



House of Representatives

General Assembly

File No. 335

January Session, 2023

Substitute House Bill No. 6851

House of Representatives, March 30, 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 IMPLEMENTING RECOMMENDATIONS OF THE HYDROGEN TASK FORCE.

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

1 Section 1. (NEW) (*Effective July 1, 2023*) (a) On or before December 31,
2 2024, the Department of Energy and Environmental Protection shall
3 develop and approve a hydrogen strategic plan. The hydrogen strategic
4 plan shall include recommendations for policies, programs and
5 regulations to grow the state's hydrogen economy, consistent with the
6 greenhouse gas reduction goals established in section 22a-200a of the
7 general statutes, the Integrated Resources Plan approved pursuant to
8 section 16a-3a of the general statutes and the Comprehensive Energy
9 Strategy prepared pursuant to section 16a-3d of the general statutes. The
10 strategic plan shall (1) encourage the use of hydrogen produced from
11 renewable energy, (2) prioritize the application of hydrogen produced
12 from renewable energy to aviation, maritime shipping, ferry
13 transportation, heavy-duty trucking and high-temperature industrial
14 processes, and (3) describe the current and projected cost differences

15 between powering such sectors and processes with hydrogen produced
16 from renewable energy compared to powering such sectors and
17 processes with fossil fuels.

18 (b) Not later than December 31, 2024, the Department of Energy and
19 Environmental Protection shall adopt regulations, in accordance with
20 the provisions of chapter 54 of the general statutes, defining "clean
21 hydrogen" for purposes of section 31-53d of the general statutes, as
22 amended by this act.

23 Sec. 2. Subsection (a) of section 31-53d of the general statutes is
24 repealed and the following is substituted in lieu thereof (*Effective July 1,*
25 *2023*):

26 (a) As used in this section, unless the context otherwise requires:

27 (1) "Covered project" means a renewable energy project [that is
28 situated on land in this state, commences construction on or after July 1,
29 2021, and has] with a total nameplate capacity of two megawatts or
30 more that is situated on land in the state, or, on and after January 1, 2025,
31 a clean hydrogen project. "Covered project" does not include (A) any
32 renewable energy project (i) selected in a competitive solicitation
33 conducted by (I) the Department of Energy and Environmental
34 Protection, or (II) an electric distribution company, as defined in section
35 16-1, and (ii) approved by the Public Utilities Regulatory Authority
36 prior to January 1, 2022, [or] (B) any renewable energy project under
37 contract with another entity and approved by the relevant regulatory
38 authority, as applicable, prior to January 1, 2022, or (C) any renewable
39 energy project that commenced construction before July 1, 2021;

40 (2) "Renewable energy project" means a Class I renewable energy
41 source, as defined in section 16-1. "Renewable energy project" does not
42 include any offshore wind facility procured pursuant to section 16a-3h,
43 16a-3m or 16a-3n;

44 (3) "Clean hydrogen project" means any project that produces,
45 processes, transports, stores or uses clean hydrogen, as defined in

46 regulations adopted by the Department of Energy and Environmental
47 Protection pursuant to section 1 of this act;

48 [(3)] (4) "Community benefits agreement" means an agreement
49 between (A) the developer of a covered project, and (B) community-
50 based organizations or a coalition of such organizations, that details the
51 project's contributions to the community in which it is or will be sited
52 and the aspects of the project that will mitigate adverse conditions of
53 such community and create opportunities for local businesses,
54 communities and workers;

55 [(4)] (5) "Labor organization" means any organization, other than a
56 company union, that exists for the purpose, in whole or in part, of
57 collective bargaining or of dealing with employers concerning
58 grievances, terms or conditions of employment, or of other mutual aid
59 or protection, including, but not limited to, (A) bona fide labor
60 organizations that are certified or recognized as the organization of
61 jurisdiction representing the workers involved, (B) bona fide building
62 and construction trades councils or district councils, and (C) state and
63 local labor federations comprised of local unions certified or recognized
64 as the representative of the workers; and

65 [(5)] (6) "Workforce development program" means a program
66 pursuant to which newly hired employees and existing employees are
67 given the opportunity to develop skills that will enable such employees
68 to qualify for higher paying jobs on a covered project. A workforce
69 development program includes: (A) Apprenticeship training through
70 an apprenticeship program registered with the Labor Department or a
71 federally recognized state apprenticeship agency that complies with the
72 requirements under 29 CFR 29 and 29 CFR 30, as each may be amended
73 from time to time, and (B) preapprenticeship training that will enable
74 students to qualify for registered apprenticeship training.

75 Sec. 3. (NEW) (*Effective from passage*) The Commissioner of Energy
76 and Environmental Protection shall, in consultation with the Governor,
77 the Secretary of the Office of Policy and Management and the
78 Commissioner of Economic and Community Development, seek

79 opportunities for federal funding of projects or activities that advance
 80 clean hydrogen in the state. The Commissioner of Economic and
 81 Community Development shall identify the state's share of the projects
 82 or activities required to meet the matching requirements of the federal
 83 acts making the funds available to the state. The Commissioner of
 84 Economic and Community Development is authorized to transfer funds
 85 appropriated to the Department of Economic and Community
 86 Development and the Commissioner of Energy and Environmental
 87 Protection is authorized to accept such funds for the purpose of funding
 88 the state's share identified pursuant to this section.

| | | |
|---|---------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>July 1, 2023</i> | New section |
| Sec. 2 | <i>July 1, 2023</i> | 31-53d(a) |
| Sec. 3 | <i>from passage</i> | New section |

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 \$ |
|---|-----------------------------|-----------|-----------|
| Department of Energy and Environmental Protection | FF - Potential Revenue Gain | See Below | See Below |
| Department of Energy and Environmental Protection | GF - Potential Cost | See Below | See Below |

Note: GF=General Fund; FF=Federal Funds

Municipal Impact: None

Explanation

The bill would result in both a potential cost to the Department of Energy and Environmental Protection (DEEP) in the form of additional labor costs, and a potential gain of federal fund revenue. This would require DEEP to develop a hydrogen strategic plan to advance clean hydrogen energy in state.

The bill requires DEEP to find additional funding for these projects through existing federal resources. This would be done in part through the Department of Economic and Community Development (DECD) and would feature no additional cost to create.

There is a potential cost in the additional labor provisions that are provided by the bill. The extension of the usage of the "standard wage" requirement to hydrogen projects may lead to higher bid costs if they contractors and companies impacted choose to pass those costs onto the state.

The Out Years

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

OLR Bill Analysis**sHB 6851*****AN ACT IMPLEMENTING RECOMMENDATIONS OF THE HYDROGEN TASK FORCE.*****SUMMARY**

This bill requires the Department of Energy and Environmental Protection (DEEP) to develop and approve a hydrogen strategic plan, extends certain wage and workforce requirements to clean hydrogen projects, and requires DEEP to seek federal funding for projects that advance clean hydrogen in the state.

Existing law requires renewable energy project developers to meet certain wage and workforce requirements if their project meets certain criteria (“covered projects”). Beginning January 1, 2025, the bill extends these requirements to also apply to clean hydrogen projects, which are projects producing, processing, transporting, storing, or using clean hydrogen. The bill requires DEEP to adopt regulations defining “clean hydrogen” as it pertains to these wage and workforce requirements by December 31, 2024.

The bill requires the DEEP commissioner to seek opportunities for federal funding for projects or activities that advance clean hydrogen in the state. She must do so in consultation with the governor, the Office of Policy and Management secretary, and the Department of Economic and Community Development (DECD) commissioner. The bill requires the DECD commissioner to identify the state’s share of projects or activities needed to meet federal matching requirements. The bill authorizes the (1) DECD commissioner to transfer to DEEP funds appropriated to DECD and (2) DEEP commissioner to accept this money to fund the state’s share as identified by DECD.

EFFECTIVE DATE: July 1, 2023, except provisions requiring DEEP to

seek federal funding are effective upon passage.

HYDROGEN STRATEGIC PLAN

The bill requires DEEP to develop and approve a hydrogen strategic plan by December 31, 2024. The plan must recommend policies, programs, and regulations to grow the state's hydrogen economy. These recommendations must be consistent with:

1. the state's greenhouse gas reduction goals;
2. the approved Integrated Resource Plan, which is a plan DEEP develops every two years, in consultation with Eversource and United Illuminating, by reviewing the state's energy capacity and needs and developing a plan to procure various energy resources (CGS § 16-3a); and
3. the Comprehensive Energy Strategy, which DEEP prepares every four years to guide the state's energy policy, among other things (CGS § 16a-3d).

The bill additionally requires the hydrogen strategic plan to encourage using hydrogen produced from renewable energy and prioritize applications for hydrogen to aviation, maritime shipping, ferry transportation, heavy-duty trucking, and high-temperature industrial processes. The plan must also describe the current and projected cost differences between using hydrogen produced from clean energy to power these sectors and processes and using fossil fuels to do so.

COVERED PROJECT REQUIREMENTS

Under the bill, clean hydrogen projects, as defined by DEEP in its regulations, are "covered projects" subject to labor and workforce requirements under CGS § 31-53d. Among other things, these provisions require project developers to establish a workforce development program, which is a program that gives newly hired and existing employees the opportunity to develop skills that will enable them to qualify for higher paying jobs on a covered project (e.g.,

apprenticeship programs).

Contractors and subcontractors on a covered project must pay each construction employee on the project at least the wages and benefits that the state's prevailing wage law requires for the employee's corresponding job classification on a public works project. It subjects the contractors and subcontractors to the prevailing wage law's reporting and compliance requirements and its penalties and sanctions for violations (see BACKGROUND). Construction projects covered by a project labor agreement (PLA) are exempt from this requirement if the PLA meets certain other criteria.

Each operations, maintenance, and security employee employed in a building or facility built in a covered project must be paid at least the prevailing wage or the "standard wage" (see BACKGROUND), including benefits for the employee's corresponding job classification.

Developers must also submit sworn certifications to the labor commissioner from each contractor and subcontractor that it meets certain conditions, including, among other things, that it:

1. will not pay personnel employed on the project less than the applicable wage and fringe benefit rates for the appropriate classification,
2. will not misclassify employees as independent contractors, and
3. participates in apprenticeship training through certain state or federal apprenticeship programs.

Contractors and subcontractors are subject to debarment under the state's debarment law if a certification contains false, misleading, or materially inaccurate information. Developers who fail to take reasonable steps to ensure certifications are accurate and truthful are subject to other noncompliance penalties set in regulations.

For covered projects with a nameplate capacity of at least five megawatts, covered project developers must take all reasonable actions to ensure that a community benefits agreement is entered into with the

appropriate community organizations representing community residents where the project will be located. (A nameplate capacity is generally a measurement of an electricity generation or storage project’s size. Certain clean hydrogen projects may not have nameplate capacities; presumably, these projects would not be subject to this provision.) A community benefits agreement details the project’s contribution to the community and aspects that will mitigate the community’s adverse conditions and create opportunities for local business, communities, and workers.

BACKGROUND

Prevailing Wage

The state’s prevailing wage law requires employers on certain public works projects to pay their construction workers wages and benefits equal to those that are customary or prevailing for the same work, in the same occupation, in the same town. The requirement applies to new construction projects of \$1 million or more and renovation projects of \$100,000 or more (CGS § 31-53).

Standard Wage

The state’s standard wage law generally requires private contractors who do building and property maintenance, property management, or food service work in state buildings to pay their employees wages and benefits determined by the labor commissioner. In general, an employee’s standard wage equals the hourly wage and benefits received by the most employees doing the same type of work under a union contract, as long as the contract covers at least 500 employees in Hartford County. If there is no such contract, then the commissioner sets the hourly rate based on the Federal Register of Wage Determinations, plus a 30% surcharge for health and retirement benefits (CGS § 31-57f).

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 20 Nay 0 (03/14/2023)