



House of Representatives

General Assembly

File No. 365

February Session, 2024

Substitute House Bill No. 5361

House of Representatives, April 9, 2024

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 CONCERNING THE SITING OF RENEWABLE ENERGY SOURCES IN THE STATE.

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

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 Section 16-50i of the general statutes is repealed and the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

3 As used in this chapter:

4 (a) "Facility" means: (1) An electric transmission line of a design
5 capacity of sixty-nine kilovolts or more, including associated equipment
6 but not including a transmission line tap, as defined in subsection (e) of
7 this section; (2) a fuel transmission facility, except a gas transmission
8 line having a design capability of less than two hundred pounds per
9 square inch gauge pressure or having a design capacity of less than
10 twenty per cent of its specified minimum yield strength; (3) any electric
11 generating or storage facility using any fuel, including nuclear
12 materials, including associated equipment for furnishing electricity but

13 not including an emergency generating device, as defined in subsection
14 (f) of this section, a solar canopy, as defined in subsection (g) of this
15 section, a facility that is located on the rooftop of a building, or a facility
16 (A) owned and operated by a private power producer, as defined in
17 section 16-243b, (B) which is a qualifying small power production
18 facility or a qualifying cogeneration facility under the Public Utility
19 Regulatory Policies Act of 1978, as amended, or a facility determined by
20 the council to be primarily for a producer's own use, and (C) which has,
21 in the case of a facility [utilizing] that utilizes renewable energy sources,
22 a generating capacity of one megawatt of electricity or less and, in the
23 case of a facility utilizing cogeneration technology, a generating capacity
24 of twenty-five megawatts of electricity or less; (4) any electric substation
25 or switchyard designed to change or regulate the voltage of electricity
26 at sixty-nine kilovolts or more or to connect two or more electric circuits
27 at such voltage, which substation or switchyard may have a substantial
28 adverse environmental effect, as determined by the council established
29 under section 16-50j, and other facilities which may have a substantial
30 adverse environmental effect as the council may, by regulation,
31 prescribe; (5) such community antenna television towers and head-end
32 structures, including associated equipment, which may have a
33 substantial adverse environmental effect, as said council shall, by
34 regulation, prescribe; and (6) such telecommunication towers, including
35 associated telecommunications equipment, owned or operated by the
36 state, a public service company or a certified telecommunications
37 provider or used in a cellular system, as defined in the Code of Federal
38 Regulations Title 47, Part 22, as amended, which may have a substantial
39 adverse environmental effect, as said council shall, by regulation,
40 prescribe;

41 (b) "Municipality" means a city, town or borough of the state and
42 "municipal" has a correlative meaning;

43 (c) "Person" means any individual, corporation, limited liability
44 company, joint venture, public benefit corporation, political
45 subdivision, governmental agency or authority, municipality,
46 partnership, association, trust or estate and any other entity, public or

47 private, however organized;

48 (d) "Modification" means a significant change or alteration in the
49 general physical characteristics of a facility;

50 (e) "Transmission line tap" means an electrical transmission line not
51 requested by an applicant to be treated as a facility that has the primary
52 function, as determined by the council, of interconnecting a private
53 power producing or cogeneration facility to the electrical power grid
54 serving the state, and does not have a substantial adverse environmental
55 effect, as determined by the council based on a review of the line's
56 proposed purpose, the line's proposed length, the number and type of
57 support structures, the number of manholes required for the proposed
58 line, the necessity of entering a right-of-way including any easements or
59 land acquisition for any construction or maintenance on the proposed
60 line, and any other environmental, health or public safety factor
61 considered relevant by the council;

62 (f) "Emergency generating device" means an electric generating
63 device with a generating capacity of five megawatts or less, installed
64 primarily for the purpose of producing emergency backup electrical
65 power for not more than five hundred hours per year, and that (1) does
66 not have a substantial adverse environmental effect, as determined by
67 the council, or (2) is owned and operated by an entity other than an
68 electric distribution or gas company, or (3) is under construction or in
69 operation prior to May 2, 1989.

70 (g) "Solar canopy" means an outdoor, shade-providing structure that
71 hosts solar photovoltaic panels located above an existing or new parking
72 or driving area, pedestrian walkway or courtyard, and is installed in a
73 manner that maintains the function of the area beneath the structure.
74 "Solar canopy" includes any carport.

75 Sec. 2. Section 16-50p of the general statutes is amended by adding
76 subsections (k) and (l) as follows (*Effective from passage*):

77 (NEW) (k) Prior to granting an applicant's certificate for a facility

78 described in subsection (a) of section 16-50i, as amended by this act, the
 79 council shall consider, in addition to its consideration of other factors
 80 under this section: (1) The testimony of the chief elected official of any
 81 municipality in which the facility or any part thereof is to be located that
 82 the chief elected official gives at any hearing prescribed in section 16-
 83 50m; and (2) any other witness testimony or written testimony of the
 84 chief elected official of such municipality that is filed or presented by
 85 the municipality to the council, if such municipality is a party pursuant
 86 to subsection (a) of section 16-50n.

87 (NEW) (l) In reviewing a certificate for a solar photovoltaic facility
 88 that has a generating capacity greater than one megawatt of electricity
 89 that is proposed to be located in any municipality where the distance
 90 between any point on the border of any such municipality and an
 91 existing solar photovoltaic facility that has a generating capacity greater
 92 than one hundred megawatts is five miles or less, the siting council shall
 93 be bound by the approval, disapproval or conditions concerning such
 94 facility that the chief executive officer of such municipality submits to
 95 the council, provided any such chief executive officer submits such
 96 approval, disapproval or conditions not later than thirty days after such
 97 chief executive officer is served a copy of the application for such
 98 certificate pursuant to subsection (b) of section 16-50l. The provisions of
 99 this subsection shall not apply to any certificate for a solar photovoltaic
 100 facility that is proposed as part of an expansion of an existing facility
 101 pursuant to an existing certificate issued by the council, whether such
 102 expansion is proposed on the site of the existing facility or on land or
 103 parcels contiguous to the parcel or parcels that comprise the site of the
 104 existing facility.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-50i
Sec. 2	<i>from passage</i>	16-50p(k) and (l)

Statement of Legislative Commissioners:

In Section 2(1), "a solar photovoltaic facility" was changed to "an existing solar photovoltaic facility", for accuracy; and the word "any" was deleted after "the chief executive officer of", for accuracy.

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: None

Municipal Impact: None

Explanation

This bill places additional requirements on existing Siting Council projects under certain circumstances and defines and excludes solar canopies from the Siting Council's jurisdiction resulting in no fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 5361

AN ACT CONCERNING THE SITING OF RENEWABLE ENERGY SOURCES IN THE STATE.

SUMMARY

This bill (1) requires the Siting Council to consider certain information from a municipality's chief elected official before approving a certificate to site a facility in the municipality; (2) binds the council's decision on certain projects in a municipality near a large solar facility to a municipal chief executive officer's approval, disapproval, or conditions; and (3) excludes solar canopies from the Siting Council's jurisdiction.

Before granting a certificate of environmental compatibility and public need ("a certificate") on a facility, the bill requires the council to consider (1) hearing testimony from the chief elected official of any municipality where the facility is proposed to be located and (2) any other witness or written testimony from municipal chief elected officials who are a party to the proceeding (see BACKGROUND).

The bill sets a new requirement for the council when considering a certificate for a solar facility over one megawatt in capacity that is proposed to be located in a municipality within a certain proximity to a solar facility with a capacity greater than 100 megawatts. The bill binds the council to the municipal chief executive officer's approval, disapproval, or conditions. (Existing law, unchanged by the bill, requires the council to approve certain distributed resources projects by declaratory ruling (see BACKGROUND). Presumably, these projects would not be subject to requirements the bill adds to certificate proceedings.)

EFFECTIVE DATE: Upon passage

SITING PROJECTS NEAR LARGE SOLAR FACILITIES

The bill sets a new requirement for the Siting Council's review of a certificate application for a solar facility with generating capacity over one megawatt that is proposed in a municipality with an existing large solar facility (over 100 megawatts in capacity) within five miles of any point on its border. Under the bill, for these applications, the council is bound by the municipal chief executive officer's approval, disapproval, or conditions as long as they are submitted within 30 days after the chief executive officer receives the certificate application.

Under the bill, this requirement does not apply to certificates for solar facilities proposed as part of an expansion to an existing facility under an existing certificate, whether proposed on the existing site or contiguous parcels.

SOLAR CANOPIES

By law, electric generating facilities are subject to the Siting Council's jurisdiction, with certain exceptions. The bill creates an additional exception for solar canopies, which, under the bill, are outdoor, shade-providing structures that host solar photovoltaic panels located above an existing or new parking or driving area, pedestrian walkway, or courtyard, installed in a way that maintains the function of the area beneath it. It includes any carport.

BACKGROUND

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 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 on applications for transmission lines.

HB 5453, favorably reported by the Government Administration and Elections Committee, (1) makes various changes to the Siting Council's membership, (2) requires applicants for proposed electric transmission lines to include additional information with their applications to the council, (3) expands the issues the council must consider when deciding whether to approve an application, and (4) includes a similar provision on siting near large solar facilities.

Certificate Facilities, Hearings, and Parties

By law, and with certain exceptions, project developers must apply to the Siting Council for a certificate to site (1) certain electric transmission lines, (2) fuel transmission facilities, (3) electric generating and storage facilities, (4) certain electric substations and switchyards, and (5) cable and telecommunication towers (CGS § 16-50i(a)). (The law also requires the council to approve certain projects through a separate declaratory ruling process, see below.)

Existing law requires the council to hold at least one hearing for a certificate application in the county where the facility or any part of it is to be located and allows the council to hold more hearings at other locations (CGS § 16-50m).

By law, parties to the proceeding include (1) municipalities in which any portion of the facility is to be located (both as primarily proposed and in alternative locations listed in the application); (2) any adjoining municipality with a boundary within 2,500 feet of the facility; and (3) any other party the council deems appropriate (CGS § 16-50n & -50l).

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. any 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 megawatts, 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 megawatts 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 megawatts 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)).

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 17 Nay 3 (03/21/2024)