



Senate

File No. 540

General Assembly

February Session, 2002

(Reprint of File No. 18)

Substitute Senate Bill No. 68
As Amended by House Amendment
Schedules "A", "B", "C" and "D"

Approved by the Legislative Commissioner
April 19, 2002

**AN ACT CONCERNING ZONING AND THE MUNICIPAL PLAN OF
CONSERVATION AND DEVELOPMENT, APPEALS OF SITE PLAN
DECISIONS AND MUNICIPAL PENALTIES FOR VIOLATIONS OF
ZONING LAWS.**

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

1 Section 1. Subsection (b) of section 8-3 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2002*):

4 (b) Such regulations and boundaries shall be established, changed
5 or repealed only by a majority vote of all the members of the zoning
6 commission, except as otherwise provided in this chapter. In making
7 its decision the commission shall take into consideration the plan of
8 conservation and development, prepared pursuant to section 8-23, as
9 amended, and shall state on the record its findings on consistency of
10 the proposed establishment, change or repeal of such regulations and
11 boundaries with such plan. If a protest against a proposed change is
12 filed at or before a hearing with the zoning commission, signed by the
13 owners of twenty per cent or more of the area of the lots included in

14 such proposed change or of the lots within five hundred feet in all
15 directions of the property included in the proposed change, such
16 change shall not be adopted except by a vote of two-thirds of all the
17 members of the commission.

18 Sec. 2. Subsection (b) of section 8-8 of the general statutes, as
19 amended by section 1 of public act 01-47, public act 01-110 and section
20 112 of public act 01-195, is repealed and the following is substituted in
21 lieu thereof (*Effective from passage*):

22 (b) Except as provided in subsections (c), (d) and (r) of this section
23 and sections 7-147 and 7-147i, any person aggrieved by any decision of
24 a board, including a decision to approve or deny a site plan pursuant
25 to subsection (g) of section 8-3, as amended by this act, may take an
26 appeal to the superior court for the judicial district in which the
27 municipality is located. The appeal shall be commenced by service of
28 process in accordance with subsections (f) and (g) of this section within
29 fifteen days from the date that notice of the decision was published as
30 required by the general statutes. The appeal shall be returned to court
31 in the same manner and within the same period of time as prescribed
32 for civil actions brought to that court.

33 Sec. 3. Section 8-12a of the general statutes is repealed and the
34 following is substituted in lieu thereof (*Effective October 1, 2002*):

35 (a) Any municipality may, by ordinance adopted by its legislative
36 body, establish penalties for violations of zoning regulations adopted
37 under section 8-2 or by special act. The ordinance shall establish the
38 types of violations for which a citation may be issued and the amount
39 of any fine to be imposed thereby and shall specify the time period for
40 uncontested payment of fines for any alleged violation under any such
41 regulation. No fine imposed under the authority of this section may
42 exceed one hundred fifty dollars for [a single citation] each day a
43 violation continues. Any fine shall be payable to the treasurer of the
44 municipality.

45 (b) The hearing procedure for any citation issued pursuant to this

46 section shall be in accordance with section 7-152c except that no zoning
47 enforcement officer, building inspector or employee of the municipal
48 body exercising zoning authority may be appointed to be a hearing
49 officer.

50 (c) Any zoning enforcement officer who issues a citation pursuant to
51 an ordinance adopted under this section shall be liable for treble
52 damages in any civil action if the court finds that such citation was
53 issued frivolously or without probable cause.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>October 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: None

Municipal Impact:

Effect	Municipalities	FY 03 \$	FY 04 \$
Cost	All Municipalities	Potential Minimal	Potential Minimal
Revenue Gain	All Municipalities	Potential Minimal	Potential Minimal

Explanation

Requiring local zoning commissions to consider their towns' plan of conservation and development when considering a boundary change or repeal could increase the workload of the affected commissions. The impact is anticipated to be minimal.

Additionally, the bill as amended permits persons aggrieved by certain decisions of local zoning commissions to approve or deny a site plan to appeal to the superior court. This is not anticipated to change the number of appeals, thus there is no fiscal impact.

Finally, the bill as amended specifies that fines imposed by municipalities for violation of zoning regulations shall not exceed \$150 per day for each violation. Under current law the fine may not exceed \$150 per citation for violation of such zoning regulation. Passage of this bill as amended will result in a revenue gain to municipalities that do not issue separate citations for each day the violation occurs.

House "A" adds provisions regarding appeals of local commission decisions to the superior court, which is not anticipated to result in a fiscal impact.

House "B" eliminates provisions of the underlying bill, which required local zoning commissions to consider a towns' plan of conservation and development when considering a site plan. The amendment reduces some of the potential minimal costs to municipalities identified in the fiscal note on the underlying bill.

House "C" is superseded by passage of House "D".

House "D" specifies that the fines imposed by municipalities for violation of zoning regulations shall not exceed \$150 per day for each violation, which may result in a revenue gain to municipalities.

OLR Amended Bill Analysis

sSB 68 (as amended by House "A," "B," "C," and "D")*

AN ACT CONCERNING ZONING AND THE MUNICIPAL PLAN OF CONSERVATION AND DEVELOPMENT**SUMMARY:**

This bill changes the way fines for zoning violations can be imposed from the current law's maximum of \$150 for a single violation to \$150 for each day a violation continues. Municipalities must establish penalties for zoning violations by ordinance, but the statutes set the limit on such fines.

The bill also makes explicit that any person aggrieved by a zoning commission's decision to approve or deny a site plan may appeal the decision in Superior Court.

It requires a local zoning commission to consider its town's plan of conservation and development when considering a regulation or boundary change or repeal rather than only when adopting zoning regulations. It also requires local commissions to state on the record whether the proposed regulation or boundary adoption, change, or repeal is consistent with the plan of conservation and development.

*House Amendment "A" adds the explicit provision that decisions to approve or deny a site plan may be appealed in Superior Court.

*House Amendment "B" eliminates the original bill's requirement that a zoning commission (1) consider its town's plan of conservation and development when deciding on an applicant's site plan and (2) state on the record whether it finds the site plan consistent with the town plan.

*House Amendment "C" adds the provision that fines for zoning violations cannot exceed \$150 for each day the violation continues, rather than the current law's maximum of \$150 for a single violation. It also removes an existing provision that, in a lawsuit, a zoning

enforcement officer is liable for triple damages if a court finds he issued a zoning citation frivolously or without probable cause. An officer in this situation remains liable for damages following such a finding.

*House Amendment "D" adds the same change in fine assessment as House "C" and it restores the provision that, in a lawsuit, a zoning officer is liable for triple damages if a court finds he issued a zoning citation frivolously or without probable cause, thus returning the liability provision to current law.

EFFECTIVE DATE: October 1, 2002, except the allowing site plan appeals in court is effective upon passage.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 16 Nay 0