



# House of Representatives

**File No. 637**

General Assembly

February Session, 2002

**(Reprint of File No. 298)**

Substitute House Bill No. 5609  
As Amended by House  
Amendment Schedule "A"

Approved by the Legislative Commissioner  
May 4, 2002

## ***AN ACT CONCERNING THE PROTECTION OF LONG ISLAND SOUND.***

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

1 Section 1. (NEW) (*Effective from passage*) Notwithstanding any other  
2 provision of the general statutes, no state agency, including, but not  
3 limited to, the Department of Environmental Protection and the  
4 Connecticut Siting Council, shall consider or render a final decision for  
5 any applications relating to electric power line crossings, gas pipeline  
6 crossings or telecommunications crossings of Long Island Sound  
7 including, but not limited to, electrical power line, gas pipeline or  
8 telecommunications applications that are pending or received after the  
9 effective date of this section for a period of one year after the effective  
10 date of this section. Such moratorium shall not apply to applications  
11 relating solely to the maintenance, repair or replacement necessary for  
12 repair of electrical power lines, gas pipelines or telecommunications  
13 facilities currently used to provide service to customers located on  
14 islands or peninsulas off the Connecticut coast or harbors,  
15 embayments, tidal rivers, streams or creeks. Nothing in this act shall be  
16 construed to affect the project in the corridor across Long Island

17 Sound, from Norwalk to Northport, New York, to replace the existing  
18 electric cables that cross the sound. During such twelve-month  
19 moratorium on applications relating to crossings of Long Island  
20 Sound, the Institute of Sustainable Energy at the Eastern Connecticut  
21 State University shall chair and convene a task force of the parties  
22 described in section 3 of this act in order to undertake the tasks  
23 described in section 3 of this act.

24 Sec. 2. (NEW) (*Effective from passage*) (a) Notwithstanding any other  
25 provision of the general statutes, no state agency, including, but not  
26 limited to, the Department of Environmental Protection and the  
27 Connecticut Siting Council, shall render a final decision for any  
28 applications relating to electric transmission lines from Bethel to  
29 Norwalk including, but not limited to, applications that are pending or  
30 received on and after the effective date of this section until February 1,  
31 2003. During such interim period, the Institute for Sustainable Energy  
32 shall chair and convene a working group comprised of: (1) Two  
33 representatives chosen by the chief elected officials of Bethel, Redding,  
34 Weston, Wilton and Norwalk, one of whom shall have environmental  
35 expertise and one of whom shall have energy expertise; (2) one  
36 representative of the Connecticut Fund for the Environment; (3) two  
37 representatives of the applicant company; and (4) one representative of  
38 the New England Independent System Operator, Inc. and develop a  
39 comprehensive assessment and report on: (A) The economic  
40 considerations and environmental preferences and appropriateness of  
41 installing such transmission lines underground or overhead; (B) the  
42 feasibility of meeting all or part of the electric power needs of the  
43 region through distributive generation; and (C) the electric reliability,  
44 operational and safety concerns of the region's transmission system  
45 and the technical and economic feasibility of addressing those  
46 concerns with currently available electric transmission system  
47 equipment. The Institute for Sustainable Energy shall publish its report  
48 on or before January 1, 2003, and shall also include recommendations  
49 for any legislative changes deemed necessary as a result of such  
50 assessment. Any decision or opinion rendered on any application for

51 an electric transmission line from Bethel to Norwalk by either the  
52 Department of Environmental Protection or the Connecticut Siting  
53 Council after the publication of such comprehensive assessment and  
54 report, shall be evaluated to determine such application's consistency  
55 with such assessment. Nothing in this section shall be construed to  
56 prevent routine maintenance and repair of such electric transmission  
57 lines.

58 (b) Any applicant that elects to proceed with its application for an  
59 electric transmission line from Bethel to Norwalk before any state  
60 agency, including, but not limited to, the Department of  
61 Environmental Protection and the Connecticut Siting Council, during  
62 the interim period described in subsection (a) of this section, shall  
63 accrue no legal rights or financial entitlements by proceeding with its  
64 application.

65 Sec. 3. (NEW) (*Effective from passage*) Not later than one year from  
66 the effective date of this section, a comprehensive environmental  
67 assessment and plan shall be completed under the direction of the  
68 Institute for Sustainable Energy. In conducting the comprehensive  
69 environmental assessment and plan, a task force shall work with the  
70 Institute of Sustainable Energy that consists of the task force members  
71 contained in Executive Order Number 26 of Governor John G.  
72 Rowland and a representative of: (1) The Bureau of Fisheries of the  
73 Department of Environmental Protection; (2) the Director of the  
74 Bureau of Aquaculture of the Department of Agriculture; (3) the  
75 Bureau of Aviation and Ports, Connecticut Coastline Port Authority of  
76 the Department of Transportation; (4) the Connecticut Seafood  
77 Council; (5) the Atlantic States Marine Fisheries; (6) Save the Sound,  
78 Inc.; (7) the Connecticut Fund for the Environment, Inc.; (8) the Long  
79 Island Soundkeeper; (9) the State Geologist; and (10) no more than one  
80 representative each from the holder of a permit for a merchant cable,  
81 one representative from an applicant for a gas pipeline, one  
82 representative from each local gas and electric distribution company  
83 and one representative from the telecommunications industry.  
84 Nothing in this section shall prohibit the task force from soliciting the

85 participation of other persons in the development of the  
86 comprehensive environmental assessment and plan including, but not  
87 limited to, federal agencies regarding matters within such agency's  
88 jurisdiction. Such assessment and plan shall include, but not be limited  
89 to, a review and analysis of those criteria set forth in Executive Order  
90 Number 26 of Governor John G. Rowland in addition to the following:  
91 (A) In consultation with the Institute of Water Resources at The  
92 University of Connecticut and The University of Connecticut  
93 Cooperative Extension Service, a comprehensive inventory and  
94 mapping of all existing environmental data on the natural resources of  
95 Long Island Sound, including, but not limited to: All coastal resources,  
96 as defined in section 22a-93 of the general statutes, all points of public  
97 access and public use, locations of rare and endangered species  
98 including the breeding and nesting areas for such rare and endangered  
99 species, locations of historically productive fishing grounds and  
100 locations of unusual and important submerged vegetation; (B) an  
101 evaluation of the relative importance and uniqueness of the natural  
102 resources and an identification of the most ecologically sensitive  
103 natural resources of Long Island Sound; (C) an assessment of the  
104 present status, future potential and environmental impacts on Long  
105 Island Sound of meeting the region's energy needs that do not require  
106 the laying of a power line or cable within Long Island Sound; (D) an  
107 evaluation of methods to minimize the numbers and impacts of electric  
108 power line crossings, gas pipeline crossings and telecommunications  
109 crossings within Long Island Sound, including an evaluation of the  
110 individual and cumulative environmental impacts of any such  
111 proposed crossings; (E) an inventory of current crossings of Long  
112 Island Sound and an evaluation of the current environmental status of  
113 those areas that have crossings; (F) an evaluation of the reliability and  
114 operational impacts to the state and region of proposed crossings of  
115 Long Island Sound and an evaluation of the impact on reliability by  
116 recommended limitations on such crossings; (G) recommendations for  
117 providing for regional energy needs while protecting Long Island  
118 Sound to the maximum extent possible; and (H) recommendations on  
119 natural resource performance bond levels to insure and reimburse the

120 state in the event that future electric power line crossings, gas pipeline  
121 crossings or telecommunications crossings substantially damage the  
122 public trust in the natural resources of Long Island Sound. For the  
123 purposes of sections 1, 3, 4 and 5 of this act, "Long Island Sound" shall  
124 include its harbors, embayments, tidal rivers, streams and creeks to the  
125 extent that any such projects would impact such harbors, embayments,  
126 tidal rivers, streams and creeks.

127 Sec. 4. (NEW) (*Effective from passage*) Any application for an electric  
128 power line, gas pipeline or telecommunications crossing of Long  
129 Island Sound that is considered by any state agency, including, but not  
130 limited to, the Department of Environmental Protection or the  
131 Connecticut Siting Council, after the creation of the comprehensive  
132 environmental assessment and plan, described in section 3 of this act,  
133 shall additionally be evaluated for such application's: (1) Likelihood to  
134 impair the public trust in Long Island Sound based on, but not limited  
135 to, the information contained in the comprehensive environmental  
136 assessment and plan; (2) consistency with the recommendations of the  
137 comprehensive environmental assessment; and (3) environmental  
138 impact, both individual and cumulative, including but not limited to  
139 those impacts anticipated by the comprehensive environmental  
140 assessment and plan described in section 3 of this act.

141 Sec. 5. (NEW) (*Effective from passage*) Notwithstanding any provision  
142 of the general statutes, the Connecticut Siting Council, within fifteen  
143 days of the effective date of this section shall submit the state's  
144 advisory opinion to the Federal Energy Regulatory Commission  
145 requesting that, on behalf of the state, the Federal Energy Regulatory  
146 Commission not approve any new individual electric power line  
147 crossing, gas pipeline crossing or telecommunications crossing until  
148 the comprehensive environmental assessment and plan described in  
149 section 3 of this act is completed and that the Federal Energy  
150 Regulatory Commission avoid environmental damage to Long Island  
151 Sound to the greatest extent possible when licensing any future project  
152 by considering the recommendations contained in the comprehensive  
153 environmental assessment and plan described in section 3 of this act.

154 Notwithstanding the provisions of this act, if the Federal Energy  
155 Regulatory Commission proceeds with consideration of any such  
156 project, regardless of the Siting Council's request, the Connecticut  
157 Siting Council and any other state agency with jurisdiction over such  
158 project shall review such proposed project and recommend siting,  
159 construction procedures and environmental mitigation measures to the  
160 Federal Energy Regulatory Commission for such project that conform  
161 with the comprehensive environmental assessment and plan described  
162 in section 3 of this act, to the degree such assessment and plan  
163 information is available.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</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	Current FY \$	FY 03 \$	FY 04 \$
GF - Cost	CT State Univ.	-	150,000 - 200,000	-
GF - Cost	Siting Council, CT; Agriculture Dept.; Environmental Protection, Dept.	-	Minimal	Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill as amended establishes a one-year moratorium on the building of a gas pipeline, an electric power line or an electric transmission expansion across Long Island Sound. The bill as amended also requires the Institute of Sustainable Energy at Eastern Connecticut State University to conduct a comprehensive environmental assessment of ways to provide power to Long Island. The components of the assessment are specified in the bill and while certain costs related to staffing, the production of a report, and miscellaneous research costs can be absorbed within existing resources; there are requirements in the bill for which the Institute does not have the necessary expertise. Consequently, consultants would be required to perform tasks such as identifying alternatives to Sound crossing; evaluating ecologically sensitive areas of the Sound and reviewing various risk, financial and marketing assessments. One-time consultant expenses are estimated at \$150,000 - \$200,000.

It is anticipated that the Departments of Agriculture and

Environmental Protection (DEP) and the Connecticut Siting Council would provide assistance to the Institute and manage other additional responsibilities within normal budgetary resources. In addition, the reviews of certain permits by DEP following the completed assessment are also anticipated to be handled within normal budgetary resources.

House "A," which does not result in any additional fiscal impact, is a strike everything amendment that replaces the original bill with the language of that bill plus several modifications. In addition to various minor changes, the specific modifications in the bill are as follows: (1) specifies certain parameters of the moratorium; (2) establishes a working group intended to address issues related to electric transmission lines between the towns of Bethel and Norwalk; and (3) eliminates a provision barring the construction of electric power lines during moratorium.

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**OLR Amended Bill Analysis**

sHB 5609 (as amended by House "A")\*

**AN ACT CONCERNING THE PROTECTION OF LONG ISLAND SOUND****SUMMARY:**

This bill establishes moratoriums, effective upon passage, on final approval of (1) proposals to build energy and telecommunications lines through Long Island Sound and (2) overland electric transmission lines from Bethel to Norwalk.

It establishes a one-year moratorium on consideration or final approval of applications (including pending applications) to build a gas pipeline, electric power line, or telecommunications line across the Sound. It exempts from the moratorium applications limited solely to the maintenance, repair, or replacement of such lines now used to provide service to certain Connecticut customers. It specifically exempts the replacement of existing electric cables in the corridor from Norwalk to Northport, N.Y. For the purposes of the bill, the Sound includes its harbors, embayments, tidal rivers, streams and creeks, to the extent any project would impact them.

By the end of the one-year moratorium period, the bill requires the preparation and completion of a comprehensive environmental assessment and plan ("assessment") of the Sound's natural resources. It requires the Institute of Sustainable Energy at Eastern Connecticut State University to chair and convene a task force to prepare the assessment.

Upon completion of the assessment, the bill requires the Department of Environmental Protection (DEP), the Connecticut Siting Council, and any other state agency, when considering an application for an electric power line, gas pipeline, or telecommunications crossing of the Sound, to additionally evaluate the applications for their: (1) likelihood to impair the public trust in Long Island Sound based on information contained in the assessment; (2) consistency with the assessment's

recommendations; and (3) individual and cumulative environmental impact, as anticipated by the assessment.

The bill requires the Siting Council to request, within 15 days of the bill's passage, that the Federal Energy Regulatory Commission (FERC) not approve any new electric power line, gas pipeline or telecommunications crossing until the assessment is completed, and that FERC avoid environmental damage to the Sound to the greatest extent possible by considering the assessment's recommendations when licensing a project. If FERC does consider a gas pipeline application, the bill requires the Siting Council and other state agencies having jurisdiction to review the project and recommend to FERC siting, construction procedures, and environmental mitigation measures that conform with the assessment, to the extent such information is available.

The bill prohibits any state agency from granting final approval for applications, including pending applications, relating to existing electric transmission lines from Bethel to Norwalk, until February 1, 2003. But it allows routine maintenance and repair of such lines. It requires the Institute for Sustainable Energy to convene and chair a working group to study the economic, environmental, reliability, operational, technical, power, and safety aspects of installing such lines, and requires it to report its findings and recommend any statutory changes it deems necessary by January 1, 2003. The bill requires DEP and the Siting Council, after the report is published, to determine whether any decision or opinion rendered on any such application is consistent with the report's findings. It bars any applicant who elects to proceed with his application despite the moratorium from accruing legal rights or financial entitlements.

\*House Amendment "A":

1. adds provisions concerning the moratorium on final approval of the Bethel-to-Norwalk electric power line, and the accompanying study;
2. changes the composition of the task force studying proposed energy and telecommunication lines through the Sound, and expands what it must study;
3. eliminates a provision barring the construction of electric power lines in the Sound during the moratorium, including one already permitted; and

4. makes minor changes.

EFFECTIVE DATE: Upon passage

## **LONG ISLAND SOUND ASSESSMENT AND PLAN**

### ***Representation on Institute Panel***

In developing the assessment, the Institute for Sustainable Energy must work with a task force that includes the task force members listed in the governor's Executive Order 26 (see BACKGROUND) and one representative each of:

1. DEP's bureau of fisheries,
2. the agriculture department's aquaculture bureau director,
3. the Department of Transportation's Coastline Port Authority Bureau of Aviation and Ports,
4. the Connecticut Seafood Council,
5. the Atlantic States Marine Fisheries,
6. Save the Sound, Inc.,
7. the Connecticut Fund for the Environment,
8. the Soundkeeper, and
9. the state geologist.

The task force also must include one representative each from

1. the holder of a merchant cable permit;
2. a gas pipeline applicant;
3. the telecommunications industry; and
4. each local gas and electric distribution company.

The task force may invite others to participate, including federal agencies concerning matters within their jurisdiction.

### ***Assessment and Plan***

The assessment and plan must include a review and analysis of the criteria set forth in Executive Order 26. It also must include, in consultation with the University of Connecticut's Institute of Water Resources and Cooperative Extension Service, a comprehensive inventory and mapping of all existing environmental data on Long Island Sound's natural resources, including all coastal resources as

defined by law, and all points of public access and use. It must include the locations of (1) rare and endangered species, including their breeding and nesting areas; (2) historically productive fishing grounds; and (3) unusual and important underwater vegetation.

The assessment also must:

1. evaluate the relative importance and uniqueness of the Sound's natural resources;
2. identify its most ecologically sensitive natural resources;
3. assess the status, potential, and environmental impacts of proposed methods of meeting the region's energy needs that do not require placement of a power line or cable within the Sound;
4. evaluate ways to restrict the number and impact of electric power lines, gas lines, and telecommunications lines within the Sound, as well as the individual and cumulative environmental impacts of any such proposed crossings;
5. inventory current crossings of the Sound, and evaluate the environmental conditions of the areas in which they are located;
6. evaluate the reliability and operational impacts to the state and region of proposed Sound crossings, and evaluate the impact on reliability of recommended limitations on such crossings;
7. recommend ways to providing for regional energy needs while protecting the Sound to the greatest extent possible; and
8. recommend natural resource performance bond levels to insure and reimburse the state if future electric power line, gas pipeline, or telecommunications crossings substantially damage the public trust in the Sound's natural resources.

## **BETHEL-NORWALK TRANSMISSION LINE ASSESSMENT AND REPORT**

### ***Representation on Working Group***

The Institute for Sustainable Energy must convene and chair a working group including:

1. two representatives chosen by the chief elected officials of Bethel, Redding, Weston, Wilton, and Norwalk, one with energy, and one with environmental, expertise;
2. one representative of the Connecticut Fund for the Environment;
3. two representatives of the applicant company; and

4. one representative of the New England Independent System Operator (ISO).

### ***Working Group Report***

The working group must develop a comprehensive assessment and report on the:

1. economic considerations and environmental preferences and appropriateness of installing the transmission lines underground or overhead;
2. feasibility of meeting all or part of the region's electric power needs through distributive generation; and
3. electric reliability, operational and safety concerns of the region's transmission system, and the technical and economic feasibility of addressing those concerns with currently available electric transmission system equipment.

## **BACKGROUND**

### ***Executive Order 26***

On April 12, Governor Rowland barred state agencies from making final determinations on large-scale gas or electric transmission expansion projects, including those in the Sound, and the electric transmission project proposed for southwestern Connecticut, until January 15, 2003. He created a task force to review and analyze pending proposals; study ways to provide for the region's energy needs while protecting the Sound; assess the environmental impact of laying cables, power lines, and pipelines in the Sound; and evaluate ways to limit the number of such energy crossings. The task force must issue its recommendations by January 1, 2003, and must include representatives of the Institute for Sustainable Energy, the Office of Policy and Management, the Public Utilities Control Authority, the Siting Council, DEP, the agriculture department, the New England ISO, and FERC.

### ***Federal Energy Regulatory Commission***

This commission is an independent agency within the U.S. Department of Energy that regulates transmission and sale of natural gas for resale and transmission and wholesale sales of electricity in interstate

commerce. It is not directly involved in siting electric transmission facilities, but does regulate the siting of gas pipelines.

**Distributive Generation**

Distributive generation refers to ways of generating electricity on the premises of an end user within the transmission and distribution system, including fuel cells, microturbines, photovoltaic systems, or small wind turbines.

**Legislative History**

The House referred the bill (File 298) to the Energy and Technology Committee on April 10, the Legislative Management Committee on April 17. On April 17, the Education Committee on April 24, and which the Appropriations Committee on April 29. The committees reported the bill favorably on April 16, April 23, April 29, and May 1, respectively.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute  
Yea 28 Nay 0

Energy and Technology Committee

Joint Favorable Report  
Yea 12 Nay 3

Legislative Management Committee

Joint Favorable Report  
Yea 18 Nay 0

Education Committee

Joint Favorable Report  
Yea 26 Nay 0

Appropriations Committee

Joint Favorable Report  
Yea 47 Nay 0