



House of Representatives

File No. 682

General Assembly

February Session, 2004 **(Reprint of File No. 209)**

Substitute House Bill No. 5045
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
April 29, 2004

**AN ACT CONCERNING FLOODPLAIN MANAGEMENT AND HAZARD
MITIGATION.**

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

1 Section 1. (NEW) (*Effective October 1, 2004*) (a) As used in this section
2 and section 4 of this act, "floodplain" means that area of a municipality
3 located within the real or theoretical limits of the base flood or base
4 flood for a critical activity, as determined by the municipality or the
5 Federal Emergency Management Agency in its flood insurance study
6 or flood insurance rate map for the municipality prepared pursuant to
7 the National Flood Insurance Program, 44 CFR Part 59 et seq.

8 (b) Whenever a municipality, pursuant to the National Flood
9 Insurance Program, 44 CFR Part 59 et seq., is required to revise its
10 zoning regulations or any other ordinances regulating a proposed
11 building, structure, development or use located in a floodplain, the
12 revision shall provide for restrictions for flood storage and conveyance
13 of water for floodplains that are not tidally influenced as follows:

14 (1) Within a designated floodplain, encroachments resulting from

15 fill, new construction or substantial improvements, as defined in 44
16 CFR Part 59.1, involving an increase in footprint to the structure shall
17 be prohibited unless the applicant provides to the zoning commission
18 certification by a state licensed engineer that such encroachment shall
19 not result in any increase in base flood elevation;

20 (2) The water holding capacity of the floodplain shall not be reduced
21 by any form of development unless such reduction (A) is compensated
22 for by deepening or widening the floodplain, (B) is on-site, or if
23 adjacent property owners grant easements and the municipality in
24 which the development is located authorizes such off-site
25 compensation, (C) is within the same hydraulic reach and a volume
26 not previously used for flood storage, (D) is hydraulically comparable
27 and incrementally equal to the theoretical volume of flood water at
28 each elevation, up to and including the hundred year flood elevation,
29 which would be displaced by the proposed project, and (E) has an
30 unrestricted hydraulic connection to the same waterway or water
31 body; and

32 (3) Work within adjacent land subject to flooding, including work to
33 provide compensatory storage, shall not result in any increase in flood
34 stage or velocity.

35 (c) Notwithstanding the provisions of subsection (b) of this section,
36 a municipality may adopt more stringent restrictions for flood storage
37 and conveyance of water for floodplains that are not tidally influenced.

38 Sec. 2. Section 16a-27 of the general statutes, as amended by section
39 10 of public act 03-4 of the June 30 special session, is repealed and the
40 following is substituted in lieu thereof (*Effective October 1, 2004*):

41 (a) The secretary, after consultation with all appropriate state,
42 regional and local agencies and other appropriate persons shall prior
43 to March 1, 2003, complete a revision of the existing plan and enlarge it
44 to include, but not be limited to, policies relating to transportation,
45 energy and air. Any revision made after May 15, 1991, shall identify
46 the major transportation proposals, including proposals for mass

47 transit, contained in the master transportation plan prepared pursuant
48 to section 13b-15. Any revision made after July 1, 1995, shall take into
49 consideration the conservation and development of greenways that
50 have been designated by municipalities and shall recommend that
51 state agencies coordinate their efforts to support the development of a
52 state-wide greenways system. The Commissioner of Environmental
53 Protection shall identify state-owned land for inclusion in the plan as
54 potential components of a state greenways system.

55 (b) Any revision made after August 20, 2003, shall take into account
56 (1) economic and community development needs and patterns of
57 commerce, and (2) linkages of affordable housing objectives and land
58 use objectives with transportation systems.

59 (c) Any revision made after March 1, 2006, shall (1) take into
60 consideration risks associated with natural hazards, including, but not
61 limited to, flooding, high winds and wildfires; (2) identify the potential
62 impacts of natural hazards on infrastructure and property; and (3)
63 make recommendations for the siting of future infrastructure and
64 property development to minimize the use of areas prone to natural
65 hazards, including, but not limited to, flooding, high winds and
66 wildfires.

67 [(b)] (d) Thereafter on or before March first in each revision year the
68 secretary shall complete a revision of the plan of conservation and
69 development.

70 Sec. 3. Subdivision (4) of subsection (a) of section 7-536 of the
71 general statutes is repealed and the following is substituted in lieu
72 thereof (*Effective October 1, 2004*):

73 (4) "Local capital improvement project" means a municipal capital
74 expenditure project for any of the following purposes: (A) Road
75 construction, renovation, repair or resurfacing, (B) sidewalk and
76 pavement improvements, (C) construction, renovation, enlargement or
77 repair of sewage treatment plants and sanitary or storm, water or
78 sewer lines, including separation of lines, (D) public building

79 construction other than schools, including renovation, repair, code
80 compliance, energy conservation and fire safety projects, (E)
81 construction, renovation, enlargement or repair of dams, bridges and
82 flood control projects, (F) construction, renovation, enlargement or
83 repair of water treatment or filtration plants and water mains, (G)
84 construction, renovation or enlargement of solid waste facilities, (H)
85 improvements to public parks, (I) the preparation and revision of local
86 capital improvement plans projected for a period of not less than five
87 years and so prepared as to show the general description, need and
88 estimated cost of each individual capital improvement, (J)
89 improvements to emergency communications systems, (K) public
90 housing projects, including renovations and improvements and energy
91 conservation and the development of additional housing, (L)
92 renovations to or construction of veterans' memorial monuments, (M)
93 thermal imaging systems, (N) bulky waste and landfill projects, (O) the
94 preparation and revision of municipal plans of conservation and
95 development adopted pursuant to section 8-23, provided such plans
96 are endorsed by the legislative body of the municipality not more than
97 one hundred eighty days after adoption by the commission, [and] (P)
98 acquisition of automatic external defibrillators, and (Q) floodplain
99 management and hazard mitigation activities. "Local capital
100 improvement project" means only capital expenditures and includes
101 repairs incident to reconstruction and renovation but does not include
102 ordinary repairs and maintenance of an ongoing nature and
103 "floodplain management" and "hazard mitigation" shall have the same
104 meaning as in section 8 of this act.

105 Sec. 4. (NEW) (*Effective October 1, 2004*) The Commissioner of
106 Environmental Protection shall develop guidelines to be used by
107 municipalities in revising ordinances restricting flood storage and
108 conveyance of water for floodplains, as defined in section 1 of this act,
109 that are not tidally influenced. Such guidelines shall include, but not be
110 limited to, a model ordinance that may be used by municipalities to
111 comply with the provisions of section 1 of this act. The commissioner
112 shall make the guidelines available to the public.

113 Sec. 5. Subsection (d) of section 20-327b of the general statutes, as
114 amended by section 146 of public act 03-6 of the June 30 special
115 session, is repealed and the following is substituted in lieu thereof
116 (*Effective October 1, 2004*):

117 (d) (1) The Commissioner of Agriculture and Consumer Protection,
118 shall, by regulations adopted in accordance with the provisions of
119 chapter 54, prescribe the form of the written residential disclosure
120 report required by this section and sections 20-327c to 20-327e,
121 inclusive. The regulations shall provide that the form include
122 information concerning municipal assessments, including, but not
123 limited to, sewer or water charges applicable to the property. Such
124 information shall include: (i) Whether such assessment is in effect and
125 the amount of the assessment; (ii) whether there is an assessment on
126 the property that has not been paid, and if so, the amount of the
127 unpaid assessment; and (iii) to the extent of the seller's knowledge,
128 whether there is reason to believe that the municipality may impose an
129 assessment in the future.

130 (2) Such form of the written residential disclosure report shall
131 contain the following:

132 (A) A certification by the seller in the following form:

133 "To the extent of the seller's knowledge as a property owner, the
134 seller acknowledges that the information contained above is true and
135 accurate for those areas of the property listed. In the event a real estate
136 broker or salesperson is utilized, the seller authorizes the brokers or
137 salespersons to provide the above information to prospective buyers,
138 selling agents or buyers' agents.

T1 (Date) (Seller)
T2 (Date) (Seller)"

139 (B) A certification by the buyer in the following form:

140 "The buyer is urged to carefully inspect the property and, if desired,
 141 to have the property inspected by an expert. The buyer understands
 142 that there are areas of the property for which the seller has no
 143 knowledge and that this disclosure statement does not encompass
 144 those areas. The buyer also acknowledges that the buyer has read and
 145 received a signed copy of this statement from the seller or seller's
 146 agent.

T3 (Date) (Seller)
 T4 (Date) (Seller)"

147 (C) A statement concerning the responsibility of real estate brokers
 148 in the following form:

149 "This report in no way relieves a real estate broker of the broker's
 150 obligation under the provisions of section 20-328-5a of the Regulations
 151 of Connecticut State Agencies to disclose any material facts. Failure to
 152 do so could result in punitive action taken against the broker, such as
 153 fines, suspension or revocation of license."

154 (D) A statement that any representations made by the seller on the
 155 written residential disclosure report shall not constitute a warranty to
 156 the buyer.

157 (E) A statement that the written residential disclosure report is not a
 158 substitute for inspections, tests and other methods of determining the
 159 physical condition of property.

160 (F) Information concerning environmental matters such as lead,
 161 radon, subsurface sewage disposal, flood hazards and such other
 162 topics as the Commissioner of Agriculture and Consumer Protection
 163 may determine would be of interest to a buyer.

164 (G) A statement that information concerning the residence address
 165 of a person convicted of a crime may be available from law
 166 enforcement agencies or the Department of Public Safety and that the

167 Department of Public Safety maintains a site on the Internet listing
168 information about the residence address of persons required to register
169 under section 54-251, 54-252, 54-253 or 54-254, who have so registered.

170 Sec. 6. Section 22a-27j of the general statutes, as amended by section
171 108 of public act 03-6 of the June 30 special session, is repealed and the
172 following is substituted in lieu thereof (*Effective July 1, 2004*):

173 (a) Any person, firm or corporation, other than a municipality,
174 making an application for any approval required by chapters 124, 126,
175 440 and 444 or by regulations adopted pursuant to said chapters shall
176 pay a fee of twenty dollars, in addition to any other fee which may be
177 required, to the municipal agency or legislative body which is
178 authorized to approve the application. On and after July 1, 2004, the
179 fee shall be thirty dollars. Such municipal agency or legislative body
180 shall collect such fees, retaining [one dollar] two dollars of such fee for
181 administrative costs, and shall pay the remainder of such fees
182 quarterly to the Department of Environmental Protection and the
183 receipts shall be deposited into an account of the State Treasurer and
184 credited to the Environmental Quality Fund established pursuant to
185 section 22a-27g. The portion of such fund attributable to the fees
186 established by this section shall be used by the Department of
187 Environmental Protection as follows: (1) Nineteen dollars shall be used
188 for the purpose of funding the environmental review teams program
189 of the Bureau of Water Management within said department, the
190 Council on Soil and Water Conservation established pursuant to
191 section 22a-315 and the eight county soil and water conservation
192 districts, and (2) nine dollars shall be deposited into the hazard
193 mitigation and floodplain management account established pursuant
194 to section 7 of this act and used for grants under section 9 of this act.

195 (b) Not later than three months following the close of each fiscal
196 year starting with fiscal year July 1, 2000, the Department of
197 Environmental Protection shall identify those municipalities that are
198 not in compliance with subsection (a) of this section for the previous
199 fiscal year and shall provide the Office of Policy and Management with

200 a list of such municipalities. The list shall be submitted annually and in
201 such manner as the Office of Policy and Management may require. The
202 Office of Policy and Management, when issuing the first payment from
203 the Mashantucket Pequot and Mohegan Fund established pursuant to
204 section 3-55i, in the fiscal year during which said list is received, shall
205 reduce said payment to a municipality by [five hundred] one thousand
206 dollars for each quarter of the preceding fiscal year that the
207 municipality has not been in compliance with subsection (a) of this
208 section to a maximum of [two] four thousand dollars in each fiscal
209 year. The Office of Policy and Management shall certify to the State
210 Comptroller the amount of any funds withheld under this subsection
211 to be transferred to the Environmental Quality Fund for the uses set
212 forth in subsection (a) of this section, and the State Comptroller shall
213 cause said amount to be transferred to such fund.

214 Sec. 7. (NEW) (*Effective July 1, 2004*) There is established an account
215 to be known as the "hazard mitigation and floodplain management
216 account". The hazard mitigation and floodplain management account
217 shall be an account of the Environmental Quality Fund established
218 under section 22a-27g of the general statutes. Notwithstanding any
219 provision of the general statutes, any moneys required by law to be
220 deposited in the account shall be deposited in the Environmental
221 Quality Fund and credited to the hazard mitigation and floodplain
222 management account. Any balance remaining in the account at the end
223 of any fiscal year shall be carried forward in the account for the fiscal
224 year next succeeding. The account shall be available to the
225 Commissioner of Environmental Protection for the purposes of
226 sections 8 to 12, inclusive, of this act.

227 Sec. 8. (NEW) (*Effective July 1, 2004*) As used in sections 9 to 12,
228 inclusive, of this act:

229 (1) "Eligible applicant" means any municipality, regional planning
230 agency organized under the provisions of chapter 127 of the general
231 statutes, any regional council of elected officials organized under the
232 provisions of chapter 50 of the general statutes, or any regional council

233 of government organized under the provisions of sections 4-124i to 4-
234 124p, inclusive, of the general statutes;

235 (2) "Hazard mitigation" means activities that include, but are not
236 limited to, actions taken to reduce or eliminate long-term risk to
237 human life, infrastructure and property resulting from natural hazards
238 including, but not limited to, flooding, high winds and wildfires; and

239 (3) "Floodplain management" means activities that include, but are
240 not limited to, actions taken to retain the existing capacity of
241 designated floodplain areas to store and convey flood waters.

242 Sec. 9. (NEW) (*Effective July 1, 2004*) (a) The Commissioner of
243 Environmental Protection shall establish and administer a hazard
244 mitigation and floodplain management grant program to reimburse
245 eligible applicants for costs incurred in the reduction or elimination of
246 long-term risks to human life, infrastructure and property from natural
247 hazards, including, but not limited to, flooding, high winds and
248 wildfires, and in the retention of present capacity of designated
249 floodplain areas to store and convey flood waters. Each grant shall be
250 in an amount equal to ninety per cent of the costs to be incurred for
251 such activities. Application for a grant shall be made in writing to the
252 commissioner in such form as the commissioner may prescribe and
253 shall include a description of the purpose, objectives and budget of the
254 activities to be funded by the grant. If the applicant is a municipality,
255 the chief executive officer of the municipality applying for the grant
256 may designate the town planner, the director of public works, the
257 police chief, the fire chief or the emergency management director of
258 such municipality as the agent to make the application.

259 (b) The Commissioner of Environmental Protection shall establish,
260 by regulations adopted in accordance with chapter 54 of the general
261 statutes, relative priorities for the approval of grants under this section.
262 Such priorities may take into account the differing needs of eligible
263 applicants, the need for consistency and equity in the distribution of
264 grant awards and the extent to which particular projects may advance

265 the purposes of this section. The commissioner shall accord highest
266 priority to projects which involve (1) the preparation or revision of
267 hazard mitigation plans by municipalities, or (2) participation in the
268 community rating system of the National Flood Insurance Program.
269 The commissioner shall accord secondary priority to projects which
270 involve (A) the execution of hazard mitigation projects by
271 municipalities in accordance with approved hazard mitigation plans;
272 or (B) administering and providing financial assistance for the hazard
273 mitigation and floodplain management grant program established
274 under this section. The commissioner may establish further criteria for
275 the approval of grants under this section. Not later than February 1,
276 2005, the commissioner shall develop and disseminate a pamphlet that
277 describes the evaluation process for grant applications under this
278 section. In awarding grants under this section, the commissioner shall
279 consult with any person the commissioner deems necessary.

280 (c) The commissioner shall authorize grant awards under this
281 section on or before July thirty-first and December thirty-first of each
282 fiscal year in which payment of a grant is to be made.

283 (d) The commissioner shall allocate not less than sixty per cent of
284 the moneys in the hazard mitigation and floodplain management
285 account in any fiscal year for grants under this section.

286 Sec. 10. (NEW) (*Effective October 1, 2004*) (a) On and after July 1,
287 2005, the Commissioner of Environmental Protection shall make grants
288 to municipalities under section 9 of this act, from funds in the hazard
289 mitigation and floodplain management account, established under
290 section 7 of this act.

291 (b) If the commissioner finds that any grant awarded pursuant to
292 this section is being used for other purposes or to supplant a previous
293 source of funds, the commissioner may require repayment.

294 Sec. 11. (NEW) (*Effective October 1, 2004*) (a) Recipients of grants
295 under section 9 of this act shall submit a report to the Commissioner of
296 Environmental Protection, in such form as the commissioner

297 prescribes, not later than September first of the fiscal year following
 298 the fiscal year such grant was received. Such report shall contain a
 299 description of activities paid for with financial assistance under the
 300 grant. The chief executive officer of a municipality that receives a grant
 301 may designate the town planner, the director of public works, the
 302 police chief, the fire chief or the emergency management director of
 303 such municipality as the agent to make such report.

304 (b) On or before January 1, 2007, and annually thereafter, the
 305 Commissioner of Environmental Protection shall prepare a report on
 306 grants made under section 9 of this act for the preceding fiscal year.
 307 Each such report shall include: (1) A description of the grants made,
 308 including the amount, purposes and the municipalities to which they
 309 were made; and (2) any findings or recommendations concerning the
 310 operation and effectiveness of the grant program.

311 Sec. 12. (NEW) (*Effective July 1, 2004*) The Commissioner of
 312 Environmental Protection shall adopt regulations, in accordance with
 313 the provisions of chapter 54 of the general statutes, to implement the
 314 provisions of sections 8 to 11, inclusive, of this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>July 1, 2004</i>
Sec. 7	<i>July 1, 2004</i>
Sec. 8	<i>July 1, 2004</i>
Sec. 9	<i>July 1, 2004</i>
Sec. 10	<i>October 1, 2004</i>
Sec. 11	<i>October 1, 2004</i>
Sec. 12	<i>July 1, 2004</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:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Department of Environmental Protection	Environmental Quality Spill Account/GF-Cost/Revenue Gain	See Below	See Below
Policy & Mgmt., Off.	GF - Cost	None	None
Consumer Protection, Dept.	GF - Cost	None	None

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$
Various Municipalities	Potential Cost Potential Revenue Gain	See Below	See Below

Explanation

The bill requires the Department of Environmental Protection, (DEP) to develop guidelines to be used by the municipalities in revising ordinances concerning floodplain management, including a model ordinance, work with the municipalities, provide grants for local floodplain and mitigation projects, establish regulations for priorities for the grant funding and to develop a pamphlet. Towns must adopt standards for managing floodplains and reducing hazards when the federal government requires them to do so under the Federal National Flood Insurance Program. It is anticipated that these requirements can be accomplished initially through the increase in the land use application fee established in the bill. The current \$20 fee is increased to \$30. The towns will retain a dollar of the increase for administrative costs and will submit the additional \$9 to the DEP to be

deposited into a hazard mitigation and floodplain management account. The increase in the fee is anticipated to raise approximately \$300,000 a year. Revenue in this account has not changed much year to year, however, the fee was increased by \$10 effective 8/03 in PA 03-06, JSS. The bill requires that 60% of the new revenue be used for grants to towns. This results in a minimum of \$180,000 being available for the grants and potentially \$120,000 for use by the DEP. This will enable the DEP to hire one full-time employee and associated expenses (including fringe benefits), establish regulations and develop a pamphlet. The bill also requires that each grant be equal to 90% of the costs incurred by the municipalities.

In addition, non-compliance with the land use fee provisions results in a reduction of a town's Mashantucket Pequot and Mohegan Fund payments, as is current law. The bill doubles, from \$2,000 to \$4,000 the maximum amount a year that can be withheld. Any potential revenue loss to municipalities due to reduction of their grant payments would vary from town to town. The overall impact is anticipated to be minimal. Transferring the withheld grant payments to the Environmental Quality Fund to be used for the floodplain management program will minimally increase revenue to the program for grants to towns or administrative costs.

To the extent that allowing towns to use Local Capital Improvement Project (LoCIP) funds to specifically manage floodplains and reduce hazards diverts funds from one project to another or increases the potential use of the funds, there will be an increase in debt service costs in future years. The unallocated GO bond fund balance as of March 19, 2003 is \$72.5 million.

The bill requires that when the Office of Policy and Management (OPM) revises the State Plan of Conservation and Development, after March 1, 2006, the agency identify how flooding, high winds, wildfire and other natural hazards affect infrastructure and make recommendations to minimize damage from these hazards. It is anticipated that OPM can identify such areas within the agency's

current budgetary resources.

The bill requires the Commissioner of Consumer Protection to adopt regulations and to amend the current Residential Property Disclosure form via regulations. The adoption of regulations and any workload increase can be handled by staff within normal duties and responsibilities.

House "A" is technical and does not change the fiscal impact of the file.

OLR BILL ANALYSIS

sHB 5045 (as amended by House "A")*

AN ACT CONCERNING FLOODPLAIN MANAGEMENT AND HAZARD MITIGATION**SUMMARY:**

This bill (1) requires towns to adopt regulatory standards for managing land uses in floodplains and reducing potential hazards, (2) requires the state to consider ways to reduce flooding and other natural hazards when it revises the State Plan of Conservation and Development after March 1, 2006, and (3) specifically allows towns to use Local Capital Improvement Program (LoCIP) funds to manage floodplains and reduce hazards. Current law allows them to use the funds for constructing, renovating, enlarging, or repairing flood control projects.

The bill requires the Department of Environmental Protection (DEP) to provide grants for local and regional projects and plans to minimize flooding and other natural hazards, beginning October 1, 2005. The bill funds the grants by increasing the existing state fee on local land use applications and dedicating about a third of the revenue to the grants. It specifies that towns must collect the fee on applications their land use regulations require as well as those required by the statutes.

By law, towns collect and remit most of the fee revenue to the state and keep a portion to cover the administrative cost of doing so. The bill increases the towns' portion of the revenue. It also increases the total annual amount by which the state can reduce a town's Mashantucket Pequot and Mohegan Fund payments if it fails to remit the fee revenue.

Lastly, the bill specifically requires residential property condition reports to disclose information about flood hazards. Current law already requires these reports to include information about lead, radon, subsurface sewage disposal, and other environmental information the consumer protection commissioner believes would

interest buyers. By law, people offering residential real estate for sale, exchange, or lease must give prospective buyers the report before completing the transaction.

EFFECTIVE DATE: October 1, 2004, except for the provisions increasing the fee, establishing the grant program, and authorizing regulations, which take effect July 1, 2004.

*House Amendment "A" changes a regulatory standard for managing floodplains and reducing potential hazards and specifies that towns must collect the land use application fee on applications required under local regulations as well as those required under the land use statutes.

LAND USE REGULATIONS AND POLICIES

Land Use Regulations

The bill sets conditions under which towns must adopt regulations or ordinances for restricting flood storage and conveying water to floodplains. A floodplain is an area within the real or theoretical limits of the base flood or base flood for a critical activity, as determined by the town or the Federal Emergency Management Agency in its flood insurance study or flood insurance rate map for the town.

Towns must adopt floodplain regulations when they are required to revise zoning or other regulations under the federal National Flood Insurance Program. Federal law requires states and municipalities to adopt regulations for managing floodplains if the federal insurance administrator notifies them that they contain areas susceptible to flooding, mudslides, or other flood-related erosion hazards. The federal government will not fund any development project in these areas until the jurisdiction revises the regulations, which must meet federal standards (44 CFR 59 *et. seq.*).

The bill sets standards the revised ordinances and regulations must meet, but allows towns to adopt stricter ones. The revised regulations must restrict encroachments in the designated floodplain if it is not tidally influenced. They must prohibit those that increase a structure's ground floor area (i. e., the footprint) unless a licensed professional engineer certifies that it will not increase the base flood elevation. This restriction applies to any encroachment resulting from fill, new

construction, or substantial improvements exceeding 50% of a structure's market value before the improvement.

The regulations must prohibit projects from reducing a floodplain's capacity to hold water, unless the reduction:

1. is compensated for by deepening or widening the floodplain;
2. is on site;
3. is within the same hydraulic reach and a volume not previously used for storage area;
4. is hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project; and
5. has an unrestricted hydraulic connection to the same waterway or water body.

The bill sets narrow conditions under which work compensating for a reduction can be performed on property adjacent to the floodplain. The regulations must provide for offsite work and require the party performing it to obtain the town's approval and easements from the adjacent property owners.

Lastly, the regulations must keep any work on flood-prone land adjacent to a floodplain from increasing the flow of water or the flood stage. This restriction includes work intended to compensate for a reduction in the floodplain's water holding capacity.

The bill requires the DEP commissioner to develop and make available to the public guidelines towns can use when revising their regulations and ordinances. He must include a model ordinance towns can adopt to comply with the bill.

State Plan of Conservation and Development

When revising the five-year State Plan of Conservation and Development after March 1, 2006, the bill requires the Office of Policy and Management (OPM) secretary to (1) consider ways to reduce

flooding and other natural hazards, (2) identify how natural hazards affect infrastructure and property, and (3) recommend how the state can minimize siting future infrastructure and property in areas prone to natural hazards. He must do this for revisions made after March 1, 2006. By law, state-funded development projects must be consistent with the plan.

HAZARD MITIGATION AND FLOODPLAIN MANAGEMENT PROGRAM

Funding Mechanism

The bill funds this program by increasing, from \$20 to \$30, the state-imposed land use application fee, which currently funds state environmental review teams and the Council on Soil and Water Conservation and its districts. It specifies that the fee applies to any application required by any regulation a town adopts under the zoning, planning, inland wetlands, and coastal area management statutes as well as any application required under these statutes.

The bill creates a nonlapsing hazard mitigation and floodplain management account in the Environmental Quality Fund and requires \$9 of the revenue from the fee to go into the account. The bill also increases, from \$1 to \$2 per application, the amount towns keep to collect and remit the fee. By law, the remaining \$19 goes to DEP, the Council on Soil and Water Conservation, and soil and water conservation districts.

The bill increases, from \$ 2,000 to \$ 4,000, the total annual amount by which the OPM secretary can reduce a town's Mashantucket Pequot and Mohegan Fund payments for failing to remit the fee revenue. The state uses the fund to (1) make payments in lieu of property taxes for property owned by the state, private higher education institutions, and nonprofit general hospitals and (2) pay for local property tax relief.

Grants for Reducing or Mitigating Natural Hazards

Towns and regional planning agencies, councils of elected officials, and councils of governments qualify for grants. The grants must reimburse them for projects that preserve the capacity of designated floodplain to store and convey floodwaters or that reduce or eliminate the long-term risks flooding, high winds, and other natural hazards

pose to people, infrastructure, and property. Each fiscal year, the DEP commissioner must use at least 60% of the funds in the hazard mitigation account for this purpose. The grants must cover 90% of the project costs.

Towns and regional organizations can apply for funds on applications the commissioner provides. The applications must describe the activities they want to fund, their objectives, and the cost. A town's chief executive officer can submit the application or assign this task to the town planner, public works director, police or fire chief, or emergency management director.

By February 1, 2005, the commissioner must also publish and disseminate a pamphlet describing DEP's process for evaluating applications.

The commissioner must begin awarding grants on or after July 1, 2005. He must do so twice a year, with the first round occurring by July 31 and the second by December 31 during each fiscal year he awards grants.

The commissioner must adopt regulations to implement the grant program and specifically to establish relative priorities for awarding grants based on the differing needs of towns and regions, the need to be consistent and fair in awarding grants, and the extent to which proposed projects advance the bill's purposes. He may establish other criteria and, in awarding grants, may consult with anyone he deems necessary.

Application Rating Criteria

In awarding grants, the commissioner must give the highest priority to projects involving the preparation or revision of hazard mitigation plans or participation in the National Flood Insurance Program's community rating system. He must give secondary priority to projects that implement an approved plan and that cover the cost of administering and providing financial assistance for hazard mitigation and floodplain management. He can require grant recipients to repay a grant if they use it for other purposes or to supplant funds from other sources.

By January 1, 2007 and annually thereafter, the commissioner must report on the activities he funded during the previous fiscal year. The report must identify each grant recipient, the grant amount, and what the grants were for. It must also include the commissioner's findings and recommendations on this program's operation and effectiveness. The bill does not specify who receives the report.

BACKGROUND

Legislative History

The House referred the bill to the Appropriations; Finance, Revenue and Bonding; and General Law Committees on March 31, April 13, and April 20, respectively. The committees favorably reported the bill on April 7, 15, and 22 respectively.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute Change of Reference
Yea 18 Nay 0

Environment Committee

Joint Favorable Report
Yea 22 Nay 0

Appropriations Committee

Joint Favorable Report
Yea 39 Nay 3

Finance, Revenue and Bonding Committee

Joint Favorable Report
Yea 39 Nay 3

General Law Committee

Joint Favorable Report
Yea 19 Nay 0

