



# House of Representatives

General Assembly

**File No. 410**

February Session, 2004

Substitute House Bill No. 5535

*House of Representatives, April 1, 2004*

The Committee on Public Health reported through REP. FELTMAN of the 6th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING OVERBURDENED COMMUNITIES AND NOTICE OF POLLUTING EVENTS.**

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

1 Section 1. (NEW) (*Effective October 1, 2004*) (a) For purposes of this  
2 section, "overburdened community" means those towns, cities or  
3 boroughs, or portions thereof, that have high amounts of air  
4 pollutants, toxic emissions, gallons of waste water treated or tons of  
5 solid waste stored, transferred, treated or disposed.

6 (b) Any town, city or borough may apply to the Commissioner of  
7 Environmental Protection for placement of such town, city, borough,  
8 or portion thereof, on a list of overburdened communities. Such town,  
9 city or borough shall provide notice to its residents of such request by  
10 means of publication in one or more newspapers of general circulation  
11 in the town, city or borough. Such notice shall include a description of  
12 the environmental conditions upon which the application is based and  
13 provide a means for interested persons to obtain a copy of, or express

14 their opinions about, such application.

15 (c) Upon receipt of an application submitted pursuant to this  
16 section, the Commissioner of Environmental Protection shall  
17 determine whether such town, city, borough or portion thereof is an  
18 overburdened community. In making such determination, the  
19 commissioner shall review (1) available state and federal standards  
20 regarding acceptable levels of air pollutants, toxic emissions, gallons of  
21 waste water treated or tons of solid waste stored, transferred, treated  
22 or disposed, (2) available data regarding environmental conditions in  
23 the town, city, borough, or portion thereof, that is the subject of the  
24 application, (3) the number of stationary sources of air pollution within  
25 such town, city, borough or portion thereof, and (4) any information  
26 contained in the application that is relevant to the commissioner's  
27 decision. Not later than one hundred twenty days after receipt of such  
28 application, the commissioner shall decide if the town, city, borough or  
29 portion thereof shall be placed upon the list of overburdened  
30 communities, and shall notify the town, city or borough of such  
31 decision. Not later than March 1, 2005, and annually thereafter, the  
32 commissioner shall report, in accordance with section 11-4a of the  
33 general statutes, to the joint standing committees of the General  
34 Assembly having cognizance of matters relating to public health and  
35 the environment regarding the communities on the list and the process  
36 by which the list was compiled.

37 (d) (1) Not later than January 1, 2005, the Department of  
38 Environmental Protection, the Department of Public Utility Control  
39 and the Connecticut Siting Council shall each adopt regulations, in  
40 accordance with the provisions of chapter 54 of the general statutes,  
41 which describe the departments' or council's procedures concerning  
42 the consideration of a town, city or borough's status as an  
43 overburdened community in granting licenses, permits or  
44 authorizations, taking action that could have human health or  
45 environmental effects, or in other decision-making processes.

46 (2) Not later than January 1, 2005, the Department of Environmental

47 Protection, the Department of Public Utility Control and the  
48 Connecticut Siting Council shall each adopt regulations, in accordance  
49 with the provisions of chapter 54 of the general statutes, describing  
50 actions each department or council shall take to reduce the incidence of  
51 pollution in overburdened communities.

52 Sec. 2. Section 22a-6u of the general statutes is amended by adding  
53 subsection (m) as follows (*Effective October 1, 2004*):

54 (NEW) (m) (1) The commissioner shall forward a copy of any  
55 written notice received pursuant to this section not later than five days  
56 after receipt of such notice to (A) the chief elected official and members  
57 of the legislative body of the municipality in which the subject  
58 pollution was discovered by the technical environmental professional,  
59 except where the legislative body is the town meeting or  
60 representative town meeting, to the chief elected official and members  
61 of the board of selectmen or town council, (B) the chief elected official  
62 and members of the legislative body of each municipality adjacent to  
63 the municipality in which the subject pollution was discovered, except  
64 where the legislative body is the town meeting or representative town  
65 meeting, to the chief elected official and members of the board of  
66 selectmen or town council, (C) any water company, as defined in  
67 section 25-32a, serving the parcel on which the subject pollution was  
68 discovered and any water company serving consumers within a one-  
69 mile radius of such parcel, and (D) for purposes of compliance with the  
70 state occupational safety and health act established in chapter 571 and  
71 the federal Occupational Safety and Health Act of 1970, the Labor  
72 Commissioner.

73 (2) The chief elected official of the municipality in which the subject  
74 pollution was discovered shall forward a copy of any written notice  
75 received pursuant to subdivision (1) of this subsection not later than  
76 five days after receipt of such notice to (A) the director of the  
77 municipality's health department or health district, (B) the  
78 chairpersons of the planning commission and zoning commission of  
79 the municipality, (C) all owners of property abutting the parcel on

80 which the subject pollution was discovered, (D) all residents served by  
 81 private wells located within a one-mile radius of such parcel, (E) all  
 82 tax-payers owning real or personal property within a one-mile radius  
 83 of such parcel, and (F) all persons who have requested inclusion on a  
 84 list to be compiled and maintained by the clerk of the municipality  
 85 containing the names and addresses of those who wish to receive such  
 86 notice.

87 (3) The chief elected official of the municipality in which the subject  
 88 pollution was discovered shall cause to have erected on or near the  
 89 property on which the subject pollution was discovered a sign clearly  
 90 visible to the public describing the pollution discovered and  
 91 containing a name and telephone number that the public may contact  
 92 for further information.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>

**PH**            *Joint Favorable Subst.*

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:

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Department of Environmental Protection	GF - Cost	See Below	See Below
Public Utility Control, Dept.	CC&PUCF - Cost	Potential	Potential
Siting Council, CT	CC&PUCF - Cost	Potential	Potential

Note: GF=General Fund; CC&PUCF=Consumer Counsel and Public Utility Control Fund

**Municipal Impact:**

Municipalities	Effect	FY 05 \$	FY 06 \$
Various Municipalities	STATE MANDATE - Cost	See Below	See Below

**Explanation**

Requiring the Department of Environmental Protection (DEP) to adopt regulations on overburdened communities, for which there is currently no known standard, is anticipated to result in the need for outside resources, an additional employee or the diversion of staff away from their current duties at a cost of \$75,000.

It is anticipated that the notification requirements for DEP could be handled within current agency resources. The requirements do not greatly expand their current notification process.

The bill also requires the Department of Public Utility Control (DPUC) and the Connecticut Siting Council to adopt regulations concerning a community’s overburdened status. Currently, DPUC and the Connecticut Siting Council have no mechanisms in place to address air pollution concerns. Assuming that DPUC and the Connecticut Siting Council collaborate efforts with the DEP, there would be no fiscal impact on either DPUC or the Siting Council.

Otherwise, DPUC and Siting Council would incur significant costs in efforts to acquire personnel and equipment, and implement processes described in the bill.

The municipal pollution notification requirements would increase costs to impacted municipalities. Requiring the chief elected official to notify all residents within a one mile radius of the parcel who are served by private wells, all taxpayers who own real or personal property within a one mile radius, as well as anyone who asks to be on the notification list, would add costs to various municipalities. The exact impact would vary from town to town, but it is anticipated that some of the additional costs are not currently budgeted for.

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**OLR Bill Analysis**

sHB 5535

**AN ACT CONCERNING OVERBURDENED COMMUNITIES AND NOTICE OF POLLUTING EVENTS****SUMMARY:**

This bill creates a process for communities to become designated by the Environmental Protection Department (DEP) commissioner as “overburdened” because they have high amounts of pollution or toxic emissions or treat, store, or dispose of high amounts of waste water or solid waste. It requires the DEP, Department of Public Utility Control (DPUC), and Connecticut Siting Council to adopt regulations governing (1) how they will consider a community’s overburdened status in granting licenses and permits and (2) actions they will take to reduce pollution in those communities.

The bill requires the DEP commissioner to notify local officials, water companies, and the labor commissioner whenever he is notified of pollution on a site that is contaminating or has contaminated ground or well water. It requires local officials to (1) notify various other local officials, abutting property owners, nearby residents and property owners, and others and (2) post a sign on or near the polluted property.

EFFECTIVE DATE: October 1, 2004

**OVERBURDENED COMMUNITIES*****Definition and Designation***

The bill defines an “overburdened community” as a town, city, or borough, or portion of one, that has high amounts of air pollutants or toxic emissions or high amounts of gallons of waste water treated or tons of solid waste stored, transferred, treated, or disposed. (The definition appears to encompass communities that have high amounts of wastewater or solid waste transferred or treated elsewhere.) It allows any town, city, or borough to ask the DEP commissioner to place it, or a portion of it, on a list of overburdened communities.

A community that applies for designation must publish notice of the request in one or more general circulation newspapers serving it. The notice must describe the environmental conditions on which the application is based and provide a way for interested people to obtain a copy, or express their opinions, about it. (It is not clear whether this notice must be published before or after the application is submitted.)

Within 120 days of receiving this application, the commissioner must determine whether the community is overburdened. In making this determination he must review:

1. available state and federal standards for acceptable levels of air pollution, toxic emissions, waste water treatment, and solid waste storage, transfer, treatment, or disposal;
2. available data on environmental conditions in the applicant community;
3. the number of stationery air pollution sources in the community; and
4. any other relevant information in the application.

The commissioner must notify the municipality of his decision

He must report annually to the Public Health and Environment committees, beginning March 1, 2005, on what communities are on the list of overburdened communities and how it was compiled.

### ***Regulations***

The bill requires DEP, DPUC, and the Siting Council to adopt regulations by January 1, 2005 describing:

1. their procedures for considering a community's overburdened status in granting licenses, permits, and authorizations, taking action that could have human health or environmental effects, or other decisions; and
2. actions they must take to reduce the incidence of pollution in overburdened communities.

## **WATER POLLUTION NOTIFICATION**

### ***Notice to DEP***

The law requires a technical environmental professional (TEP, anyone who collects soil, water, vapor, or air samples to investigate or remediate pollution) to notify his client and the property owner if he determines that pollution on certain types of property is contaminated or has contaminated drinking wells or ground water. In turn, the property owner, or the TEP's client, must notify DEP in most cases. The notice must include the nature of the contamination; the address of the contaminated property; any property it affects; and steps being taken to abate, remediate, or monitor it.

### ***Notice to Local Officials***

The bill requires the DEP commissioner to notify the following parties within five days of receiving written notice from the owner or client:

1. the chief elected official and members of the legislative body in the municipality where the pollution was discovered and each adjacent municipality (the board of selectmen or town council in towns whose legislative body is a town meeting or representative town meeting);
2. the water utilities serving the parcel on which the pollution was discovered and consumers within a one-mile radius of the property; and
3. the labor commissioner, for purposes of complying with state and federal occupation safety and health laws.

### ***Notice to Others***

The bill requires the chief elected official in the municipality where the pollution was discovered to notify the following parties within five days of receiving written notice from the commissioner:

1. the town or district health department director and the chairmen of the town planning and zoning commissions;
2. all owners of property abutting the parcel where the pollution was

discovered;

3. all residents within a one-mile radius of the parcel who are served by private wells;
4. all taxpayers who own real or personal property within a one-mile radius of the parcel (for example, commercial and industrial property owners and renters); and
5. anyone who has asked to be included on a list the town clerk compiles and keeps for such purposes.

### **Signs**

The bill requires the chief elected official of the town where the pollution is discovered to have a sign erected on or near the affected property. The sign must be clearly visible to the public and contain a name and telephone number that people can contact for further information.

### **COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute  
Yea 16    Nay 3