



House of Representatives

General Assembly

File No. 125

January Session, 2023

House Bill No. 5608

House of Representatives, March 21, 2023

The Committee on Environment reported through REP. GRESKO of the 121st Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING CERTAIN SOLAR PHOTOVOLTAIC FACILITIES LOCATED ON PRIME FARMLAND, FARMLAND OF STATE-WIDE IMPORTANCE OR CORE FOREST LANDS.

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

1 Section 1. Subsection (a) of section 16-50k of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (a) Except as provided in subsection (b) of section 16-50z, no person
5 shall exercise any right of eminent domain in contemplation of,
6 commence the preparation of the site for, commence the construction or
7 supplying of a facility, or commence any modification of a facility, that
8 may, as determined by the council, have a substantial adverse
9 environmental effect in the state without having first obtained a
10 certificate of environmental compatibility and public need, hereinafter
11 referred to as a "certificate", issued with respect to such facility or
12 modification by the council. Certificates shall not be required for (1) fuel
13 cells built within the state with a generating capacity of two hundred

14 fifty kilowatts or less, or (2) fuel cells built out of state with a generating
15 capacity of ten kilowatts or less. Any facility with respect to which a
16 certificate is required shall thereafter be built, maintained and operated
17 in conformity with such certificate and any terms, limitations or
18 conditions contained therein. Notwithstanding the provisions of this
19 chapter or title 16a, the council shall, in the exercise of its jurisdiction
20 over the siting of generating facilities, approve by declaratory ruling (A)
21 the construction of a facility solely for the purpose of generating
22 electricity, other than an electric generating facility that uses nuclear
23 materials or coal as fuel, at a site where an electric generating facility
24 operated prior to July 1, 2004, and (B) the construction or location of any
25 fuel cell, unless the council finds a substantial adverse environmental
26 effect, or of any customer-side distributed resources project or facility or
27 grid-side distributed resources project or facility with a capacity of not
28 more than sixty-five megawatts, as long as: (i) Such project meets air and
29 water quality standards of the Department of Energy and
30 Environmental Protection, (ii) the council does not find a substantial
31 adverse environmental effect, and (iii) for a solar photovoltaic facility
32 with a capacity of two or more megawatts, to be located on prime
33 farmland or forestland, excluding any such facility that was selected by
34 the Department of Energy and Environmental Protection in any
35 solicitation issued prior to July 1, 2017, pursuant to section 16a-3f, 16a-
36 3g or 16a-3j, the Department of Agriculture represents, in writing, to the
37 council that such project will not materially affect the status of such land
38 as prime farmland or the Department of Energy and Environmental
39 Protection represents, in writing, to the council that such project will not
40 materially affect the status of such land as core forest. In conducting an
41 evaluation of a project for purposes of subparagraph (B)(iii) of this
42 [subsection] subdivision, the Departments of Agriculture and Energy
43 and Environmental Protection may consult with the United States
44 Department of Agriculture and soil and water conservation districts. In
45 addition to all other requirements for the issuance of a certificate, the
46 council shall not issue a certificate for a facility described in
47 subparagraph (B)(iii) of this subdivision unless the applicant for such
48 certificate furnishes a bond to cover all costs associated with the

49 decommissioning of such facility.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>from passage</i> | 16-50k(a) |

ENV *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill would require businesses to provide a removal bond to the state for the removal of photovoltaic solar facilities. The legislation does not obligate the state to any additional action.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**HB 5608*****AN ACT CONCERNING CERTAIN SOLAR PHOTOVOLTAIC FACILITIES LOCATED ON PRIME FARMLAND, FARMLAND OF STATE-WIDE IMPORTANCE OR CORE FOREST LANDS.*****SUMMARY**

This bill prohibits the Connecticut Siting Council from approving a solar photovoltaic facility of at least two-megawatt capacity on prime farmland or core forest without the project applicant providing a bond to cover the facility's decommissioning costs. A decommissioning bond is a way to secure payment for removing an abandoned solar panel system and remediating the land.

By law, "prime farmland" means soils defined by the U.S. Department of Agriculture as best suited to produce food, feed, forage, fiber, and oilseed crops. In general, these lands have an adequate and dependable water supply, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. "Core forest" is unfragmented forest land that is at least 300 feet from the boundary between forest land and non-forest land, as determined by the energy and environmental protection commissioner (CGS § 16a-3k, citing to 7 C.F.R. § 657.5).

The Connecticut Siting Council is an independent body that regulates the siting of power facilities, transmission lines, and telecommunication facilities. Its decisions must follow guidelines set in law.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 32 Nay 0 (03/03/2023)