
OLR Bill Analysis

HB 5453

AN ACT CONCERNING THE MEMBERSHIP AND PROCESSES OF THE CONNECTICUT SITING COUNCIL.

SUMMARY

This bill makes various changes to the Connecticut Siting Council's membership, requires applicants for proposed electric transmission facilities to include additional information with their applications to the council, and expands the issues the council must consider when deciding whether to approve an application. By law, the council has jurisdiction over siting electric transmission lines, certain substations, electric generating and storage facilities, telecommunications facilities, and hazardous waste facilities. It generally approves applications by granting a certificate of environmental compatibility and public need.

More specifically, the bill (1) adds to the council four ad hoc members who represent the municipalities affected by a proposed facility and (2) generally expands a prohibition on member's affiliations with utility companies. It requires applications for electric transmission facilities to include, among other things, information about how the facility's costs and benefits will be shared by Connecticut ratepayers and those in other states. It also requires the council to consider a proposed facility's adverse effects on aesthetic and economic values (for any type of facility) and whether a transmission facility's benefits outweigh its costs when compared to reasonable alternatives.

For certificates to site certain specific solar facilities, the bill also requires the council to follow the approval, disapproval, or conditions set by the local chief elected municipal officer, as long as they meet certain conditions.

The bill also sets notice requirements for public utility companies looking to acquire residential real property by condemnation.

Lastly, current law allows the council to give appropriate consideration in all proceedings to (1) how much a utility spent for research on generation and transmission of the form of energy furnished by it, and its environmental effect; (2) how much the utility spent to promote this energy use, including advertising; and (3) the relationship between the expenditures. The bill instead requires the council to give this consideration in its proceedings (§ 6).

EFFECTIVE DATE: October 1, 2024

§ 1 — COUNCIL MEMBERS AND EMPLOYEES

Under current law, the council typically has nine members: the commissioner of energy and environmental protection and the chairperson of the Public Utilities Regulatory Authority (or their designees); one selected by the speaker of the House and another selected by the Senate president pro tempore; and five members of the public appointed by the governor, at least two of which must have experience in ecology. The bill additionally requires that three of these public members have experience in engineering.

The bill expands the council's membership by adding four ad hoc members. Three of these must be electors from the municipality where the proposed facility would be located, and the fourth must be an elector from a neighboring municipality likely to be most affected by the proposed facility. All four must be appointed by the chief elected official of the municipality they represent.

The bill's addition of these four ad hoc members generally matches the council's composition when it considers hazardous waste facilities under existing law. And as under that law, (1) the council's permanent members must determine which municipality will be most affected by a proposed facility and (2) public members are paid up to \$200 per day for attending council-related business.

Under current law, only one of the five public members appointed by the governor may have a past or present affiliation with (1) a utility or governmental utility regulatory agency or (2) any person who owns,

operates, controls, or contracts with a facility regulated by the council. The bill expands this limitation to also (1) cover the two members appointed by the legislative leaders and the four new ad hoc members and (2) specify that a prohibited affiliation with a utility includes direct financial investments in them (other than a mutual fund).

The bill explicitly requires the council to hire the employees it needs to carry out its purposes, and requires that at least (1) two of them have expertise in engineering and (3) three of them have expertise in financial analysis.

§§ 2 & 3 — APPLICATIONS

The bill expands the type of information that must be included in applications for siting electric transmission facilities. To start a certificate proceeding with the council under current law, an application for a transmission facility must include, among other things, a description of the proposed transmission line, an explanation of why it is needed, and a justification for the selected route. The bill requires these applications to additionally include analyses of the following:

1. the costs and benefits for state ratepayers while also comparing the proposed location and type of proposed facility to any feasible alternatives,
2. how the proposed facility's costs will be reimbursed or distributed among Connecticut ratepayers and those in other states, and
3. the benefits to Connecticut ratepayers compared to those for people in other states.

The bill also requires an applicant submitting an initial application for electric transmission facilities to indicate if it intends to submit additional applications within the next five years for additional transmission facilities that will either be physically connected to the initial facility or located within five miles of it. If so, then the applicant must also give the council any information about the additional facilities it requires.

§ 4 — COUNCIL DECISIONS

By law, the council must issue an opinion when it decides a certificate application and it cannot grant a certificate unless it makes certain findings and determinations. The bill requires that these be made using a clear and convincing standard of evidence (i.e., highly and substantially more likely to be true than untrue). Current law does not specify a standard of evidence that must be used.

Current law requires the council, for any type of facility, to make findings and determinations about the facility's probable environmental impact, including every significant adverse effect, such as ecological balance, public health and safety, and air and water purity. The bill specifies that these adverse effects also include aesthetic and economic values.

More specifically for electric transmission facilities, the bill expands the council's required findings and determinations to include that the (1) facility's benefits outweigh the costs to Connecticut ratepayers when compared to reasonable alternatives, (2) facility's plan is the most cost-effective method when compared to reasonable alternatives, and (3) share of the facility's costs among Connecticut ratepayers is reasonable when compared to the costs borne by ratepayers of other states that will benefit from it. Current law also requires the council's findings and determinations on electric transmission facilities to cover (1) what part of the facility will be located overhead and if they are cost appropriate and (2) whether the facility conforms to long-range plans for expanding the power grid and serves the state's interests for electric system economy and reliability.

§ 5 — MUNICIPAL CONDITIONS FOR CERTAIN SOLAR FACILITIES

The bill generally allows certain municipal chief elected officials to approve, disapprove, or set conditions for the Siting Council's approval of certificates for certain solar facilities in their municipalities. More specifically, for proposed solar photovoltaic facilities with over two megawatts (MW) capacity located within five miles of a 100 MW solar facility, the bill binds the council's decision to the approval, disapproval, or conditions that the chief elected officer in the municipality where the

facility is located submits to the council. However, the officer must submit these to the council within 30 days after he or she is served a copy of the certificate application for the facility as required by law. (Existing law, unchanged by the bill, requires the council to approve certain distributed resources projects by declaratory ruling. Presumably, these projects would not be subject to requirements the bill adds to certificate proceedings (see BACKGROUND).)

The bill also excludes from this provision applications for solar photovoltaic facilities that are proposed as part of an expansion of an existing facility under an existing certificate, whether it is proposed on the same site or on contiguous parcels with the existing facility.

§ 7 — NOTICE REQUIREMENTS FOR UTILITY CONDEMNATION

Existing law generally allows electric transmission companies to acquire real property through eminent domain (i.e., condemnation) to (1) relocate a transmission facility or right-of-way required by a public highway project or other governmental action; (2) acquire additional rights or title to property already subject to an easement or other rights for electric transmission lines; or (3) widen a portion, up to one mile long, of a transmission right-of-way for public safety or convenience.

Under current law, when a utility company wants to acquire residential real property by condemnation, and the property's owner disputes the company's need to acquire the property, the owner may bring the issue to the Siting Council within 30 days after being informed about the company's intention. The company's notification to the owner about its intention to acquire the property by condemnation must include a statement that the owner may bring the issue of the purpose for which the property is being acquired to the Siting Council.

The bill more specifically requires the company to give the property owner two separate notices about the potential condemnation, with one required at least 60 days before the intended condemnation date (it is unclear if this deadline is based on when the notice is sent or received), and the second sent at least 30 days before that date. Both must be in an envelope with "NOTICE REGARDING POTENTIAL

CONDEMNATION OF YOUR PROPERTY” written in at least 12-point bold type. As under current law, the notices must be sent by certified mail and include a statement that the owner may bring the issue of the purpose for which the property is being acquired to the Siting Council. The bill further specifies that the property owner must bring the issue to the council within 30 days after the second notice (it is unclear if this deadline is based on when the notice is sent or received).

BACKGROUND

Facilities Approved by Declaratory Ruling

Existing law requires the Siting Council to approve the following types of projects by declaratory ruling, rather than through the certificate process:

1. an electric generation facility, other than one fueled by coal or nuclear materials, at a site where an electric generating facility operated before July 1, 2004;
2. a fuel cell, unless the council finds a substantial adverse environmental effect; and
3. a customer-side distributed resources project or facility or a grid-side distributed resources project or facility with a capacity up to 65 MW, as long as the project meets air and water quality standards, the council finds no substantial adverse environmental effect, and, if applicable, the project complies with certain requirements for siting on prime farmland or core forest (CGS § 16-50k).

A customer-side distributed resource is a generating unit of up to 65 MW on a retail end user’s premises within the transmission and distribution system (e.g., fuel cells, solar facilities, and small wind turbines) or a retail end user’s reduction in demand for electricity through conservation and load management (CGS § 16-1(a)(34)).

A grid-side distributed resource is a generating unit of up to 65 MW that is connected to the transmission or distribution system, including units primarily used to generate electricity to meet peak demand (CGS

§ 16-1(a)(37)).

Related Bills

sSB 198 (File 184), favorably reported by the Environment Committee, adds to the Siting Council an elector from the municipality where a proposed facility would be located.

sHB 5361, favorably reported by the Energy and Technology Committee, requires, among other things, the Siting Council to consider the testimony of the chief elected official of any municipality in which a proposed facility would be located.

sHB 5507, favorably reported by the Judiciary Committee, among other things, (1) brings electric transmission line projects under the law for environmental justice communities, (2) expands requirements for developers to consult with certain local and state officials before applying to the Siting Council, (3) expands the information that must be included in applications for transmission lines, and (4) requires the council to consider additional information when deciding applications for transmission lines.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 19 Nay 0 (03/22/2024)