



General Assembly

Amendment

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LCO No. 8890



Offered by:

REP. MICHEL, 146th Dist.

REP. REYES, 75th Dist.

REP. HENNESSY, 127th Dist.

REP. SIMMS, 140th Dist.

REP. VARGAS, 6th Dist.

To: Subst. House Bill No. 6551

File No. 529

Cal. No. 382

"AN ACT CONCERNING ENVIRONMENTAL AIR QUALITY."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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

13 (b) The environmental equity working group shall consist of the
14 following members:

15 (1) Five representatives of environmental equity communities,
16 appointed by the Commissioner of Energy and Environmental
17 Protection in accordance with subsection (e) of this section;

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

21 (3) Two representatives of the Department of Public Health,
22 appointed by the Commissioner of Public Health;

23 (4) Two representatives of the Department of Housing, appointed by
24 the Commissioner of Housing; and

25 (5) Two representatives of the Labor Department, appointed by the
26 Labor Commissioner.

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

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

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

41 (f) In establishing the criteria pursuant to subsection (a) of this

42 section, disadvantaged communities shall be identified based on
43 geographic, public health, environmental hazard and socioeconomic
44 criteria that shall include, but not be limited to: (1) Areas burdened by
45 cumulative environmental pollution and other hazards that can lead to
46 negative public health effects; (2) areas with concentrations of people
47 that are of low income, high unemployment, high rent burden, low
48 levels of home ownership, low levels of educational attainment or
49 members of groups that have historically experienced discrimination on
50 the basis of race or ethnicity; and (3) areas vulnerable to the impacts of
51 climate change such as flooding, storm surges and urban heat island
52 effects.

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

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

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

73 Sec. 2. Section 22a-20a of the general statutes is amended by adding

74 subsection (f) as follows (*Effective from passage*):

75 (NEW) (f) (1) On and after the date that regulations are adopted
76 pursuant to subdivision (2) of this subsection, notwithstanding any
77 provision of the general statutes, if the Department of Energy and
78 Environmental Protection or the Connecticut Siting Council, as
79 applicable, determines that there are less harmful alternatives compared
80 to the applicant's proposed facility or new or expanded permit, then the
81 department or council, as applicable, shall deny the subject application
82 or permit, as received, but allow the applicant to resubmit such
83 application, if appropriate, with modifications. Notwithstanding any
84 provision of the general statutes, if the department or council
85 determines that, together with other environmental or public health
86 stressors affecting the environmental justice community, the proposed
87 facility or new or expanded permit could cause or contribute to adverse
88 cumulative environmental or public health stressors in such community
89 that are higher than those of other communities in the state, on average,
90 the department or council, as applicable, shall deny the subject
91 application or permit or place conditions on the application or permit as
92 necessary in order to avoid or reduce such adverse environmental or
93 public health stressors affecting the environmental justice community.
94 Notwithstanding any provision of the general statutes, if the
95 department or council, as applicable, determines that a new facility or
96 expansion or modification of an existing facility will serve a compelling
97 public interest in the affected environmental justice community, the
98 department or council, as applicable, may approve such application or
99 permit and impose conditions on the construction and operation of the
100 facility to protect the public health and the environment. The
101 department or council, as applicable, shall publish any determination
102 made pursuant to this subsection on such department's or council's
103 Internet web site, as applicable.

104 (2) The Commissioner of Energy and Environmental Protection, in
105 consultation with the Commissioner of Public Health, shall adopt
106 regulations, in accordance with the provisions of chapter 54, to carry out
107 the provisions of this section.

108 Sec. 3. Subsection (a) of section 22a-200b of the general statutes is
109 repealed and the following is substituted in lieu thereof (*Effective October*
110 *1, 2021*):

111 (a) The Commissioner of Energy and Environmental Protection shall,
112 with the advice and assistance of a nonprofit association organized to
113 provide scientific, technical, analytical and policy support to the air
114 quality and climate programs of northeastern states: (1) Not later than
115 December 1, 2009, publish an inventory of greenhouse gas emissions to
116 establish a baseline for such emissions for the state and publish a
117 summary of greenhouse gas emission reduction strategies on the
118 Department of Energy and Environmental Protection's Internet web
119 site, (2) not later than July 1, 2010, publish results of various modeling
120 scenarios concerning greenhouse gas emissions, including, but not
121 limited to, an evaluation of the potential economic and environmental
122 benefits and opportunities for economic growth based on such
123 scenarios, (3) not later than July 1, 2011, analyze greenhouse gas
124 emission reduction strategies and, after an opportunity for public
125 comment, make recommendations on which such strategies will achieve
126 the greenhouse gas emission levels specified in section 22a-200a, and (4)
127 not later than July 1, 2012, and every three years thereafter, develop,
128 with an opportunity for public comment, a schedule of recommended
129 regulatory actions by relevant agencies, policies and other actions
130 necessary to [show reasonable further progress towards achieving the
131 greenhouse gas emission levels specified in section 22a-200a] ensure
132 attainment of the state-wide greenhouse gas emission levels established
133 in section 22a-200a.

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

141 (b) The owner or operator of any qualified data center who enters into
142 an agreement with the Commissioner of Economic and Community
143 Development on or after July 1, 2021, shall provide that every fossil fuel
144 burning emergency use generator used in connection with the operation
145 of such qualified data center, including any such generator used for
146 testing and maintenance, be of at least EPA Tier 2 standards and that
147 every fossil fuel burning nonemergency use generator used in
148 connection with the operation of such qualified data center: (1) Emit not
149 more than 0.72 g/KW-hr of nitrogen oxides and 0.036 g/KW-hr of
150 ammonia at all times, (2) exhaust from a stack that is greater than thirty-
151 four feet tall at all times, and (3) comply with applicable emissions
152 standards as set forth in 40 CFR 60, 40 CFR 63, and section 22a-174-1 of
153 the regulations of Connecticut state agencies at all times. Any exception
154 to the requirements of this section shall be approved by the
155 Commissioner of Energy and Environmental Protection.

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

167 Sec. 5. Subsection (a) of section 22a-20a of the general statutes is
168 repealed and the following is substituted in lieu thereof (*Effective from*
169 *passage*):

170 (a) As used in this section:

171 (1) "Environmental justice community" means (A) a United States
172 census block group, as determined in accordance with the most recent

173 United States census, for which thirty per cent or more of the population
174 consists of low income persons who are not institutionalized and have
175 an income below two hundred per cent of the federal poverty level; or
176 (B) a distressed municipality, as defined in subsection (b) of section 32-
177 9p;

178 (2) "Affecting facility" means any (A) electric generating facility with
179 a capacity of more than ten megawatts; (B) sludge or solid waste
180 incinerator or combustor; (C) sewage treatment plant with a capacity of
181 more than fifty million gallons per day; (D) intermediate processing
182 center, volume reduction facility, solid waste transfer station, resource
183 recovery facility, transfer station, recycling, compost or multitown
184 recycling facility with a combined monthly volume in excess of twenty-
185 five tons; (E) new or expanded landfill, including, but not limited to, a
186 landfill that contains ash, construction and demolition debris or solid
187 waste; (F) medical waste incinerator; [or] (G) major source of air
188 pollution, as defined by the federal Clean Air Act; (H) qualified data
189 center, as defined in section 4 of this act; (I) demolition debris storage
190 area and contractor yards that store sand or silica; or (J) car or metal
191 scrap yards. "Affecting facility" shall not include (i) the portion of an
192 electric generating facility that uses nonemitting and nonpolluting
193 renewable resources such as wind, solar and hydro power or that uses
194 fuel cells, (ii) any facility for which a certificate of environmental
195 compatibility and public need was obtained from the Connecticut Siting
196 Council on or before January 1, 2000, or (iii) a facility of a constituent
197 unit of the state system of higher education that has been the subject of
198 an environmental impact evaluation in accordance with the provisions
199 of sections 22a-1b to 22a-1h, inclusive, and such evaluation has been
200 determined to be satisfactory in accordance with section 22a-1e;

201 (3) "Meaningful public participation" means (A) residents of an
202 environmental justice community have an appropriate opportunity to
203 participate in decisions about a proposed facility or the expansion of an
204 existing facility that may adversely affect such residents' environment
205 or health; (B) the public's participation [may] shall influence the
206 regulatory agency's decision; and (C) the applicant for a new or

207 expanded permit, certificate or siting approval seeks out and facilitates
208 the participation of those potentially affected during the regulatory
209 process; [and]

210 (4) "Community environmental benefit agreement" means a written
211 agreement entered into by the chief elected official or town manager of
212 a municipality and an owner or developer of real property whereby the
213 owner or developer agrees to develop real property that is to be used
214 for any new or expanded affecting facility and to provide financial
215 resources for the purpose of the mitigation, in whole or in part, of
216 impacts reasonably related to the facility, including, but not limited to,
217 impacts on the environment, including, but not limited to, air quality,
218 water quality, public access to open space and watercourses, quality of
219 life, asthma and other respiratory illness rates, traffic, parking and noise
220 and safety hazards; and

221 (5) "Cumulative environmental pollution" or "cumulative
222 environmental and public health stressors" means impacts to the natural
223 environment and public health from past, present and foreseeable
224 future human activities and environmental conditions."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	22a-20a
Sec. 3	<i>October 1, 2021</i>	22a-200b(a)
Sec. 4	<i>July 1, 2021</i>	New section
Sec. 5	<i>from passage</i>	22a-20a(a)