Commissioners:**

The title was changed.

**ET**      *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 24 \$	FY 25 \$
Resources of the General Fund	GF - Cost	Up to \$1,400,000	Up to \$1,400,000
Resources of the General Fund	GF - Revenue Gain	Up to \$2,800,000	Up to \$2,800,000

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect	FY 24 \$	FY 25 \$
Various Municipalities	STATE MANDATE <sup>1</sup> - Grand List Reduction	None	Potential

**Explanation**

The bill would have a net revenue gain for the state. The bill imposes a tax of \$5.00 fee per kw of capacity of any facility with a greater kwh capacity than 25 kW. As of 2019 Connecticut had a Photovoltaic Solar capacity of 566.3 mW or 566,300 kw<sup>2</sup>. This at the time was spread in over 44,514 facilities. Assuming that the entire capacity was produced at facilities with greater than 25 kW capacity this would leave a maximum tax collection of \$2,831,500. Under the bill half of the additional tax revenue would be distributed to the general fund, and the one half

<sup>1</sup> State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

<sup>2</sup> [ISO New England 2020 PV Forecast](#)

would be designated to the bill's Solar Uniform Capacity Account.

The Department of Energy and Environmental Protection (DEEP) is charged with producing a study on properties that the state holds that could be leased by solar projects to increase capacity. The bill specifically includes highway corridors and correctional institutions as potential locations. DEEP must consult with the commissioners of administrative services, corrections, and transportation for the report. DEEP is also required to put together an additional study on locations in right-of-way and underutilized parking lots. There is no additional cost for conducting either study.

The bill expands the net zero mW cap from 100 mW to 200 mW. The Non-Residential Energy Solutions program (NRES) and the Shared Clean Energy Facilities program (SCEF) would both maintain aggregate caps at 160 mW; but unused capacity may be transferred to another program if it is under existing caps. The programmatic caps were not changed by this legislation. This does not obligate the Public Utility Regulatory Authority (PURA) to any additional action and has no cost to the state.

The bill, which exempts certain solar facilities from property tax, results in a potential grand list reduction beginning in FY 25 for municipalities that have these solar facilities. The grand list reduction will be partially mitigated by the funds collected from the facilities and deposited into the new Solar Uniform Capacity Tax Account. These funds are distributed to municipalities in proportion to the municipality's share of total capacity of solar facilities subject to the bill's property tax exemption and tax.

***Rate Payer Impact Statement:***

This bill may cause a slight rate increase. The program NRES and SCEF are programs administered by electric distribution companies in Connecticut. These companies are allowed to reclaim any investment made in infrastructure via the cost recovery method currently built into

the rate. The expansion of zero emissions projects through these programs may require additional infrastructure improvements increasing costs available to recover through the ratepayer. The exact impact fiscally would depend heavily on existing infrastructure conditions, market fluctuations, and if the additional power purchased would come from current participants or new participants.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sHB 6764*****AN ACT CONCERNING A SOLAR UNIFORM CAPACITY TAX AND MODIFICATIONS TO THE STATE'S RENEWABLE ENERGY PROGRAMS.*****SUMMARY**

This bill exempts certain solar facilities larger than 25 kilowatts (kW) in capacity from the property tax and establishes a “solar uniform capacity tax” for facility owners. The bill requires the Department of Revenue Services (DRS) commissioner to collect the tax and deposit half of received funds into the General Fund and half into a new Solar Uniform Capacity Tax Account that provides financial assistance to municipalities in proportion to their share of the state’s total solar capacity.

The bill also expands the Non-Residential Energy Solutions (NRES) program by expanding the yearly amount of capacity in megawatts (MW) available for zero-emissions projects from 100 to 200 MW (though the bill appears to keep a 160 MW aggregate annual cap for NRES and the Shared Clean Energy Facilities (SCEF) program). The bill makes other changes affecting the NRES and SCEF programs, including (1) allowing unused capacity under a program’s annual cap to be reallocated to other programs in certain cases and (2) changing the income eligibility for SCEF capacity set aside for low- and moderate-income customers (see BACKGROUND).

The bill requires the Department of Energy and Environmental Protection (DEEP) to submit two reports to the Energy and Technology Committee by February 1, 2024, related to land use and solar facilities with capacities of two or more megawatts.



Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2023, except DEEP's reporting requirements are effective July 1, 2023.

## **§§ 1 & 2 — PROPERTY TAX EXEMPTION AND SOLAR UNIFORM CAPACITY TAX**

### ***Property Tax Exemption for Certain Solar Facilities***

The bill establishes a property tax exemption for solar photovoltaic systems with a capacity over 25 kW, beginning with the assessment year starting October 1, 2023. Under the bill, "capacity" is the aggregate alternating current nameplate capacity of all inverters used to convert a solar photovoltaic system's output to alternating current power. Nameplate capacity generally refers to a facility's maximum output under specific conditions designated by the manufacturer.

Under the bill, owners of these facilities do not have to file an application with the municipal assessor or board of assessors to claim the exemption, as existing law requires for other property tax exemptions for Class I renewable resources (e.g., solar facilities). The bill also makes these facilities ineligible for a separate property tax exemption, at municipal option, for Class I renewable energy sources subject to a power purchase agreement approved by the Public Utilities Regulatory Authority (PURA).

### ***Solar Uniform Capacity Tax and Account***

The bill establishes a separate tax for these facilities, beginning January 1, 2024. It requires facility owners to annually pay the DRS commissioner an amount calculated by multiplying \$5 by the facility's capacity (e.g., someone who owns a 30 kW facility would pay \$150).

Under the bill, facility owners must electronically submit a return on DRS-prescribed forms, annually by July 31, that reports the following information:

1. the capacity of each solar facility subject to the tax the person owned in the state during the previous calendar year;

2. each facility's physical address, including the municipality where it was located;
3. the calculated tax amount for each facility the person owned;
4. the calculated tax amount for all facilities the person owned in a municipality, aggregated by municipality; and
5. the calculated total tax due.

The bill makes the tax due the same day as the return's due date (July 31) and requires facility owners to pay the tax via electronic funds transfer under existing provisions otherwise applicable to certain taxpayers. These provisions require the taxpayer to use an electronic fund transfer method approved by DRS.

The bill requires DRS to maintain an accounting of all sums paid for the tax and an accounting that shows the sums attributable to each municipality where a solar facility is located, aggregated by municipality. It also requires the DRS commissioner to maintain other information he needs to implement the tax.

The bill sets a penalty for failure to timely pay the tax. The penalty is the greater of 10% of the amount due or \$50, with interest imposed at the rate of 1% per month, or a fraction thereof, from the tax due date.

Under the bill, the DRS commissioner must transfer half of the funds received into the General Fund and the other half to the Solar Uniform Capacity Tax Account which the bill establishes (see below).

### ***Solar Uniform Capacity Tax Account***

The bill establishes the Solar Uniform Capacity Tax Account as a separate, nonlapsing account within the General Fund. The bill requires the Office of Policy and Management (OPM) secretary, or his designee, to spend account funds on direct financial assistance to municipalities in proportion to their share of total capacity of solar facilities subject to the bill's property tax exemption and tax. DRS must share information on the tax with OPM, including the information provided on tax return

forms it receives.

### **§ 3 — NRES AND SCEF PROGRAMS**

#### ***NRES Expansion***

The bill increases the yearly amount of capacity in megawatts available for zero-emission NRES projects (e.g., solar facilities,) from 100 MW to 200 MW. However, existing law, unchanged by the bill, has a 160 MW aggregate cap for the NRES and SCEF programs. Current law sets this 160 MW aggregate cap in years two through six of these programs. The bill instead sets the aggregate cap beginning January 1, 2023, generally conforming to current practice. (In practice, the programs began in different years. Year two for NRES is 2023; year two for SCEF is 2021.)

#### ***Underused Program Capacity***

For SCEF and NRES, the bill requires PURA to allocate megawatts available under one program to other fully subscribed programs under certain conditions. Specifically, PURA must make additional megawatts available to customers under fully subscribed programs if, in any given year, the actual program capacity for any program is less than 95% of the available capacity under the program's annual cap. The additional megawatts amount is equal to the difference between the actual and available program capacities for the undersubscribed program. The bill requires PURA to allow Eversource and United Illuminating to solicit additional projects for reallocated megawatts in the year PURA makes them available or the following year, following their procurement plans required under existing law.

The law already requires assignment of unused megawatts to the next program year. The bill makes a technical change to transfer, rather than roll, these megawatts into the next program year, but it exempts capacity reallocated under the process described above from this provision.

#### ***Low- and Moderate-Income SCEF Customers***

Existing law reserves at least 20% of each SCEF's total capacity for

low-income customers and at least 60% for low-income customers, moderate-income customers, and low-income service organizations. The bill modifies eligibility for these reserved amounts by changing definitions for low- and moderate-income customers.

Under current law, a low-income customer has income at or below 60% of state median income. The bill instead defines low-income customers as those with incomes below (1) 80% of area median income, as defined by the U.S. Department of Housing and Urban Development or (2) 200% of the federal poverty limit. The bill keeps existing law's provision that includes affordable housing facilities as low-income customers.

Currently, a moderate-income customer has income from 60% to 100% of the area median income. Under the bill, this customer has income of up to 80% of area median income, the same threshold as low-income customers. (By setting the same threshold for both low- and moderate-income customers, the bill appears to eliminate the distinction between the two, making moderate-income customers eligible for capacity set aside for low-income customers.)

#### **§§ 4 & 5 — DEEP REPORTS ON PROPERTIES FOR SOLAR FACILITIES WITH AT LEAST TWO MEGAWATTS CAPACITY**

The bill requires the DEEP commissioner to report to the Energy and Technology Committee by February 1, 2024, identifying suitable state properties for lease to private entities to construct or locate solar facilities of at least two MW capacity. The bill specifically includes highway corridors and correctional institutions as potential locations. DEEP must consult with the commissioners of administrative services, corrections, and transportation for the report.

The bill requires the four commissioners to post the report on their respective department websites within 60 days after DEEP submits the report to the committee. Once posted, DEEP must forward a copy of the report to the Connecticut Siting Council (CSC) chairperson, who must also post it on the CSC's website within 30 days after receiving it.

The bill requires DEEP to submit another report to the Energy and Technology Committee by February 1, 2024, that identifies types of property in the state suitable for constructing or locating solar facilities with capacities of at least two MW. The report must analyze whether the following properties may serve as suitable locations for these solar facilities:

1. right-of-ways occupied by overhead transmission facilities in areas not subject to restoration or revegetation orders or
2. abandoned or underutilized parking facilities.

The report must exclude prime farmlands and forest lands. By law, “prime farmland” is generally land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses (CGS § 16a-3k and 7 C.F.R. § 657).

## **BACKGROUND**

### ***NRES Program***

The NRES program allows non-residential customers (e.g., commercial and industrial customers) to participate in an annual solicitation conducted by Eversource and United Illuminating in which selected projects enter into a 20-year contract with the companies for energy and related products (e.g., renewable energy credits (RECs)). To be eligible, a project must be a Class I renewable energy source that (1) uses anaerobic digestion or has low emissions (e.g., fuel cells) or (2) has zero emissions (e.g., solar facilities) (CGS § 16-244z(a)(2)(A) & (B)). The law sets a six-year schedule for the program, which is currently in its second year (i.e., 2022 was Year 1).

### ***SCEF Program***

Generally, a shared clean energy facility allows customers to subscribe for energy or RECs from a facility that is not on the customer’s premises. Under the SCEF program, eligible facilities are Class I renewable energy sources (e.g., wind or solar) served by Eversource or United Illuminating with at least two subscribers in the same utility

service territory as the facility (CGS § 16-244z(a)(2)(C)). Eversource and United Illuminating do an annual solicitation using a competitive bidding procurement process and enter into 20-year contracts with selected projects. The law sets a six-year schedule for the program, which is currently in its fourth year (i.e., 2020 was Year 1).

**Related Bill**

SB 519, favorably reported by the Planning and Development Committee, makes solar installations between 0.5 and 7 MW ineligible for existing law’s residential- and farm-use renewable energy property tax exemption.

**COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable Substitute

Yea 15 Nay 5 (03/14/2023)