



General Assembly

Substitute Bill No. 374

February Session, 2002

**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 after such
15 vacancy. 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 not later than four
19 weeks after receipt of such list. If at any time any of the candidates
20 withdraw from consideration prior to confirmation by the General
21 Assembly, the designation shall be made from the remaining

22 candidates on the list submitted to the Governor. If a candidate has not
23 been designated by the Governor within the four-week time period,
24 the candidate ranked first shall receive the designation and be referred
25 to the General Assembly for confirmation by a two-thirds majority. If
26 the General Assembly is not in session, the designated candidate shall
27 serve as acting Environmental Advocate, and be entitled to the
28 compensation, privileges and powers of the Environmental Advocate
29 until the General Assembly meets to take action on said appointment.
30 The person appointed Environmental Advocate shall serve for a term
31 of five years and may be reappointed or shall continue to hold office
32 until such person's successor is appointed and qualified. Upon any
33 vacancy in the position of Environmental Advocate and until such
34 time as a candidate has been confirmed by the General Assembly or, if
35 the 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 monetary judgment or award obtained by the state in actions brought
59 by the Environmental Advocate shall be deposited in the General
60 Fund.

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

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

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

72 (3) Review complaints of persons and investigate those that appear
73 to constitute a violation of environmental quality standards or
74 improper enforcement thereof and that appear to require systemic or
75 legislative change;

76 (4) Investigate and report to the director or person in charge of any
77 state agency, instrumentality, or political subdivision, and the
78 chairmen and ranking members of the joint standing committee of the
79 General Assembly having cognizance of matters relating to the
80 environment, any occurrences, conditions, or practices with respect to
81 procedures, personnel, environmental quality standards or facilities
82 which reflect inadequacies in evaluating or protecting the state's
83 environment;

84 (5) Take action including, but not limited to, conducting programs

85 of public education, undertaking legislative advocacy, making
86 proposals for systemic reform, and formal legal action, in order to
87 secure and ensure compliance by any state or municipal offices or
88 agencies with the provisions of any promulgated environmental
89 quality standards;

90 (6) Take appropriate steps to advise the public of the services of the
91 Office of the Environmental Advocate, the purpose of the office and
92 procedures to contact the office; and

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

95 (b) The Environmental Advocate shall annually submit to the
96 Governor, the chairmen and ranking members of the joint standing
97 committee of the General Assembly having cognizance of matters
98 relating to the environment and the Council on Environmental Quality
99 a detailed report analyzing the work of the Office of the Environmental
100 Advocate.

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

110 (b) The Environmental Advocate may issue subpoenas to compel
111 the attendance and testimony of any employees or contractors of any
112 state or municipal offices or agencies or the production of books,
113 papers and other documents from such offices and agencies and to
114 administer oaths to such employees or contractors in any matter under
115 his or her investigation. If any person to whom such subpoena is
116 issued fails to appear or, having appeared, refuses to give testimony or

117 fails to produce the evidence required, the Environmental Advocate
118 may apply to the superior court for the judicial district of Hartford
119 which shall have jurisdiction to order such person to appear and give
120 testimony or to produce such evidence, as the case may be.

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

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

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

147 Sec. 5. (NEW) (*Effective October 1, 2002*) The state of Connecticut
148 shall protect and hold harmless any person employed by the Office of

149 the Environmental Advocate and any volunteer appointed by the
150 Environmental Advocate from financial loss and expense, including
151 legal fees and costs, if any, arising out of any claim, demand or suit for
152 damages resulting from acts or omissions committed in the discharge
153 of his or her duties with the program within the scope of his or her
154 employment or appointment which may constitute negligence but
155 which acts are not wanton, malicious or grossly negligent as
156 determined by a court of competent jurisdiction.

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

168 (b) The advisory committee shall consist of: (1) One representative
169 of the League of Conservation Voters, appointed by its board of
170 directors; (2) one representative of the Nature Conservancy, appointed
171 by its board of directors; (3) one representative of the Sierra Club,
172 appointed by its board of directors; (4) one representative of Clean
173 Water Action, appointed by its board of directors; (5) one member of
174 Save The Sound, appointed by its board of directors; (6) one member
175 of Toxics Action Center, appointed by its board of directors; (7) one
176 member of a land or open space preservation group, appointed by the
177 speaker of the House of Representatives; (8) one member of the
178 Connecticut Fund for the Environment, appointed by the majority
179 leader of the House of Representatives; (9) one member of either the
180 National or Connecticut Audubon Society, appointed by the minority
181 leader of the House of Representatives; (10) one physician, appointed
182 by the president pro tempore of the Senate; (11) one attorney with

183 expertise in environmental law, appointed by the majority leader of
184 the Senate; and (12) one representative from the educational
185 community with an expertise in environmental science, appointed by
186 the minority leader of the Senate. Each member of the advisory
187 committee shall serve a 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>

ENV *Joint Favorable Subst.*

APP *Joint Favorable*

GAE *Joint Favorable*