



Senate

General Assembly

File No. 562

January Session, 2023

Substitute Senate Bill No. 1145

Senate, April 13, 2023

The Committee on Environment reported through SEN. LOPES of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE ESTABLISHMENT OF SECTOR SPECIFIC SUBTARGETS FOR GREENHOUSE GAS EMISSIONS REDUCTIONS.

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

1 Section 1. Subdivisions (1) and (2) of subsection (a) of section 22a-6b
2 of the general statutes are repealed and the following is substituted in
3 lieu thereof (*Effective October 1, 2023*):

4 (1) For failure to file any registration, other than a registration for a
5 general permit, for failure to file any plan, report or record, or any
6 application for a permit, for failure to obtain any certification, for failure
7 to display any registration, permit or order, or file any other information
8 required pursuant to any provision of section 14-100b or 14-164c,
9 subdivision (3) of subsection (b) of section 15-121, section 15-171, 15-172,
10 15-175, 22a-5, 22a-6, 22a-7, 22a-32, 22a-39 or 22a-42a, 22a-45a, chapter
11 441, sections 22a-134 to 22a-134d, inclusive, subsection (b) of section 22a-
12 134p, sections 22a-148 to 22a-162a, inclusive, section 22a-171, 22a-174,
13 22a-175, 22a-177, 22a-178, 22a-181, 22a-183, 22a-184, 22a-208, 22a-208a,

14 22a-209, 22a-213, 22a-200a, as amended by this act, 22a-220, 22a-231, 22a-
15 245a, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-354p,
16 22a-358, 22a-359, 22a-361, 22a-362, 22a-368, 22a-401 to 22a-405, inclusive,
17 22a-411, 22a-411a, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive, 22a-
18 447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or 22a-
19 471, or any regulation, order or permit adopted or issued thereunder by
20 the commissioner, and for other violations of similar character as set
21 forth in such schedule or schedules, no more than one thousand dollars
22 for said violation and in addition no more than one hundred dollars for
23 each day during which such violation continues;

24 (2) For deposit, placement, removal, disposal, discharge or emission
25 of any material or substance or electromagnetic radiation or the causing
26 of, engaging in or maintaining of any condition or activity in violation
27 of any provision of section 14-100b or 14-164c, subdivision (3) of
28 subsection (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5,
29 22a-6, 22a-7, 22a-32, 22a-39 or 22a-42a, 22a-45a, chapter 441, sections 22a-
30 134 to 22a-134d, inclusive, section 22a-69 or 22a-74, subsection (b) of
31 section 22a-134p, sections 22a-148 to 22a-162a, inclusive, section 22a-162,
32 22a-171, 22a-174, 22a-175, 22a-177, 22a-178, 22a-181, 22a-183, 22a-184,
33 22a-190, 22a-200a, as amended by this act, 22a-208, 22a-208a, 22a-209,
34 22a-213, 22a-220, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a,
35 22a-354p, 22a-358, 22a-359, 22a-361, 22a-362, 22a-368, 22a-401 to 22a-405,
36 inclusive, 22a-411, 22a-411a, 22a-416, 22a-417, 22a-424 to 22a-433,
37 inclusive, 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461,
38 22a-462 or 22a-471, or any regulation, order or permit adopted
39 thereunder by the commissioner, and for other violations of similar
40 character as set forth in such schedule or schedules, no more than
41 twenty-five thousand dollars for said violation for each day during
42 which such violation continues;

43 Sec. 2. Section 22a-200 of the general statutes is repealed and the
44 following is substituted in lieu thereof (*Effective October 1, 2023*):

45 As used in [sections 22a-200 to 22a-200b, inclusive,] this section,
46 sections 22a-200a and 22a-200b, as amended by this act, and sections

47 22a-200d and 4a-67h:

48 (1) "Direct emissions" means greenhouse gas emissions from sources
49 that are owned or operated, in whole or in part, by an entity or facility,
50 including, but not limited to, emissions from: [factory stacks,
51 manufacturing processes and vents, and company owned or leased
52 motor vehicles] (A) Sources combusting heating or transportation fuels,
53 (B) any building stack, vent or structure, (C) any distribution system, or
54 (D) any residential, commercial, institutional, industrial or agricultural
55 waste management or manufacturing process;

56 (2) "Entity" means a person, as defined in section 22a-2, that owns or
57 operates, in whole or in part, a source of greenhouse gas emissions from
58 a generator of electricity or a commercial or industrial site, which source
59 may include, but not be limited to, a transportation fleet;

60 (3) "Facility" means a building, structure or installation located on any
61 one or more contiguous or adjacent properties of an entity;

62 (4) "Greenhouse gas" means any chemical or physical substance that
63 is emitted into the air and that the Commissioner of Energy and
64 Environmental Protection may reasonably anticipate will cause or
65 contribute to climate change, including, but not limited to, carbon
66 dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons
67 and sulfur hexafluoride;

68 (5) "Indirect emissions" means greenhouse gas emissions associated
69 with the consumption of purchased electricity, steam and heating or
70 cooling by an entity or facility and the sale or distribution of
71 transportation fuels or heating fuels;

72 (6) "Negative emissions" means greenhouse gases that are removed
73 from the atmosphere through nature-based solutions such as soils,
74 forests, wetlands or working or natural lands and through negative
75 emissions technologies; and

76 (7) "Negative emissions technology" means any technology
77 determined by the Commissioner of Energy and Environmental

78 Protection to remove greenhouse gases from the atmosphere.

79 Sec. 3. Section 22a-200a of the general statutes is repealed and the
80 following is substituted in lieu thereof (*Effective October 1, 2023*):

81 (a) The state shall reduce the level of emissions of greenhouse gas:

82 (1) Not later than January 1, 2020, to a level at least ten per cent below
83 the level emitted in 1990;

84 (2) Not later than January 1, 2030, to a level at least forty-five per cent
85 below the level emitted in 2001;

86 (3) Not later than January 1, 2040, to a level of zero per cent from
87 electricity supplied to electric customers in the state;

88 (4) Not later than January 1, 2050, to [a] an economy-wide net zero
89 level provided emissions of greenhouse gases are at least eighty per cent
90 below the level emitted in 2001; and

91 (5) [All of the levels referenced in this subsection shall be determined
92 by the Commissioner of Energy and Environmental Protection] Not
93 later than January 1, 2025, the Commissioner of Energy and
94 Environmental Protection shall adopt regulations, in accordance with
95 the provisions of chapter 54, to establish sector-specific subtargets for
96 commercial and industrial heating and cooling, residential heating and
97 cooling, industrial processes, natural gas distribution and service,
98 natural and working lands and any other sector or source the
99 commissioner may designate as necessary to meet the levels in
100 subdivisions (1) to (4), inclusive, of this subsection, provided the
101 subtarget for electricity supply shall be the level specified in subdivision
102 (3) of this subsection. Such regulations shall provide that sector-based
103 state-wide greenhouse gas emission subtargets for a given year shall
104 not, in the aggregate, exceed the state-wide greenhouse gas emissions
105 level for the year. Additionally, such regulations shall provide that such
106 subtargets shall be expressed in tons of carbon dioxide equivalents and
107 shall be determined to be necessary by the commissioner for meeting
108 each state-wide greenhouse gas emissions level established in this

109 subsection. In a report issued pursuant to subsection (c) of this section
110 or subsection (a) of section 22a-200b, as amended by this act, and
111 released on or before December 31, 2040, the commissioner shall review
112 and, as necessary, update such sector subtarget regulations. The
113 commissioner may update such sector subtarget regulations more
114 frequently if, at any time, the commissioner determines that current
115 subtargets will not result in meeting each state-wide greenhouse gas
116 emissions level established in this subsection.

117 (b) On or before January 1, 2010, and biannually thereafter, the state
118 agencies that are members of the Governor's Steering Committee on
119 Climate Change shall submit a report to the Secretary of the Office of
120 Policy and Management and the Commissioner of Energy and
121 Environmental Protection. The report shall identify existing and
122 proposed activities and improvements to the facilities of such agencies
123 that are designed to meet state agency energy savings goals established
124 by the Governor. The report shall also identify policies and regulations
125 that could be adopted in the near future by such agencies to reduce
126 greenhouse gas emissions in accordance with subsection (a) of this
127 section.

128 (c) Not later than January 1, 2012, and every three years thereafter,
129 the Commissioner of Energy and Environmental Protection shall, in
130 consultation with the Secretary of the Office of Policy and Management
131 and the Governor's Steering Committee on Climate Change, report, in
132 accordance with the provisions of section 11-4a, to the joint standing
133 committees of the General Assembly having cognizance of matters
134 relating to the environment, energy and transportation on the
135 quantifiable emissions reductions achieved pursuant to subsection (a)
136 of this section. The report shall include a schedule of proposed
137 regulations, policies and strategies designed to achieve the limits of
138 greenhouse gas emissions imposed by said subsection, an assessment of
139 the latest scientific information and relevant data regarding global
140 climate change and the status of greenhouse gas emission reduction
141 efforts, including polices and regulations to increase negative emissions
142 in other states and countries.

143 (d) At least one year prior to the effective date of any federally
144 mandated greenhouse cap and trade program including greenhouse gas
145 emissions subject to any state cap and trade requirements adopted
146 pursuant to this section, the Commissioner of Energy and
147 Environmental Protection and the Secretary of the Office of Policy and
148 Management shall report, in accordance with the provisions of section
149 11-4a, to the joint standing committees of the General Assembly having
150 cognizance of matters relating to the environment, energy and
151 technology and transportation. Such report shall explain the differences
152 between such federal and state requirements and shall identify any
153 further regulatory or legislative actions needed to achieve consistency
154 with such federal program.

155 (e) The Commissioner of Energy and Environmental Protection may
156 adopt regulations, in accordance with the provisions of chapter 54, to
157 reduce indirect and direct emissions in order to achieve the greenhouse
158 gas emission levels specified in subdivisions (1) to (4), inclusive, of
159 subsection (a) of this section. Such regulations may include, but shall not
160 be limited to, implementation of the policies, strategies, and any other
161 actions identified in any report prepared pursuant to subsection (c) of
162 this section, market-based compliance mechanisms developed
163 independently or with interested states and Canadian provinces, or the
164 recommended regulatory actions identified pursuant to subsection (a)
165 of section 22a-200b, as amended by this act. Such regulations shall, to
166 the extent practicable, distribute environmental benefits equitably and
167 in a manner that protects communities that are or have been
168 overburdened by air pollution. Such regulations may prioritize
169 emission reduction or abatement strategies over emission offset or
170 removal strategies whenever any such reduction or abatement strategy
171 is technically feasible, cost-effective for the state and is likely to be more
172 durable than offset or removal strategies.

173 Sec. 4. Section 22a-200b of the general statutes is repealed and the
174 following is substituted in lieu thereof (*Effective October 1, 2023*):

175 (a) The Commissioner of Energy and Environmental Protection shall,

176 with the advice and assistance of a nonprofit association organized to
177 provide scientific, technical, analytical and policy support to the air
178 quality and climate programs of northeastern states: (1) Not later than
179 December 1, 2009, publish an inventory of greenhouse gas emissions to
180 establish a baseline for such emissions for the state and publish a
181 summary of greenhouse gas emission reduction strategies on the
182 Department of Energy and Environmental Protection's Internet web
183 site, (2) not later than July 1, 2010, publish results of various modeling
184 scenarios concerning greenhouse gas emissions, including, but not
185 limited to, an evaluation of the potential economic and environmental
186 benefits and opportunities for economic growth based on such
187 scenarios, (3) not later than July 1, 2011, analyze greenhouse gas
188 emission reduction strategies and, after an opportunity for public
189 comment, make recommendations on which such strategies will achieve
190 the greenhouse gas emission levels specified in section 22a-200a, as
191 amended by this act, [and] (4) not later than [July 1, 2012] December 31,
192 2023, and every three years thereafter, develop, with an opportunity for
193 public comment, a schedule of recommended regulatory actions by
194 relevant agencies, policies and other actions necessary to [show
195 reasonable further progress towards achieving] achieve the greenhouse
196 gas emission levels specified in section 22a-200a, as amended by this act,
197 and to increase negative emissions, and (5) not later than July 1, 2025,
198 adopt modeling scenarios to publish a baseline inventory of natural and
199 working lands carbon fluxes and include a state-wide inventory of
200 negative emissions in the report prepared pursuant to subsection (c) of
201 section 22a-200a, as amended by this act, and the recommended
202 schedule of regulatory actions in subdivision (4) of this subsection.

203 (b) The commissioner may adopt regulations, in accordance with the
204 provisions of chapter 54, to implement the provisions of this section.
205 Nothing in section 4a-67h, 22a-200, as amended by this act, or 22a-200a,
206 as amended by this act, or this section shall limit a state agency from
207 adopting any regulation within its authority in accordance with the
208 provisions of chapter 54.

209 Sec. 5. Section 22a-186a of the general statutes is repealed and the

210 following is substituted in lieu thereof (*Effective October 1, 2023*):

211 (a) No permit under section 22a-174 or 22a-183, except a permit for
212 the burning of brush under subsection (f) of said section 22a-174, shall
213 be granted, renewed or modified unless the commissioner considers air
214 pollution emitted from all sources on the land where the activity
215 requiring the permit is located and [he] determines that each source
216 conforms to regulations adopted under section 22a-174 and does not
217 pose a health hazard.

218 (b) For the purposes of granting or modifying a permit for fossil-
219 fueled electricity-generating units, the commissioner shall require an
220 evaluation of the replacement of some or all of the fossil-fueled
221 electricity-generating capacity with nonemitting energy or energy
222 storage. Such evaluation shall be prepared by an independent contractor
223 at the applicant's expense and shall include: (1) The technical feasibility
224 of replacing or supplementing some or all of the fossil-fueled electricity-
225 generating capacity with renewable energy or energy storage of a type
226 that is in commercial use; and (2) the total project cost of replacing or
227 supplementing some or all of the fossil-fueled electricity-generating
228 capacity with renewable energy and energy storage that is technically
229 feasible. If the commissioner determines that replacement of some or all
230 of such fossil-fueled generators is technically and economically feasible,
231 the commissioner may require the applicant to include such
232 nonemitting energy or energy storage as a condition of granting or
233 modifying any permit pursuant to section 22a-174 or 22a-183.

234 Sec. 6. (NEW) (*Effective October 1, 2023*) On or before January 15, 2024,
235 and annually thereafter, each municipal utility, as defined in section 12-
236 265 of the general statutes, shall submit a report, in accordance with the
237 provisions of section 11-4a of the general statutes, to the joint standing
238 committee of the General Assembly having cognizance of matters
239 relating to the environment and to the Department of Energy and
240 Environmental Protection on the quantifiable progress of such utility's
241 greenhouse gas emissions reduction. Such report shall be in a manner
242 prescribed by the department and enable a determination of such

243 municipal utility's contribution toward the state's greenhouse gas
244 emissions reduction levels established in section 22a-200a of the general
245 statutes, as amended by this act.

246 Sec. 7. Subparagraph (B) of subdivision (1) of subsection (d) of section
247 16-245n of the general statutes is repealed and the following is
248 substituted in lieu thereof (*Effective from passage*):

249 (B) The Connecticut Green Bank shall (i) develop separate programs
250 to finance and otherwise support clean energy and environmental
251 infrastructure investment in residential, municipal, small business and
252 larger commercial projects and such others as the Connecticut Green
253 Bank may determine; (ii) support financing or other expenditures that
254 promote investment in clean energy sources and environmental
255 infrastructure in accordance with a comprehensive plan developed by it
256 to foster the growth, development and commercialization of clean
257 energy sources, environmental infrastructure and related enterprises;
258 and (iii) stimulate demand for clean energy and the deployment of clean
259 energy sources within the state that serve end use customers in the state.
260 In exercising the authority of this subparagraph, the Connecticut Green
261 Bank shall do so in a manner that is consistent with the state's
262 greenhouse gas emissions reduction levels established in section 22a-
263 200a, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2023</i>	22a-6b(a)(1) and (2)
Sec. 2	<i>October 1, 2023</i>	22a-200
Sec. 3	<i>October 1, 2023</i>	22a-200a
Sec. 4	<i>October 1, 2023</i>	22a-200b
Sec. 5	<i>October 1, 2023</i>	22a-186a
Sec. 6	<i>October 1, 2023</i>	New section
Sec. 7	<i>from passage</i>	16-245n(d)(1)(B)

Statement of Legislative Commissioners:

In Section 2, the introductory language was amended for clarity and accuracy.

ENV *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	CC&PUCF - Potential Revenue Gain	See Below	See Below
Department of Energy and Environmental Protection	CC&PUCF - Cost	732,217	976,289

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund

Municipal Impact: None

Explanation

The bill results in a cost of \$732,217 in FY 24 and \$976,289 in FY 25 (and annually thereafter) to the Consumer Counsel and Public Utility Control (PUC) Fund within the Department of Energy and Environmental Protection (DEEP), along with a potential revenue gain, due to regulatory changes regarding greenhouse gas (GHG) emissions.

The bill requires DEEP to adopt certain GHG emissions regulations by January 1, 2025 and expands DEEP's related activities. It is anticipated that DEEP would require six new staff positions within the Bureau of Energy and Technology Policy (BETP), with a starting salary of \$79,994 each and \$82,721 in fringe benefits per person, to perform the bill's regulatory requirements.

Section 1 may result in a revenue gain to the PUC Fund beginning in FY 24 as it broadens DEEP's ability to issue civil penalties to include violations of laws that require greenhouse gas emissions reductions, including sector-specific subtargets. Penalties are: (1) up to up to \$1,000

for failing to file a registration or other required documents, and \$100 for each day the violation continues, and (2) up to \$25,000 each day for emitting a material in violation of the law.

The bill makes other changes that are not anticipated to result in a fiscal impact to the state or municipalities.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, the number of any violations enforced, and changes in employee wages and benefits.

OLR Bill Analysis**sSB 1145*****AN ACT CONCERNING THE ESTABLISHMENT OF SECTOR SPECIFIC SUBTARGETS FOR GREENHOUSE GAS EMISSIONS REDUCTIONS.*****SUMMARY**

This bill (1) requires the Department of Energy and Environmental Protection (DEEP) commissioner, by January 1, 2025, to adopt regulations with sector-specific greenhouse gas (GHG) emissions reduction subtargets to meet the state's aggregate reduction targets for 2030, 2040, and 2050 and (2) allows her to adopt regulations to reduce direct and indirect emissions to reach those same targets (§§ 2-4).

The bill expands the commissioner's authority to levy civil penalties to include penalties for violating the (1) GHG emissions reduction targets and associated regulations allowed under the bill and (2) sector-specific subtargets the bill requires in regulations (§ 1).

The bill also (1) allows the commissioner, as a condition of granting or modifying a permit for a fossil-fueled electricity generating unit, to require the permit applicant to include non-emitting energy or energy storage under certain circumstances (§ 5) and (2) requires municipal utilities, by January 15, 2024, to begin annually reporting to the Environment Committee and DEEP on their quantifiable progress in reducing GHG emissions (§ 6).

Lastly, the bill (1) requires the Connecticut Green Bank to apply its authority in a way that is consistent with the state's GHG emissions reduction levels (§ 7) and (2) makes technical changes.

EFFECTIVE DATE: October 1, 2023, except the Green Bank provision is effective upon passage.

§§ 1-4 — GHG EMISSIONS REDUCTION TARGETS & SUBTARGETS***Scope of GHG Emission Sources***

By law, GHGs are chemical or physical substances emitted into the air that the DEEP commissioner reasonably anticipates will cause or contribute to climate change (e.g., carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride). There are both direct and indirect emissions sources.

Under current law, “direct emissions” are from sources owned or operated by an entity or facility and include things like emissions from factory stacks, manufacturing processes and vents, and company-owned or -leased motor vehicles. The bill replaces this non-exhaustive source list with a broader one that includes (1) sources combusting heating or transportation fuels; (2) any building stack, vent, or structure; (3) any distribution system; or (4) any residential, commercial, institutional, industrial, or agricultural waste management or manufacturing process.

The bill also adds emissions associated with selling or distributing transportation or heating fuels to the definition of “indirect emissions,” which currently includes those associated with an entity or facility’s use of purchased electricity, steam, and heating or cooling.

Statewide Targets (§§ 2 & 3)

Currently, the state’s Global Warming Solutions Act requires the state to reduce GHG emissions from all sources to a level of at least (1) 10% below 1990 emission levels by 2020, (2) 45% below 2001 emission levels by 2030, and (3) 80% below 2001 emission levels by 2050. It also has a 2040 target for eliminating GHG emissions from electricity supplied to electric customers (i.e., at zero percent). Under the bill, the 2050 GHG reduction must also be economy-wide net zero. (The bill does not define “net zero,” but presumably, this occurs when negative emissions meet or exceed direct and indirect emissions.)

The bill allows the DEEP commissioner to adopt regulations to reduce indirect and direct emissions to achieve the above GHG emission levels, which may include the following:

1. provisions implementing policies, strategies, and other actions identified in the triennial report the commissioner already submits to the legislature on the GHG reduction levels (see below);
2. market-based compliance mechanisms, developed independently or with interested states and Canadian provinces; and
3. DEEP's recommended regulatory actions developed, with opportunity for public comment, with the help of a regional nonprofit air quality and climate organization to achieve the GHG emission levels and increase negative emissions (see below).

The bill requires that the regulations, to the extent practicable, equitably distribute environmental benefits and do this in a way that protects communities that are or have been overburdened by air pollution. It allows them to prioritize emission reduction or abatement strategies over emission offset or removal if doing this is technically feasible, cost-effective for the state, and likely to be more durable.

Sector-Specific Subtargets (§§ 3 & 4)

The bill requires the DEEP commissioner, by January 1, 2025, to adopt regulations setting sector-specific GHG emissions reduction subtargets to meet the state's above-described GHG targets, except it keeps the subtarget for electricity supply at the existing 2040 zero percent target level (see above).

Under the bill, the subtargets must apply to the following sectors: commercial and industrial heating and cooling, residential heating and cooling, industrial processes, natural gas distribution and service, natural and working lands, and any other sector or source the commissioner designates as needed to meet the targets.

The bill requires that these regulations incorporate the following provisions:

1. total sector-based GHG emission subtargets for a given year must not exceed the statewide GHG emissions level for that year; and
2. subtargets must be (a) expressed in tons of carbon dioxide equivalents and (b) determined necessary by the commissioner to meet each statewide GHG emissions level.

The bill requires the commissioner to review the sector subtarget regulations every three years in reports and regulation schedules (see below) released before December 31, 2040. It allows her to update the subtarget regulations as needed in these triennial reports or more often if she determines that the current subtargets will not meet the GHG emissions goals.

Reporting Requirements (§§ 2-4)

Existing law requires the DEEP commissioner to triennially report to the Energy and Technology, Environment, and Transportation committees on the state's quantifiable emissions target reductions. The report includes (1) a schedule of proposed regulations, policies, and strategies to achieve the reductions; (2) an assessment of scientific information and data on global climate change; and (3) the status of GHG emission reduction efforts in other states and countries. The bill specifies that the status of efforts in other states and countries must include their policies and regulations to increase negative emissions (i.e., GHGs removed from the atmosphere by nature-based solutions like soils, forests, wetlands, or working or natural lands and through technologies the commissioner determines remove GHGs from the atmosphere).

Under current law, the DEEP commissioner must also triennially develop, with assistance from a regional nonprofit air quality and climate organization and with opportunity for public comment, a schedule of recommended regulatory actions, policies, and other actions needed to show reasonable progress toward achieving the GHG emission reductions. The bill makes the next schedule due December 31, 2023, and requires it to (1) be for achieving the reduction levels, not only

progress toward meeting them, and (2) include recommendations to increase negative emissions.

The bill also requires the commissioner, by July 1, 2025, to adopt modeling scenarios to publish a baseline inventory of natural and working lands carbon fluxes and include a statewide negative emissions inventory in DEEP's triennial report to the legislature on quantifiable GHG emissions reductions and the triennial schedule of recommended regulatory actions described above.

Civil Penalties (§ 1)

By law, the DEEP commissioner must adopt regulations establishing a civil penalty schedule for violations of various environmental statutes (and a regulation, order, or permit issued or adopted under them). The bill adds to this list the law requiring reductions in the state's GHG emissions to certain levels, including sector-specific subtargets established under the bill.

Under existing law, the commissioner must set penalties, designed to ensure immediate and continued compliance, that do not exceed the following maximum amounts:

1. up to (a) \$1,000 for failing to file a required registration (other than for a general permit), plan, report, record, permit application, or other document; obtain a certification; or display a registration, permit, or order and (b) \$100 for each day that the violation continues and
2. up to \$25,000 per day for emitting a material or substance or engaging in or maintaining a condition or activity in violation of the law.

§ 5 — AIR CONTAMINANT SOURCE PERMITS

By law, operating a stationary air contaminant source generally requires a permit from DEEP. When deciding whether to grant, renew, or modify one, the commissioner must consider the pollution from all sources where the proposed activity is located and determine that it

does not pose a health hazard.

Under the bill, as part of deciding whether to grant or modify a permit for fossil-fueled electricity-generating units, the commissioner must require the applicant to pay for an independent contractor to evaluate replacing at least some of the generating capacity with non-emitting energy or energy storage. The evaluation must include the:

1. technical feasibility of replacing or supplementing at least some of the fossil-fueled electricity generating capacity with renewable energy or an energy storage type that is in commercial use and
2. total project cost to replace or supplement the generating capacity with technically feasible renewable energy and energy storage.

The bill allows the commissioner to require a permit applicant to include the non-emitting energy or energy storage as a condition of granting or modifying the permit if she determines that using it to replace at least some of the fossil-fueled generators is technically and economically feasible.

§ 6 — MUNICIPAL UTILITY REPORTING

The bill requires each municipal utility (i.e., municipality, municipal department or agency, or district that manufacturers, sells, or distributes gas or electricity for light, heat, or power) beginning by January 15, 2024, to annually report to the Environment Committee and DEEP on its quantifiable progress to reduce GHG emissions. DEEP must prescribe the manner of the report. The report must enable a determination of the utility’s contribution toward the state’s GHG emissions reduction levels.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute
Yea 22 Nay 11 (03/24/2023)