
OLR Bill Analysis

sHB 5156

AN ACT CONCERNING A CLIMATE CHANGE SUPERFUND.

SUMMARY

This bill establishes the climate superfund cost recovery program designed to assess certain fossil fuel businesses and crude oil refiners (responsible parties) for Connecticut's cost from specified greenhouse gas (GHG) emissions over a 30-year period and use those payments to fund climate change-related infrastructure improvements in the state. Under the bill, responsible parties that produced over 1 billion metric tons of GHG emissions from January 1, 1995, through December 31, 2024 (covered period) must pay for their proportional share of Connecticut's costs from the total GHG emissions over this period.

The Department of Energy and Environmental Protection (DEEP) must administer the program and a dedicated fund the bill establishes for the required payments. Specifically, the program must:

1. secure compensatory payments from responsible parties, which are generally the current or former people, businesses, municipalities, and other entities that hold or held an ownership in a fossil fuel business during the covered period that was responsible for more than 1 billion metric tons of covered GHG emissions;
2. determine these responsible parties' proportional liability for these payments;
3. impose cost recovery demands on these parties and issue notices of these demands;
4. accept and collect payment from responsible parties and deposit the payments into the fund;

5. identify climate change adaptive infrastructure projects and disperse funds to implement them; and
6. allocate funds to achieve the goal of spending at least 40% of the qualified expenditures on climate change adaptive infrastructure projects that directly benefit environmental justice communities (see BACKGROUND – *Environmental Justice Communities*).

The bill requires DEEP to conduct an annual independent evaluation of the program to determine its effectiveness and submit it to the governor, Senate president pro tempore, and House speaker starting by January 1, 2028. DEEP must promptly pay, from the program fund, any entity contracted to conduct this evaluation when the evaluation is completed.

The bill also appropriates \$300,000 to DEEP from the General Fund for FY 27 to fund the program fund, and requires this money to be repaid to the General Fund from the first \$300,000 deposited in the program fund.

The bill also requires DEEP to (1) submit an assessment on the cost to Connecticut and its residents of covered GHG emissions during the covered period, (2) adopt regulations for identifying and selecting climate change adaptive infrastructure projects to be funded under the program, and (3) complete a statewide climate change adaptation plan.

Lastly, the bill specifies that its remedies are in addition to those otherwise provided by law and its provisions should not be construed as precluding any civil action or other remedy. It requires that its provisions be liberally construed to achieve its purposes.

EFFECTIVE DATE: October 1, 2026, except the appropriation is effective July 1, 2026.

RESPONSIBLE PARTIES AND COST RECOVERY

Definition of Responsible Party and Covered GHG Emissions

Under the bill, a “responsible party” is (1) any entity, or successor to that entity, that was engaged in the business of extracting “fossil fuels”

or refining “crude oil” during any part of the covered period and (2) found responsible by DEEP for more than 1 billion metric tons of “covered GHG emissions” during the covered period. But it excludes any person who lacks sufficient connection with the state under the U.S. Constitution. An “entity” refers to any person, trustee, business, municipality, political subdivision, or other legal organization that holds or held an ownership interest during the covered period in a fossil fuel business (a business engaged in the extraction of fossil fuels or refining of petroleum products).

Under the bill, “covered GHG emissions” are the amount of GHG released into the atmosphere during the covered period for any entity. This amount is expressed in metric tons of carbon dioxide equivalent (see *Attributable Covered GHG Emissions*) and includes releases of GHG from fossil fuels extracted, produced, refined, or sold by an entity through various means (for example, extracting, storing, manufacturing, or distributing). “Greenhouse gases” are any chemical or physical substance emitted into the air and that DEEP may reasonably anticipate will cause or contribute to climate change, including (1) carbon dioxide, (2) methane, (3) nitrous oxide, (4) hydrofluorocarbons, (5) perfluorocarbons, and (6) sulfur hexafluoride.

Under the bill, “fossil fuels” are coal, crude oil, methane, natural gas, liquified natural gas, manufactured fuel gases, or petroleum products. “Crude oil” is any oil or petroleum, including bitumen, oil sands, heavy oil, conventional and unconventional oil, natural gas liquids, condensates, and related fossil fuels.

Notices of Intent and Public Registry

Under the bill, by April 1, 2027, DEEP must adopt regulations to establish a methodology for obtaining and using credible data to help it make the bill’s required assessments and estimates. Within six months of adopting those regulations, DEEP must issue written notices to responsible parties that inform them of their potential liability for their share of emissions during the covered period (notices of intent).

DEEP must also create a responsible party registry within six months

of adopting these regulations. The registry is an official database maintained by DEEP to collect and store information about responsible parties only for the program's purposes.

The notices must inform the responsible party of its status as a responsible party and contain (1) the bill's definition of responsible party, as described above; (2) the responsible party's total covered GHG emissions for the covered period; (3) the responsible party's rights to contest its status; and (4) information on the responsible party registry.

Cost Recovery Demands and Payment

Notice of Cost Recovery Demand. Within six months of issuing the notices of intent, DEEP must issue notices of "cost recovery demands" to responsible parties, which are assessments on a responsible party for cost recovery payments to the fund. These notices must include (1) the cost recovery demand amount, (2) how and where the cost recovery demands may be paid, (3) the potential consequences of late or missed payments, and (4) the party's right to contest the assessment. DEEP must issue all cost recovery demands by October 1, 2028.

Within three months after issuing cost recovery demands, DEEP must accept payments from, pursue collections efforts against, and negotiate settlements with, responsible parties. DEEP must deposit all payments received into the program fund. Responsible parties must pay the demands within six months of the cost recovery demand's issuance or in nine annual installments, as described below.

Installment Payments. Responsible parties paying in installments must pay the first one within six months after the cost recovery demand's issuance, subject to DEEP's conditions. The first installment is 20% of the total demand, and each subsequent payment is 10% and due one year after the initial payment date. DEEP may (1) charge reasonable interest on each installment payment, or any delayed payment, and (2) at the commissioner's discretion, adjust the amount of subsequent installments or delayed payments to reflect changes in the consumer price index.

Under the bill, unpaid installments are due sooner under specified circumstances. Specifically, if (1) there are any additions to the amount to be paid because of late payment; (2) substantially all of the responsible party's assets are liquidated or sold (including bankruptcy); or (3) the responsible party ceases its business, or if a similar circumstance occurs, the unpaid balance is due either the day of the event, or a day before a bankruptcy petition is filed, where applicable. This does not apply if a responsible party sells substantially all of its assets and the buyer enters into an agreement with DEEP to assume the liability for paying the remaining installments.

Aggrieved Responsible Parties. Responsible parties aggrieved by a cost recovery demand notice may request the DEEP commissioner to reconsider the demand within 30 days after its issuance. The request must state the grounds and supporting information for the request. DEEP must notify the party of its final decision by issuing a subsequent notice of a cost recovery demand, and the responsible party may appeal the final decision to Superior Court.

Cost Recovery Demand Calculations

Under the bill, each responsible party's cost recovery demand is based on its proportional share of covered GHG emissions during the covered period, but only for attributable emissions (as described below) that exceed 1 billion metric tons.

Specifically, DEEP must calculate the state's cost from covered GHG emissions during the covered period. A responsible party's cost recovery demand is its share of this cost, based on its applicable share of the covered emissions from the use of fossil fuels extracted or refined during the covered period. So, for example, if a responsible party's applicable share of covered GHG emissions was 1%, its cost recovery demand equals 1% of the total cost to the state of GHG emissions during the covered period.

Entities that own a minority interest in another entity of 10% or more are responsible for that same percentage of the entity's emissions.

Attributable Covered GHG Emissions

Under the bill, DEEP must use the following benchmarks in determining the amount of GHGs attributable to an entity:

1. 942.5 metric tons of carbon dioxide equivalent released for every 1 million pounds of coal (bituminous coal, anthracite coal, and lignite) attributable to the entity;
2. 432,180 metric tons of carbon dioxide equivalent released for every 1 million barrels of crude oil attributable to the entity; and
3. 53,440 metric tons of carbon dioxide equivalent released for every million cubic feet of fuel gases (methane, natural gas, liquified natural gas, or manufactured fuel gases) attributable to the entity.

The bill authorizes DEEP to issue information requests to responsible parties for any calculations required under the bill. It also authorizes DEEP to adjust cost recovery demands if the responsible party that refines petroleum products, or is a successor to that party, establishes to DEEP's satisfaction that a portion of the cost recovery demand is attributable to the refining of crude oil extracted by another responsible party.

Controlled Groups

DEEP must treat entities in a controlled group as a single entity and these entities are jointly and severally liable for payment of any cost recovery demand owned by any entity in the controlled group. A "controlled group" is two or more entities that are treated as a single employer under specified federal tax laws and are treated as a single entity in meeting the definition of "responsible party." Controlled groups are jointly and severally liable for cost recovery demand payments owed by any entity in the controlled group.

Strict Liability

Under the bill, responsible parties are strictly liable for a share of the costs of the climate change adaptive infrastructure projects and qualified fund expenditures. (Generally, strict liability means liability regardless of fault.)

DEEP ASSESSMENT OF CONNECTICUT'S COSTS FROM COVERED GHG EMISSIONS

By April 1, 2028, DEEP must submit an assessment to the Environment Committee on the cost to the state and its residents of covered GHG emissions during the covered period. DEEP must hold at least one in-person and one virtual public hearing on the assessment and give 30 days' public notice of these meetings. The assessment must include a:

1. summary of the cost-driving effects of covered GHG emissions in the state, including any effects on public health, natural resources, biodiversity, agriculture, economic development, flood preparedness and safety, housing, and any other relevant effect; and
2. categorized calculation of costs incurred and projected to be incurred in Connecticut (a) for each of these effects and (b) to abate them.

CLIMATE CHANGE ADAPTIVE INFRASTRUCTURE PROJECTS

Project List

By April 1, 2027, DEEP must determine, by order, a complete list of climate change adaptive infrastructure projects. These projects must be designed to avoid, moderate, repair, or adapt to negative impacts caused by climate change and help communities, households, and businesses prepare for future climate change driven disruptions. They must include:

1. restoring coastal wetlands and developing other nature-based solutions (projects that use or mimic nature or natural processes and functions that may also offer environmental, economic, and social benefits while increasing resilience, including green and natural infrastructure) and coastal protections;
2. upgrading stormwater drainage systems;
3. making defensive upgrades to roads, bridges, railroads, and transit systems;

4. preparing for and recovering from extreme weather events;
5. undertaking preventive health care programs and providing medical care to treat illness or injury caused by climate change's effects;
6. relocating, elevating, or retrofitting sewage treatment plants and other infrastructure vulnerable to flooding;
7. installing energy-efficient cooling systems and other weatherization and energy-efficiency upgrades and retrofits in public and private buildings, including schools and public housing;
8. upgrading parts of the electrical grid to increase reliability and resilience, including supporting the creation of self-sufficient microgrids;
9. addressing urban heat island effects through green spaces; and
10. urban forestry and other interventions and responding to toxic algae blooms, loss of agricultural topsoil, crop loss and other climate-driven ecosystem threats to forests, farms, fisheries, and food systems.

Regulations

By October 1, 2028, DEEP, in consultation with the Connecticut Equity and Environmental Justice Advisory Council (see BACKGROUND – *Connecticut Equity and Environmental Justice Advisory Council*), must adopt regulations to:

1. identify and select climate change adaptive infrastructure projects eligible to receive qualified expenditures and issue related requests for proposals from municipalities and nonprofit and community organizations, and
2. disperse revenue from the fund for qualified expenditures by providing grants to private individuals or other methods determined by DEEP.

DEEP must hold at least three public hearings on these regulations, including at least one virtual hearing, with 30 days' notice before each public hearing.

Under the bill, "qualified expenditures" are authorized payments from the fund to pay for a climate change adaptation project, including the project's operation, monitoring, and maintenance costs, as well as the program's reasonable administrative costs.

STATEWIDE CLIMATE CHANGE ADAPTATION MASTER PLAN

By April 1, 2029, DEEP must complete a statewide climate change adaptation plan designed to guide the dispersal of funds in a timely, efficient, and equitable way to the entire state. In completing the plan, DEEP must:

1. identify and consult relevant state agencies and offices, including the Connecticut Equity and Environmental Justice Advisory Council and the Departments of Administrative Services, Agriculture, Economic and Community Development, Housing, Public Health, and Transportation;
2. assess the adaptation needs and vulnerabilities of areas vital to the state's economy; state residents' normal functioning, health and well-being (including agriculture, biodiversity, ecosystem services, education, finance, healthcare, manufacturing, housing and real estate); and retail, tourism, transportation and municipal government;
3. identify major potential, proposed, and ongoing climate change adaptive infrastructure projects in the state;
4. identify ways to align with existing federal, state, and local funding streams;
5. consult with stakeholders, such as local governments, businesses, environmental advocates, relevant subject area experts and environmental justice communities; and

6. provide opportunities for statewide public engagement, including environmental justice communities and other communities that have the most significant exposure to the impacts of climate change.

CLIMATE SUPERFUND COST RECOVERY PROGRAM FUND

The bill creates a nonlapsing climate superfund cost recovery program fund to provide funding for climate change adaptive infrastructure projects in Connecticut. The fund must contain (1) cost recovery demand payments; (2) any funds appropriated to it; and (3) all other gifts, donations, and other funds received by any public or private source and approved by the Department of Administrative Services commissioner.

Qualified expenditures from the fund must be used for (1) climate change adaptive infrastructure projects authorized by DEEP or (2) the climate superfund program's reasonable administrative expenses.

BACKGROUND

Environmental Justice Communities

By law, an environmental justice community (EJC) is a (1) U.S. census block group in which at least 30% of the population consists of noninstitutionalized, low-income people with income below 200% of the federal poverty level or (2) distressed municipality (CGS § 22a-20a).

Connecticut Equity and Environmental Justice Advisory Council

The Connecticut Equity and Environmental Justice Advisory Council is an advisory council to DEEP that advises on the issues of current and historic environmental injustice and inequities in Connecticut. It was created by Executive Order 21-3, and its purposes include:

1. integrating environmental justice considerations into DEEP's programs, policies, and activities to improve the health and environment of EJs, including in rulemaking, permitting standards and processes, compliance and enforcement, science and data, and equitable program delivery;

2. providing mechanisms for EJCs to have a meaningful opportunity to participate in decisions to place or expand certain facilities in the EJC;
3. developing a model plan for community engagement and stakeholder outreach; and
4. strengthening DEEP's partnerships with other governmental agencies, other states, tribal, local governments, and community leaders and organizations on environmental justice issues.

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 23 Nay 10 (03/04/2026)