



House of Representatives

General Assembly

File No. 83

January Session, 2003

House Bill No. 6552

House of Representatives, March 27, 2003

The Committee on Environment reported through REP. WIDLITZ of the 98th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING TREES ALONG STATE HIGHWAYS.

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

1 Section 1. Subsection (a) of section 13a-140 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2003*):

4 (a) The commissioner may cut, remove or prune any tree, shrub or
5 other vegetation situated wholly or partially within the limits of any
6 state highway so far as is reasonably necessary for safe and convenient
7 travel thereon, provided the chief elected official of the municipality in
8 which any such tree with a diameter of six inches or greater to be
9 trimmed, cut or removed has first been notified in writing of the
10 location and description of such tree to be trimmed, cut or removed
11 and such official had the opportunity to submit to the commissioner
12 any information concerning the proposed trimming, cutting or
13 removal of such tree. No person, firm or corporation, and no officer,
14 agent or employee of any municipal or other corporation, shall cut,

15 remove or prune any tree, shrub or vegetation situated partially or
16 wholly within the limits of any such highway without first obtaining
17 from said commissioner a written permit therefor, provided however,
18 that nothing contained in this subsection shall limit the rights of public
19 service companies, as defined in section 16-1, to cut and trim trees and
20 branches and otherwise protect their lines, wires, conduits, cables and
21 other equipment from encroaching vegetation. No such permit shall be
22 issued by the commissioner unless the chief elected official of the
23 municipality in which any tree [with a diameter greater than eighteen
24 inches] to be trimmed, cut or removed is situated is notified in writing.
25 The notice shall include the location and a description of such tree to
26 be trimmed, cut or removed. [No such permit for the removal of any
27 such tree, shrub or vegetation shall be refused if such removal is
28 necessary for that use of such adjoining land which is of the highest
29 pecuniary value.] The chief elected official of such municipality shall
30 have the opportunity to submit to the commissioner any information
31 concerning the proposed trimming, cutting or removal of such tree.
32 Such chief elected official may appeal to the commissioner any
33 decision concerning an application for trimming, cutting or removing
34 of trees upon which said chief elected official submitted information. If
35 such permit is refused on any state highway right-of-way, where the
36 state does not own the right-of-way in fee, the owner of such tree,
37 shrub or vegetation may, within thirty days thereafter, request said
38 commissioner in writing to purchase or condemn an easement for the
39 purpose of maintaining such tree, shrub or vegetation and, if said
40 commissioner does not purchase the same, he shall condemn it, in the
41 manner provided for the condemnation of land for the construction,
42 alteration, extension or widening of state highways. Any payment so
43 made shall be from funds appropriated to the Department of
44 Transportation. Said commissioner may plant, set out and care for
45 trees, shrubs or vegetation within the limits of such highways and, by
46 agreement with the owner of land adjoining such highways, upon
47 such adjoining land. Upon request in writing within thirty days of
48 planting of trees, shrubs or vegetation to delimit boundaries of a
49 highway by an adjoining owner not agreeing thereto, said

50 commissioner shall purchase or condemn an easement for the purpose
51 of maintaining such tree, shrub or vegetation in the manner provided
52 in this subsection. [When the removal of such tree, shrub or vegetation
53 is necessary for that use of such adjoining land which is of the highest
54 pecuniary value, said commissioner shall remove the same upon
55 payment to him of all sums paid for said planting and for any such
56 easement with interest at the rate of six per cent per annum.] Any
57 person, firm or corporation cutting, removing, damaging or pruning
58 any tree, shrub or vegetation in violation of the provisions of this
59 subsection, whether it was planted by the commissioner or not,
60 without a permit from said commissioner, shall be fined not more than
61 one thousand dollars for each such violation and shall be liable civilly
62 for any damage in an action brought by said commissioner.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>

ENV *Joint Favorable*

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:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Transportation, Dept.	TF - Cost	\$405,000 to \$650,000	\$470,000 to \$790,000
Comptroller Misc. Accounts (Fringe Benefits)	TF - Cost	\$19,440	\$96,000

Note: TF=Transportation Fund

Municipal Impact:

Municipalities	Effect	FY 04 \$	FY 05 \$
All Municipalities	Cost	Minimal	Minimal

Explanation

This bill will result in cumulative costs to the Department of Transportation (DOT) that could range from \$424,000 to \$667,000 in FY 03 and from \$565,000 to \$890,000 in subsequent fiscal years. It will also result in additional costs to municipalities that are anticipated to be minimal. The bill requires the commissioner of DOT to notify the chief elected official of the municipality in which any tree with a diameter of six inches or greater is to be trimmed, cut, or removed. The tree cannot be cut until the official has had the opportunity to submit to the commissioner any feedback concerning the proposed action. In addition, the bill reduces, from eighteen inches to six inches, the diameter of a tree on state highway land that a third party must obtain the commissioner's permission (a permit) to trim, cut, or remove and provide notification to the chief elected official of the municipality. The chief elected official may appeal to the commissioner any decision concerning the permit application.

The department trims and or removes hundreds of thousands of trees each year many of which are six inches or greater in diameter. It

spends almost \$6,000,000 each year on these activities, which are necessary to maintain the safety of driving on the state's highways and roads by 1) maintaining sightlines, 2) improving drainage, and 3) keeping the roads open to allow sun and air movement to prevent icing conditions during winter months.

The department would require additional personnel to draft letters and prepare plans for submittal to the chief elected officials of the affected municipalities. Field meetings will have to be conducted for all the tree maintenance operations conducted by the department as they all involve trees six inches or greater in diameter. The department estimates that each of their four districts will need an additional employee to handle the meetings and prepare responses. The average cost will be \$60,000 per employee including fringe benefits and overhead, for a total annual cost of \$240,000.

The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The total fringe benefit reimbursement rate as a percentage of payroll is 40.21%, effective July 1, 2002. However, first year fringe benefit costs for new positions do not include pension costs lowering the rate to 18.81% in FY 04. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System.

In addition, the chief elected officials are expected to hold public meetings on many of the proposals to trim, cut and remove trees. The department estimates that public hearings for both DOT and permit operations will require two employees for after-hours meetings which will have to be held in the local municipality at a cost of about \$500 per hearing. This includes time and a half overtime plus travel costs. While the actual number of hearings is not known at this time, the department estimates that there will be 300 hearings for permit work and at least 1,000 for DOT work. This would be an additional cost of \$650,000 per year. Even if only one employee is sent to each meeting, the annual cost would be \$325,000. Municipalities would incur

minimal costs from 1) responding to the commissioner of DOT's notifications, and 2) holding public hearings.

The bill's requirements could also delay work that is directly related to the safety of motorists. The potential liability costs cannot be determined, but they could be significant.

OLR Bill Analysis

HB 6552

AN ACT CONCERNING TREES ALONG STATE HIGHWAYS**SUMMARY:**

This bill requires the transportation commissioner to notify a municipality's chief elected official (CEO) before trimming, cutting, or removing any tree in the municipality that is on a state highway right-of-way and is six inches or more in diameter. The notice must be in writing, describe the tree, and give its location. The bill allows the CEO to submit information on the proposed action to the commissioner.

Current law requires anyone wishing to prune, cut, or remove a tree on a state highway right-of-way to apply to the commissioner for a permit, and the commissioner must provide a municipality's CEO with written notice of any application to cut, prune, or remove a tree 18 inches or more in diameter on a state highway right-of-way in that municipality. The notice must include the location and description of the tree. The bill (1) removes the 18-inch specification, thus requiring notification about any tree for which someone applies for a permit; (2) specifies that the notice applies to trimming as well as cutting or removal; and (3) allows the CEO to appeal to the commissioner any decision he makes about a permit.

The bill eliminates a provision that prohibits the commissioner from refusing a permit application for removing any tree, shrub, or vegetation when removal is necessary for using the adjoining land at its greatest economic value. It also eliminates an accompanying payment requirement.

EFFECTIVE DATE: October 1, 2003

COMMITTEE ACTION

Environment Committee

Joint Favorable Report

Yea 25 Nay 0

