



House of Representatives

File No. 614

General Assembly

February Session, 2002

(Reprint of File No. 278)

Substitute House Bill No. 5065
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 3, 2002

AN ACT CONCERNING FLOODPLAIN MANAGEMENT AND HAZARD MITIGATION.

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

1 Section 1. (NEW) (*Effective October 1, 2002*) (a) As used in this
2 section, "floodplain" means that area of a municipality located within
3 the real or theoretical limits of the base flood or base flood for a critical
4 activity, as determined by the municipality or the Federal Emergency
5 Management Agency in its flood insurance study or flood insurance
6 rate map for the municipality prepared pursuant to the National Flood
7 Insurance Program, 44 CFR Part 59 et seq.

8 (b) Whenever a municipality, pursuant to the National Flood
9 Insurance Program, 44 CFR Part 59 et seq., is required to revise its
10 zoning regulations or any other ordinances regulating a proposed
11 building, structure, development or use located in a floodplain, the
12 revision shall provide for restrictions for flood storage and conveyance
13 of water for floodplains that are not tidally influenced as follows:

14 (1) Within a designated floodplain, encroachments resulting from

15 fill, new construction or substantial improvements, as defined in 44
16 CFR Part 59.1, involving an increase in footprint to the structure shall
17 be prohibited unless the applicant provides to the zoning commission
18 certification by a registered professional engineer that such
19 encroachment shall not result in any increase in base flood elevation;

20 (2) The water holding capacity of the floodplain shall not be reduced
21 by any form of development unless such reduction (A) is compensated
22 for by deepening or widening the floodplain, (B) is on-site, unless
23 adjacent property owners grant easements or the municipality in
24 which the development is located authorizes off-site reduction, (C) is
25 within the same hydraulic reach and a volume not previously used for
26 flood storage, (D) is hydraulically comparable and incrementally equal
27 to the theoretical volume of flood water at each elevation, up to and
28 including the hundred year flood elevation, which would be displaced
29 by the proposed project, and (E) has an unrestricted hydraulic
30 connection to the same waterway or water body; and

31 (3) Work within adjacent land subject to flooding, including work to
32 provide compensatory storage, shall not restrict flows resulting in
33 increased flood stage or velocity. Any compensatory storage may be
34 provided off-site if authorized by the municipality.

35 (c) Notwithstanding the provisions of subsection (b) of this section,
36 a municipality may adopt more stringent restrictions for flood storage
37 and conveyance of water for floodplains that are not tidally influenced.

38 Sec. 2. Section 16a-27 of the general statutes, as amended by section
39 3 of public act 01-9 of the June special session, is repealed and the
40 following is substituted in lieu thereof (*Effective October 1, 2002*):

41 (a) The secretary, after consultation with all appropriate state,
42 regional and local agencies and other appropriate persons shall prior
43 to March 1, 2003, complete a revision of the existing plan and enlarge it
44 to include, but not be limited to, policies relating to transportation,
45 energy and air. Any revision made after May 15, 1991, shall identify
46 the major transportation proposals, including proposals for mass

47 transit, contained in the master transportation plan prepared pursuant
48 to section 13b-15. Any revision made after July 1, 1995, shall take into
49 consideration the conservation and development of greenways that
50 have been designated by municipalities and shall recommend that
51 state agencies coordinate their efforts to support the development of a
52 state-wide greenways system. The Commissioner of Environmental
53 Protection shall identify state-owned land for inclusion in the plan as
54 potential components of a state greenways system. Any revision made
55 after March 1, 2005, shall (1) take into consideration risks associated
56 with natural hazards, including, but not limited to, flooding, high
57 winds and wildfires; (2) identify the potential impacts of natural
58 hazards on infrastructure and property; and (3) make
59 recommendations for the siting of future infrastructure and property
60 development to minimize the use of areas prone to natural hazards,
61 including, but not limited to, flooding, high winds and wildfires.

62 (b) Thereafter on or before March first in each revision year the
63 secretary shall complete a revision of the plan of conservation and
64 development.

65 Sec. 3. Subdivision (4) of subsection (a) of section 7-536 of the
66 general statutes, as amended by section 2 of public act 01-197, is
67 repealed and the following is substituted in lieu thereof (*Effective*
68 *October 1, 2002*):

69 (4) "Local capital improvement project" means a municipal capital
70 expenditure project for any of the following purposes: (A) Road
71 construction, renovation, repair or resurfacing, (B) sidewalk and
72 pavement improvements, (C) construction, renovation, enlargement or
73 repair of sewage treatment plants and sanitary or storm, water or
74 sewer lines, including separation of lines, (D) public building
75 construction other than schools, including renovation, repair, code
76 compliance, energy conservation and fire safety projects, (E)
77 construction, renovation, enlargement or repair of dams, bridges and
78 flood control projects, (F) construction, renovation, enlargement or
79 repair of water treatment or filtration plants and water mains, (G)

80 construction, renovation or enlargement of solid waste facilities, (H)
81 improvements to public parks, (I) the preparation and revision of local
82 capital improvement plans projected for a period of not less than five
83 years and so prepared as to show the general description, need and
84 estimated cost of each individual capital improvement, (J)
85 improvements to emergency communications systems, (K) public
86 housing projects, including renovations and improvements and energy
87 conservation and the development of additional housing, (L)
88 renovations to or construction of veterans' memorial monuments, (M)
89 improvements to information technology systems to manage the
90 century date change effect, as defined in section 4d-16, (N) thermal
91 imaging systems, (O) bulky waste and landfill projects, [and] (P) the
92 preparation and revision of municipal plans of conservation and
93 development adopted pursuant to section 8-23, provided such plans
94 are endorsed by the legislative body of the municipality not more than
95 one hundred eighty days after adoption by the commission, and (Q)
96 floodplain management and hazard mitigation activities. "Local capital
97 improvement project" means only capital expenditures and includes
98 repairs incident to reconstruction and renovation but does not include
99 ordinary repairs and maintenance of an ongoing nature.

100 Sec. 4. (NEW) (*Effective October 1, 2002*) The Commissioner of
101 Environmental Protection shall develop guidelines to be used by
102 municipalities in revising ordinances restricting flood storage and
103 conveyance of water for floodplains that are not tidally influenced.
104 Such guidelines shall include, but not be limited to, a model ordinance
105 that may be used by municipalities to comply with the provisions of
106 section 1 of this act. The commissioner shall make the guidelines
107 available to the public.

108 Sec. 5. Subsection (d) of section 20-327b of the general statutes is
109 repealed and the following is substituted in lieu thereof (*Effective*
110 *October 1, 2002*):

111 (d) (1) The Commissioner of Consumer Protection, shall, by
112 regulations adopted in accordance with the provisions of chapter 54,

113 prescribe the form of the written residential disclosure report required
 114 by this section and sections 20-327c to 20-327e, inclusive. The
 115 regulations shall provide that the form include information concerning
 116 municipal assessments, including, but not limited to, sewer or water
 117 charges applicable to the property. Such information shall include: (i)
 118 Whether such assessment is in effect and the amount of the
 119 assessment; (ii) whether there is an assessment on the property that
 120 has not been paid, and if so, the amount of the unpaid assessment; and
 121 (iii) to the extent of the seller's knowledge, whether there is reason to
 122 believe that the municipality may impose an assessment in the future.

123 (2) Such form of the written residential disclosure report shall
 124 contain the following:

125 (A) A certification by the seller in the following form:

126 "To the extent of the seller's knowledge as a property owner, the
 127 seller acknowledges that the information contained above is true and
 128 accurate for those areas of the property listed. In the event a real estate
 129 broker or salesperson is utilized, the seller authorizes the brokers or
 130 salespersons to provide the above information to prospective buyers,
 131 selling agents or buyers' agents.

T1 (Date) (Seller)

T2 (Date) (Seller)"

132 (B) A certification by the buyer in the following form:

133 "The buyer is urged to carefully inspect the property and, if desired,
 134 to have the property inspected by an expert. The buyer understands
 135 that there are areas of the property for which the seller has no
 136 knowledge and that this disclosure statement does not encompass
 137 those areas. The buyer also acknowledges that the buyer has read and
 138 received a signed copy of this statement from the seller or seller's

139 agent.

T3 (Date) (Seller)

T4 (Date) (Seller)"

140 (C) A statement concerning the responsibility of real estate brokers
141 in the following form:

142 "This report in no way relieves a real estate broker of the broker's
143 obligation under the provisions of section 20-328-5a of the Regulations
144 of Connecticut State Agencies to disclose any material facts. Failure to
145 do so could result in punitive action taken against the broker, such as
146 fines, suspension or revocation of license."

147 (D) A statement that any representations made by the seller on the
148 written residential disclosure report shall not constitute a warranty to
149 the buyer.

150 (E) A statement that the written residential disclosure report is not a
151 substitute for inspections, tests and other methods of determining the
152 physical condition of property.

153 (F) Information concerning environmental matters such as lead,
154 radon, subsurface sewage disposal, flood hazards and such other
155 topics as the Commissioner of Consumer Protection may determine
156 would be of interest to a buyer.

157 (G) A statement that information concerning the residence address
158 of a person convicted of a crime may be available from law
159 enforcement agencies or the Department of Public Safety and that the
160 Department of Public Safety maintains a site on the Internet listing
161 information about the residence address of persons required to register
162 under section 54-251, 54-252, 54-253 or 54-254, who have so registered.

163 Sec. 6. Section 22a-27j of the general statutes is repealed and the
164 following is substituted in lieu thereof (*Effective July 1, 2002*):

165 (a) Any person, firm or corporation, other than a municipality,
166 making an application for any approval required by chapters 124, 126,
167 440 and 444 shall pay a fee of ten dollars, in addition to any other fee
168 which may be required, to the municipal agency or legislative body
169 which is authorized to approve the application. On and after July 1,
170 2002, the fee shall be twenty dollars. Such municipal agency or
171 legislative body shall collect such fees, retaining [one dollar] two
172 dollars of such fee for administrative costs, and shall pay the
173 remainder of such fees quarterly to the Department of Environmental
174 Protection and the receipts shall be deposited into an account of the
175 State Treasurer and credited to the Environmental Quality Fund
176 established pursuant to section 22a-27g. The portion of such fund
177 attributable to the fees established by this section shall be used by the
178 Department of Environmental Protection as follows: (1) Fifty per cent
179 shall be used for the purpose of funding the environmental review
180 teams program of the Bureau of Water Management within said
181 department, the Council on Soil and Water Conservation established
182 pursuant to section 22a-315 and the eight county soil and water
183 conservation districts; and (2) fifty per cent shall be deposited into the
184 hazard mitigation and floodplain management account established
185 pursuant to section 7 of this act and used for grants under section 9 of
186 this act.

187 (b) Not later than three months following the close of each fiscal
188 year starting with fiscal year July 1, 2000, the Department of
189 Environmental Protection shall identify those municipalities that are
190 not in compliance with subsection (a) of this section for the previous
191 fiscal year and shall provide the Office of Policy and Management with
192 a list of such municipalities. The list shall be submitted annually and in
193 such manner as the Office of Policy and Management may require. The
194 Office of Policy and Management, when issuing the first payment from
195 the Mashantucket Pequot and Mohegan Fund established pursuant to
196 section 3-55i, in the fiscal year during which said list is received, shall

197 reduce said payment to a municipality by [five hundred] one thousand
198 dollars for each quarter of the preceding fiscal year that the
199 municipality has not been in compliance with subsection (a) of this
200 section to a maximum of [two] four thousand dollars in each fiscal
201 year. The Office of Policy and Management shall certify to the State
202 Comptroller the amount of any funds withheld under this subsection
203 to be transferred to the Environmental Quality Fund for the uses set
204 forth in subsection (a) of this section, and the State Comptroller shall
205 cause said amount to be transferred to such fund.

206 Sec. 7. (NEW) (*Effective July 1, 2002*) There is established an account
207 to be known as the "hazard mitigation and floodplain management
208 account". The hazard mitigation and floodplain management account
209 shall be an account of the Environmental Quality Fund established
210 under section 22a-27g of the general statutes. Notwithstanding any
211 provision of the general statutes, any moneys required by law to be
212 deposited in the account shall be deposited in the Environmental
213 Quality Fund and credited to the hazard mitigation and floodplain
214 management account. Any balance remaining in the account at the end
215 of any fiscal year shall be carried forward in the account for the fiscal
216 year next succeeding. The account shall be available to the
217 Commissioner of Environmental Protection for the purposes of
218 sections 8 to 12, inclusive, of this act.

219 Sec. 8. (NEW) (*Effective July 1, 2002*) As used in sections 9 to 12,
220 inclusive, of this act:

221 (1) "Hazard mitigation" means activities that include, but are not
222 limited to, actions taken to reduce or eliminate long-term risk to
223 human life, infrastructure and property resulting from natural hazards
224 including, but not limited to, flooding, high winds and wildfires; and

225 (2) "Floodplain management" means activities that include, but are
226 not limited to, actions taken to retain the existing capacity of
227 designated floodplain areas to store and convey flood waters.

228 Sec. 9. (NEW) (*Effective July 1, 2002*) (a) The Commissioner of

229 Environmental Protection shall establish and administer a hazard
230 mitigation and floodplain management grant program to reimburse
231 municipalities for costs incurred in the reduction or elimination of
232 long-term risks to human life, infrastructure and property from natural
233 hazards, including, but not limited to, flooding, high winds and
234 wildfires, and in the retention of present capacity of designated
235 floodplain areas to store and convey flood waters. Each grant shall be
236 in an amount equal to ninety per cent of the costs incurred for such
237 activities. Application for a grant shall be made in writing to the
238 commissioner in such form as the commissioner may prescribe and
239 shall include a description of the purpose, objectives and budget of the
240 activities to be funded by the grant. The chief executive officer of the
241 municipality applying for the grant may designate the town planner,
242 director of public works, police chief, fire chief or emergency
243 management director as the agent to make the application.

244 (b) The Commissioner of Environmental Protection shall establish,
245 by regulations adopted in accordance with chapter 54 of the general
246 statutes, relative priorities for the approval of grants under this section.
247 Such priorities may take into account the differing needs of
248 municipalities, the need for consistency and equity in the distribution
249 of grant awards and the extent to which particular projects may
250 advance the purposes of this section. The commissioner may establish
251 further criteria for the approval of grants under this section. Not later
252 than February 1, 2004, the commissioner shall develop and disseminate
253 a pamphlet that describes the evaluation process for grant applications
254 under this section. In awarding grants under this section, the
255 commissioner shall consult with any person the commissioner deems
256 necessary.

257 (c) The commissioner shall authorize grant awards under this
258 section on or before July thirty-first and December thirty-first of each
259 fiscal year in which payment of a grant is to be made.

260 (d) The commissioner shall allocate not less than sixty per cent of
261 the moneys in the hazard mitigation and floodplain management

262 account in any fiscal year for grants under this section.

263 Sec. 10. (NEW) (*Effective October 1, 2002*) (a) On and after July 1,
264 2003, the Commissioner of Environmental Protection shall make grants
265 to municipalities from the hazard mitigation and floodplain
266 management account, established under section 7 of this act, for
267 hazard mitigation and floodplain management.

268 (b) If the commissioner finds that any grant awarded pursuant to
269 this section is being used for other purposes or to supplant a previous
270 source of funds, the commissioner may require repayment.

271 (c) The commissioner shall allocate moneys in the hazard mitigation
272 and floodplain management account, established under section 7 of
273 this act, in accordance with this section. The commissioner shall accord
274 highest priority to projects which involve (1) the preparation or
275 revision of hazard mitigation plans by municipalities, or (2)
276 participation in the community rating system of the National Flood
277 Insurance Program. The commissioner shall accord secondary priority
278 to projects which involve (A) the execution of hazard mitigation
279 projects by municipalities in accordance with approved hazard
280 mitigation plans; and (B) costs for administering and providing
281 financial assistance for the hazard mitigation and floodplain
282 management grant program established under section 9 of this act.

283 Sec. 11. (NEW) (*Effective July 1, 2002*) (a) Each municipality that
284 receives a grant from the hazard mitigation and floodplain
285 management account established under section 7 of this act shall
286 submit a report to the Commissioner of Environmental Protection, in
287 such form as the commissioner prescribes, not later than September
288 first of the fiscal year following the year such grant was received. Such
289 report shall contain a description of activities paid for with financial
290 assistance under the grant. The chief executive officer of a municipality
291 that receives a grant from the hazard mitigation and floodplain
292 management account may designate the town planner, director of
293 public works, police chief, fire chief or emergency management

294 director of that municipality as the agent to make such report.

295 (b) On or before January 1, 2005, and annually thereafter, the
296 Commissioner of Environmental Protection shall prepare a report on
297 grants made under section 10 of this act for the preceding fiscal year.
298 Each such report shall include: (1) A description of the grants made,
299 including the amount, purposes and the municipalities to which they
300 were made; (2) a summary of the activities for which the Department
301 of Environmental Protection used the moneys allocated to it under
302 section 10 of this act; and (3) any findings or recommendations
303 concerning the operation and effectiveness of the grant program.

304 Sec. 12. (NEW) (*Effective July 1, 2002*) The Commissioner of
305 Environmental Protection shall adopt regulations, in accordance with
306 the provisions of chapter 54 of the general statutes, to implement the
307 provisions of sections 8 to 11, inclusive, of this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>July 1, 2002</i>
Sec. 7	<i>July 1, 2002</i>
Sec. 8	<i>July 1, 2002</i>
Sec. 9	<i>July 1, 2002</i>
Sec. 10	<i>October 1, 2002</i>
Sec. 11	<i>July 1, 2002</i>
Sec. 12	<i>July 1, 2002</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Fund-Type	Agency Affected	FY 03 \$	FY 04 \$
Cost/Revenue GF. EQ	Department of Environmental Protection; Office of Policy and Management; Department of Consumer Protection	See Below	See Below

Municipal Impact:

Effect	Municipalities	FY 03 \$	FY 04 \$
Potential Cost; Potential Revenue Gain	Various	See Below	See Below

Explanation

The bill requires the Department of Environmental Protection, (DEP) to develop guidelines to be used by the municipalities in revising ordinances concerning floodplain management, including a model ordinance, work with the municipalities, provide grants for local floodplain and mitigation projects, establish regulations for priorities for the grant funding and to develop a pamphlet. Towns must adopt standards for managing floodplains and reducing hazards when the federal government requires them to do so under the Federal National Flood Insurance Program. It is anticipated that these requirements can be accomplished initially through the increase in the land use application fee established in the bill. The current \$10 fee is increased to \$20. The towns will retain an extra dollar for administrative costs for a total of \$2. The additional \$9 will be submitted to the DEP to be deposited into a hazard mitigation and floodplain management account. The doubling of the fee is anticipated

to raise \$280,000 a year. Revenue in this account has been virtually unchanged year to year. The bill requires that 60% of the new revenue be used for grants to towns. This results in a minimum of \$168,000 being available for the grants and \$112,000 for use by the DEP a year. This will enable the DEP to hire one full-time employee and associated expenses (including fringe benefits), establish regulations and develop a pamphlet. The bill also requires that each grant be equal to 90% of the costs incurred by the municipality.

In addition, non-compliance with the land use fee provisions results in a reduction of a town's Mashantucket Pequot and Mohegan Fund payments, as is current law. The bill doubles, from \$2,000 to \$4,000 the maximum amount a year that can be withheld. Any potential revenue loss to municipalities due to reduction of their grant payments would vary from town to town. The overall impact is anticipated to be minimal. Transferring the withheld grant payments to the Environmental Quality Fund to be used for the floodplain management program will minimally increase revenue to the program for grants to towns or administrative costs.

To the extent that allowing towns to use Local Capital Improvement Project (LoCIP) funds to specifically manage floodplains and reduce hazards diverts funds from one project to another or increases the potential use of the funds, additional funds could be needed. The unallocated GO bond fund balance is \$75 million as of May 1, 2002.

The bill requires that when the Office of Policy and Management (OPM) revises the State Plan of Conservation and Development, after March 1, 2005, the agency identify how flooding, high winds, wildfire and other natural hazards affect infrastructure and make recommendations to minimize damage from these hazards. It is anticipated that OPM can identify such areas within the agency's current budgetary resources.

This bill also requires the Commissioner of Consumer Protection to adopt regulations and requires the form of a written residential

disclosure report to include additional information. The adoption of regulations and any workload increase can be handled by staff within normal duties and responsibilities.

House "A" delays from 2003 to 2005, the requirement for the Office of Policy and Management (OPM) to identify how flooding, high winds, wildfire and other natural disasters affect infrastructure when revising the state plan of Conservation and Development, which eliminates the \$200,000 cost for OPM identified in the underlying bill. It requires the grants to be equal to 90% of the costs incurred, which could delay grant payments, reduce the number of recipients or increase grant payments, based on the amount of funds available, number of applications and the cost of reimbursement. The amendment also makes changes for consistency and technical changes.

OLR Amended Bill Analysis

sHB 5065 (as amended by House "A")*

AN ACT CONCERNING FLOODPLAIN MANAGEMENT AND HAZARD MITIGATION**SUMMARY:**

This bill requires towns and the state to adopt standards for managing floodplains and reducing potential hazards. The towns must do this when the federal government requires them to revise their land use regulations. The revisions must meet the bill's minimum standards for restricting flood storage and conveying water in floodplains not influenced by ocean or river tides. But towns can adopt stricter ones. The state likewise must consider ways to reduce flooding and other natural hazards when it revises the State Plan of Conservation and Development after March 1, 2005.

The bill also requires the Department of Environmental Protection (DEP) to provide grants for local projects and plans to minimize flooding and other natural hazards. Beginning July 1, 2002, it (1) increases the state fee on local land use applications, (2) dedicates half the fee revenue to fund the grants, and (3) increases the amount towns keep to cover the cost of collecting the fee and remitting the revenue to the state. The bill increases, from \$2,000 to \$4,000, the total annual amount by which the Office of Policy and Management (OPM) secretary can reduce a town's Mashantucket Pequot and Mohegan Fund payments for failing to remit the fee revenue.

The bill specifically allows towns to use Local Capital Improvement Program (LoCIP) funds to manage floodplains and reduce hazards. Current law allows them to use the funds for constructing, renovating, enlarging, or repairing flood control projects.

Lastly, the bill specifically requires residential property condition reports to include information about flood hazards. Current law already requires these reports to include information about lead, radon, subsurface sewage disposal, and other environmental

information the consumer protection commissioner believes would interest buyers. By law, people offering residential real estate for sale, exchange, or lease must give prospective buyers the report before completing the transaction.

*House Amendment "A" (1) delays, from March 1, 2003 to March 1, 2005, the date after which the OPM secretary must address flooding and other natural hazards each time he revises the State Plan of Conservation and Development; (2) requires the natural hazard and reduction or mitigation grants to cover 90% of project costs; (3) eliminates an annual reporting requirement; (4) requires DEP to prepare annual reports about the grant programs instead of submitting them to specified committees; and (5) makes technical changes.

EFFECTIVE DATE: July 1, 2002 for the provisions establishing the grant program, except those affecting project grants, which take effect October 1, 2002. Also effective on October 1, 2002 are the provisions regarding zoning regulations, the State Plan of Conservation and Development, LOCIP funding, DEP guidelines for revising local land use regulations, and the residential disclosure form.

LAND USE REGULATION AND POLICIES

Local Land Use Regulations

The bill requires towns to adopt regulations or ordinances for restricting flood storage and conveying water to floodplains. A floodplain is an area within the real or theoretical limits of the base flood or base flood for a critical activity, as determined by the town or the Federal Emergency Management Agency in its flood insurance study or flood insurance rate map for the town.

Towns must adopt the floodplain regulations when they are required to revise them under the federal National Flood Insurance Program. The federal government will not fund development projects in these areas unless towns revise their regulations to control such developments.

The bill requires the revised regulations to restrict encroachments in the designated floodplains. They must prohibit those that increase a structure's ground floor (i.e., the footprint) unless a registered professional engineer certifies that it will not increase the base flood

elevation. This restriction applies to any encroachment resulting from fill, new construction, or substantial improvements exceeding half a structure's market value before the improvement.

The regulations must prohibit projects from reducing a floodplain's capacity to hold water, unless the reduction:

1. is compensated for by deepening or widening the floodplain;
2. is onsite, unless adjacent property owners grant easements or the town allows offsite reductions;
3. is within the same hydraulic reach and a volume not previously used for storage area;
4. is hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project; and
5. has an unrestricted hydraulic connection to the same waterway or water body.

Lastly, the regulations must keep work on land adjacent to a floodplain from restricting the flow of water so that its speed or the flood stage increases. This restriction includes work intended to compensate for a reduction in the floodplain's water holding capacity. The town must approve this type of work anywhere outside of the floodplain.

The bill requires the DEP commissioner to develop guidelines towns can use when revising their regulations and ordinances and make them available to the public. He must include a model ordinance towns can adopt to comply with the bill.

State Plan of Conservation and Development

When revising the five-year State Plan of Conservation and Development, the bill requires the OPM secretary to (1) identify how flooding, high winds, wildfire and other natural hazards affect infrastructure and property and (2) recommend how the state can minimize siting future infrastructure and property in areas prone to natural hazards. He must do this for revisions made after March 1, 2005. By law, state-funded development projects must be consistent with the plan. The current plan expires in 2003.

HAZARD MITIGATION AND FLOODPLAIN MANAGEMENT PROGRAM

Funding Mechanism

The bill funds this program by increasing, from \$10 to \$20, the state imposed land use application fee, which currently funds state environmental review teams and the Council on Soil and Water Conservation and its districts. It creates a nonlapsing hazard mitigation and floodplain management account in the Environmental Quality Fund and requires half the revenue from the increased fee to go into the account. The commissioner must use the account to fund the two types of activities described below.

Grants for Reducing or Mitigating Natural Hazards

The commissioner can “reimburse” towns for projects that preserve the capacity of designated floodplains to store and convey floodwaters or that reduce or eliminate the long-term risks of flooding, high winds, and other natural hazards pose to people, infrastructure, and property. He must use at least 60% of the funds in the above-mentioned account for this purpose. The grants must cover 90% of the project costs.

Towns can apply for funds on applications the DEP commissioner provides. The applications must describe the activities towns want to fund, their objectives, and the cost. A town’s chief executive officer can submit the application or assign this task to the town planner, public works director, police or fire chief, or emergency management director.

The commissioner must adopt regulations establishing relative priorities for awarding grants based on the differing needs of towns, the need to be consistent and fair in awarding grants, and the extent to which proposed projects advance the bill’s purposes. He may establish other criteria and may consult with anyone he deems necessary.

By February 1, 2004, the commissioner must also publish and disseminate a pamphlet describing DEP’s process for evaluating applications.

He must award the grants twice a year, the first round occurring by July 31 and second by December 31 during each fiscal year he awards

grants.

Hazard Mitigation and Community Rating Grants

Beginning on or after July 1, 2003, the commissioner must fund local plans for mitigating hazards and managing flood plains. He can tap up to 40% of the funds in the above-mentioned account for this purpose.

In awarding grants, the commissioner must give the highest priority to towns preparing or revising hazard mitigation or participating in the National Flood Insurance Program's community rating system. He must give secondary priority to towns implementing projects under an approved plan and to cover the cost of administering and providing financial assistance for hazard mitigation and floodplain management. He can require towns to repay a grant if they use it for other purposes or to supplant funds from other sources.

By January 1, 2005 and annually thereafter, the commissioner must prepare a report about the activities he funded under both grant programs during the previous fiscal year. The report must specifically identify each town that received hazard mitigation and community rating grants, the amounts, and how they were used. It must also include the commissioner's findings and recommendations on this program's operation and effectiveness. (The bill does not specify who receives the report.)

Municipal Report

Towns getting project or planning grants must report annually to the commissioner on how they use them. They must submit these reports by September 1 of the next fiscal year. A town's chief executive officer can have the report prepared by any of the same officials he can charge with preparing the grant applications.

BACKGROUND

Mashantucket Peqout and Mohegan Fund

The bill increases the total annual amount by which the OPM secretary can reduce a town's grant from this fund for failing to remit the state-imposed land use fee. The state uses the fund to make payments in

lieu of property taxes for property owned by the state, private higher education institutions, and nonprofit general hospitals. It also uses the fund to pay for local property tax relief.

National Flood Insurance Program

Federal law (44 CFR 59 *et. seq.*) requires states and municipalities to adopt regulations for managing floodplains if the federal insurance administrator notified them that they contain areas susceptible to flooding, mudslides, or other flood-related erosion hazards. The federal government will not fund any development project in these areas until the jurisdiction adopts the regulations, which must meet federal standards.

Legislative History

The House referred this bill to the following four committees, all of which reported it favorably.

<i>Committee</i>	<i>Date House Referred Bill</i>	<i>Date Committee Reported Bill</i>
Finance	April 10	April 17
Government Administration and Election	April 18	April 19
General Law	April 23	April 24
Appropriations	April 25	April 26

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute Change of Reference
Yea 17 Nay 0

Environment Committee

Joint Favorable Substitute
Yea 23 Nay 5

Finance, Revenue and Bonding Committee

Joint Favorable Report

Yea 31 Nay 14

Government Administration and Elections Committee

Joint Favorable Report
Yea 16 Nay 0

General Law Committee

Joint Favorable Report
Yea 17 Nay 0

Appropriations Committee

Joint Favorable Report
Yea 45 Nay 0