



General Assembly

January Session, 2019

Committee Bill No. 5395

LCO No. 5692



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

AN ACT REQUIRING AN EVALUATION OF THE STATE'S ENVIRONMENTAL JUSTICE LAW.

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

1 Section 1. Section 22a-20a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) As used in this section:

4 (1) "Environmental justice community" means (A) a United States
5 census block group, as determined in accordance with the most recent
6 United States census, for which thirty per cent or more of the
7 population consists of low income persons who are not
8 institutionalized and have an income below two hundred per cent of
9 the federal poverty level, or (B) a distressed municipality, as defined in
10 subsection (b) of section 32-9p;

11 (2) "Affecting facility" means any (A) electric generating facility with
12 a capacity of more than ten megawatts; (B) sludge or solid waste
13 incinerator or combustor; (C) sewage treatment plant with a capacity
14 of more than fifty million gallons per day; (D) intermediate processing

15 center, volume reduction facility or multitown recycling facility with a
16 combined monthly volume in excess of twenty-five tons; (E) new or
17 expanded landfill, including, but not limited to, a landfill that contains
18 ash, construction and demolition debris or solid waste; (F) medical
19 waste incinerator; or (G) major source of air pollution, as defined by
20 the federal Clean Air Act. "Affecting facility" shall not include (i) the
21 portion of an electric generating facility that uses nonemitting and
22 nonpolluting renewable resources such as wind, solar and hydro
23 power or that uses fuel cells, (ii) any facility for which a certificate of
24 environmental compatibility and public need was obtained from the
25 Connecticut Siting Council on or before January 1, 2000, or (iii) a
26 facility of a constituent unit of the state system of higher education that
27 has been the subject of an environmental impact evaluation in
28 accordance with the provisions of sections 22a-1b to 22a-1h, inclusive,
29 and such evaluation has been determined to be satisfactory in
30 accordance with section 22a-1e;

31 (3) "Meaningful public participation" means (A) residents of an
32 environmental justice community have an appropriate opportunity to
33 participate in decisions about a proposed facility or the expansion of
34 an existing facility that may adversely affect such residents'
35 environment or health; (B) the public's participation may influence the
36 regulatory agency's decision; and (C) the applicant for a new or
37 expanded permit, certificate or siting approval seeks out and facilitates
38 the participation of those potentially affected during the regulatory
39 process; and

40 (4) "Community environmental benefit agreement" means a written
41 agreement entered into by a municipality and an owner or developer
42 of real property whereby the owner or developer agrees to develop
43 real property that is to be used for any new or expanded affecting
44 facility and to provide financial resources for the purpose of the
45 mitigation, in whole or in part, of impacts reasonably related to the
46 facility, including, but not limited to, impacts on the environment,
47 including, but not limited to, air quality and watercourses, quality of

48 life, asthma rates, traffic, parking and noise.

49 (b) (1) Applicants who, on or after January 1, 2009, seek to obtain
50 any certificate under chapter 277a, new or expanded permit or siting
51 approval from the Department of Energy and Environmental
52 Protection or the Connecticut Siting Council involving an affecting
53 facility that is proposed to be located in an environmental justice
54 community or the proposed expansion of an affecting facility located
55 in such a community, shall (A) file a meaningful public participation
56 plan with such department or council and shall obtain the
57 department's or council's approval of such plan prior to filing any
58 application for such permit, certificate or approval; and (B) consult
59 with the chief elected official or officials of the town or towns in which
60 the affecting facility is to be located or expanded to evaluate the need
61 for a community environmental benefit agreement in accordance with
62 subsection (d) of this section.

63 (2) Each such meaningful public participation plan shall contain
64 measures to facilitate meaningful public participation in the regulatory
65 process and a certification that the applicant will undertake the
66 measures contained in the plan. Such plan shall identify a time and
67 place where an informal public meeting will be held that is convenient
68 for the residents of the affected environmental justice community. In
69 addition, any such plan shall identify the methods, if any, by which the
70 applicant will publicize the date, time and nature of the informal
71 public meeting in addition to the publication required by subdivision
72 (3) of this subsection. Such methods [may] shall include, but not be
73 limited to, (A) posting a reasonably visible sign on the proposed or
74 existing facility property, printed in English, in accordance with any
75 local regulations and ordinances, (B) posting a reasonably visible sign,
76 printed in all languages spoken by at least twenty per cent of the
77 population that reside within a one-half of a mile radius of the
78 proposed or existing facility, in accordance with local regulations and
79 ordinances, (C) notifying neighborhood and environmental groups, in
80 writing, in a language appropriate for the target audience, and (D)

81 notifying local and state elected officials, in writing.

82 (3) Not less than ten days prior to the informal public meeting and
83 not more than thirty days prior to such meeting, the applicant shall
84 publish the date, time and nature of the informal public meeting with a
85 minimum one-quarter page advertisement in a newspaper having
86 general circulation in the area affected, and any other appropriate local
87 newspaper serving such area, in the Monday issue of a daily
88 publication or any day in a weekly or monthly publication. The
89 applicant shall post a similar notification of the informal public
90 meeting on the applicant's web site, if applicable.

91 (4) At the informal public meeting, the applicant shall make a
92 reasonable and good faith effort to provide clear, accurate and
93 complete information about the proposed facility or the proposed
94 expansion of a facility and the potential environmental and health
95 impacts of such facility or such expansion.

96 (5) The Department of Energy and Environmental Protection or the
97 Connecticut Siting Council shall not take any action on the applicant's
98 permit, certificate or approval earlier than sixty days after the informal
99 public meeting. In the event that the applicant fails to undertake the
100 requirements of subparagraphs (B) to (D), inclusive, of subdivision (2)
101 of this subsection or subdivision (3) or (4) of this subsection, any such
102 application shall be nullified.

103 (6) In the event that the Connecticut Siting Council has approved a
104 meaningful public participation plan concerning a new or expanded
105 facility and an informal public meeting has been held in accordance
106 with this subsection, the Department of Energy and Environmental
107 Protection may approve such plan and waive the requirement that an
108 additional informal public meeting be held in accordance with this
109 subsection.

110 (c) Any municipality, owner or developer may enter into a
111 community environmental benefit agreement in connection with an

112 affecting facility, provided any municipality that hosts five or more
 113 permitted affecting facilities shall enter such an agreement in
 114 connection with any additional affecting facility. Mitigation may
 115 include both on-site and off-site improvements, activities and
 116 programs, including, but not limited to: Funding for activities such as
 117 environmental education, diesel pollution reduction, establishment of
 118 a wellness clinic, ongoing asthma screening, provision of air
 119 monitoring performed by a licensed environmental professional,
 120 performance of an ongoing traffic study, watercourse monitoring,
 121 construction of biking and walking trails, staffing for parks, urban
 122 forestry, support for community gardens or any other negotiated
 123 benefit to the environment in the environmental justice community.
 124 Prior to negotiating the terms of a community environmental benefit
 125 agreement, the municipality shall provide a reasonable and public
 126 opportunity for residents of the potentially affected environmental
 127 justice community to be heard concerning the requirements of or need
 128 for, and terms of, such agreement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	22a-20a

Statement of Purpose:

To revise the environmental justice law in order to better serve the municipalities and communities that it is intended to benefit.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: REP. REYES, 75th Dist.; SEN. HARTLEY, 15th Dist.
REP. BUTLER, 72nd Dist.

H.B. 5395