



General Assembly

February Session, 2002

***Raised Bill No. 374***

LCO No. 1258

Referred to Committee on Environment

Introduced by:  
(ENV)

***AN ACT CONCERNING THE OFFICE OF THE ENVIRONMENTAL  
ADVOCATE.***

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

1 Section 1. (NEW) (*Effective October 1, 2002*) (a) There is established  
2 an Office of the Environmental Advocate. The Governor, with the  
3 approval of the General Assembly, shall appoint a person with  
4 experience in and a demonstrated commitment to environmental  
5 protection to fill the Office of the Environmental Advocate. Such  
6 person shall be qualified by training and experience to perform the  
7 duties of the office as set forth in section 2 of this act. The appointment  
8 shall be made from a list of no less than three and no more than five  
9 persons prepared and submitted by the advisory committee  
10 established pursuant to section 6 of this act. Upon any vacancy in the  
11 position of Environmental Advocate, the advisory committee shall  
12 meet to consider and interview successor candidates and shall submit  
13 to the Governor a list of no less than three and no more than five of the  
14 most outstanding candidates, on or before sixty days of said vacancy.  
15 Such list shall rank the candidates in the order of committee  
16 preference. Upon receipt of the list of candidates from the advisory

17 committee, the Governor shall designate a candidate for  
18 Environmental Advocate from among the choices within four weeks of  
19 receipt of such list. If at any time any of the candidates withdraw from  
20 consideration prior to confirmation by the General Assembly, the  
21 designation shall be made from the remaining candidates on the list  
22 submitted to the Governor. If a candidate has not been designated by  
23 the Governor within the four-week time period, the candidate ranked  
24 first shall receive the designation and be referred to the General  
25 Assembly for confirmation by a two-thirds majority. If the General  
26 Assembly is not in session, the designated candidate shall serve as  
27 acting Environmental Advocate, and be entitled to the compensation,  
28 privileges and powers of the Environmental Advocate until the  
29 General Assembly meets to take action on said appointment. The  
30 person appointed Environmental Advocate shall serve for a term of  
31 five years and may be reappointed or shall continue to hold office until  
32 such person's successor is appointed and qualified. Upon any vacancy  
33 in the position of Environmental Advocate and until such time as a  
34 candidate has been confirmed by the General Assembly or, if the  
35 General Assembly is not in session, has been designated by the  
36 Governor, the Associate Environmental Advocate shall serve as the  
37 acting Environmental Advocate and be entitled to the compensation,  
38 privileges and powers of the Environmental Advocate. The  
39 Environmental Advocate shall not be removed from office except for  
40 cause, as determined by a two-thirds majority of the General  
41 Assembly.

42 (b) The Office of the Environmental Advocate shall be in the  
43 Freedom of Information Commission for administrative purposes  
44 only.

45 (c) Notwithstanding any other provision of the general statutes, the  
46 Environmental Advocate shall act independently of any state  
47 department or any officer, agent or employee of the state or a political  
48 subdivision thereof in the performance of his or her duties.

49 (d) The Environmental Advocate may, within available funds,  
50 appoint such staff as may be deemed necessary for the fiscal years  
51 ending June 30, 2003, and June 30, 2004. The duties of the staff may  
52 include the duties and powers of the Environmental Advocate if  
53 performed under the direction of the Environmental Advocate.

54 (e) The General Assembly shall annually appropriate such sums as  
55 necessary for the payment of the salaries of the staff and for the  
56 payment of office expenses and other actual expenses incurred by the  
57 Environmental Advocate in the performance of his or her duties. Any  
58 legal or court fees obtained by the state in actions brought by the  
59 Environmental Advocate shall be deposited in the General Fund.

60 Sec. 2. (NEW) (*Effective October 1, 2002*) (a) The Environmental  
61 Advocate shall:

62 (1) Evaluate the delivery of services by and the mandates of the  
63 Department of Environmental Protection and recommend such  
64 changes, including recommendations as to funding and organization,  
65 so that the department has adequate resources and direction to  
66 properly deliver services and meet its mandates;

67 (2) Review periodically the procedures established by the  
68 Department of Environmental Protection with a view toward the  
69 timely enforcement of environmental protection requirements, and to  
70 recommend revisions to such procedures;

71 (3) Review complaints of persons and investigate those which  
72 appear to constitute a violation of environmental quality standards or  
73 proper enforcement thereof;

74 (4) Investigate and report to the director or person in charge of any  
75 state agency, instrumentality, or political subdivision, and the  
76 chairmen and ranking members of the joint standing committee of the  
77 General Assembly having cognizance of matters relating to the  
78 environment, any occurrences, conditions, or practices with respect to

79 procedures, personnel, environmental quality standards or facilities  
80 which reflect inadequacies in evaluating or protecting the state's  
81 environment;

82 (5) Take action including, but not limited to, conducting programs  
83 of public education, undertaking legislative advocacy, making  
84 proposals for systemic reform, and formal legal action, in order to  
85 secure and ensure compliance by any person or state agency with the  
86 provisions of any promulgated environmental quality standards;

87 (6) Take appropriate steps to advise the public of the services of the  
88 Office of the Environmental Advocate, the purpose of the office and  
89 procedures to contact the office; and

90 (7) Initiate or intervene in any pro-environmental effort to further  
91 the goal of a clean and safe environment.

92 (b) The Environmental Advocate shall annually submit to the  
93 Governor and the chairmen and ranking members of the joint standing  
94 committee of the General Assembly having cognizance of matters  
95 relating to the environment a detailed report analyzing the work of the  
96 Office of the Environmental Advocate.

97 Sec. 3. (NEW) (*Effective October 1, 2002*) (a) Notwithstanding any  
98 provision of the general statutes concerning the confidentiality of  
99 records and information, the Environmental Advocate shall have  
100 access to, including the right to inspect and copy, any records  
101 necessary to carry out the responsibilities of the Environmental  
102 Advocate as provided in section 2 of this act. If the Environmental  
103 Advocate is denied access to any records necessary to carry out said  
104 responsibilities, he or she may issue a subpoena for the production of  
105 such records as provided in subsection (b) of this section.

106 (b) The Environmental Advocate may issue subpoenas to compel  
107 the attendance and testimony of witnesses or the production of books,  
108 papers and other documents and to administer oaths to witnesses in

109 any matter under his or her investigation. If any person to whom such  
110 subpoena is issued fails to appear or, having appeared, refuses to give  
111 testimony or fails to produce the evidence required, the Environmental  
112 Advocate may apply to the superior court for the judicial district of  
113 Hartford which shall have jurisdiction to order such person to appear  
114 and give testimony or to produce such evidence, as the case may be.

115 (c) The Environmental Advocate may apply for and accept grants,  
116 gifts and bequests of funds from other states, federal and interstate  
117 agencies and independent authorities and private firms, individuals  
118 and foundations, for the purpose of carrying out his or her  
119 responsibilities. There is established within the General Fund an  
120 environmental advocate account which shall be a separate nonlapsing  
121 account. Any funds received under this subsection shall, upon deposit  
122 in the General Fund, be credited to said account and may be used by  
123 the Environmental Advocate in the performance of his or her duties.

124 Sec. 4. (NEW) (*Effective October 1, 2002*) (a) The name, address and  
125 other personally identifiable information of a person who makes a  
126 complaint to the Environmental Advocate as provided in section 2 of  
127 this act, all information obtained or generated by the office in the  
128 course of an investigation and all confidential records obtained by the  
129 Environmental Advocate or a designee shall be confidential and shall  
130 not be subject to disclosure under the Freedom of Information Act or  
131 otherwise, except that such information and records, other than  
132 confidential information concerning a pending law enforcement  
133 investigation or a pending prosecution, may be disclosed if the  
134 Environmental Advocate determines that disclosure is (1) in the  
135 general public interest, or (2) necessary to enable the Environmental  
136 Advocate to perform his or her responsibilities.

137 (b) No state or municipal agency shall discharge, or in any manner  
138 discriminate or retaliate against, any employee who in good faith  
139 makes a complaint to the Environmental Advocate or cooperates with  
140 the Office of the Environmental Advocate in an investigation.

141       Sec. 5. (NEW) (*Effective October 1, 2002*) The state of Connecticut  
142 shall protect and hold harmless any person employed by the Office of  
143 the Environmental Advocate and any volunteer appointed by the  
144 Environmental Advocate from financial loss and expense, including  
145 legal fees and costs, if any, arising out of any claim, demand or suit for  
146 damages resulting from acts or omissions committed in the discharge  
147 of his or her duties with the program within the scope of his or her  
148 employment or appointment which may constitute negligence but  
149 which acts are not wanton, malicious or grossly negligent as  
150 determined by a court of competent jurisdiction.

151       Sec. 6. (NEW) (*Effective October 1, 2002*) (a) There is established an  
152 advisory committee to the Office of the Environmental Advocate  
153 which shall prepare and submit to the Governor in accordance with  
154 section 1 of this act a list of candidates for appointment as  
155 Environmental Advocate. The advisory committee shall meet three  
156 times a year with the Environmental Advocate and his or her staff to  
157 review and assess the following: (1) National and state trends and  
158 initiatives regarding environmental protection; (2) policy implications  
159 of the findings of subdivision (1) of this subsection; and (3) necessary  
160 systemic improvements. The advisory committee shall also provide for  
161 an annual evaluation of the effectiveness of said office.

162       (b) The advisory committee shall consist of: (1) One representative  
163 of the League of Conservation Voters, appointed by its board of  
164 directors; (2) one representative of the Nature Conservancy, appointed  
165 by its board of directors; (3) one representative of the Sierra Club,  
166 appointed by its board of directors; (4) one representative of Clean  
167 Water Action, appointed by its board of directors; (5) one member of  
168 Save The Sound, appointed by its board of directors; (6) one member  
169 of Toxics Action Center, appointed by its board of directors; (7) one  
170 member of a land or open space preservation group, appointed by the  
171 speaker of the House of Representatives; (8) one member of the  
172 American Lung Association, appointed by the majority leader of the  
173 House of Representatives; (9) one member of the Coalition of

174 Connecticut Sportsmen, appointed by the minority leader of the House  
175 of Representatives; (10) one physician, appointed by the president pro  
176 tempore of the Senate; (11) one attorney with expertise in  
177 environmental law, appointed by the majority leader of the Senate; and  
178 (12) one representative from the educational community with an  
179 expertise in environmental science, appointed by the minority leader  
180 of the Senate. Each member of the advisory committee shall serve a  
181 five-year term.

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>October 1, 2002</i>

**Statement of Purpose:**

To establish the Office of Environmental Advocate.

*[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.]*