



# Senate

General Assembly

**File No. 389**

February Session, 2004

Senate Bill No. 590

*Senate, March 31, 2004*

The Committee on Environment reported through SEN. WILLIAMS of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING CERTIFICATES OF NEED FOR  
CONSTRUCTION AND DEMOLITION WASTE FACILITIES.***

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

1 Section 1. Section 22a-208d of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) On and after July 1, 1989, the Commissioner of Environmental  
4 Protection shall not issue a permit under section 22a-208a to construct  
5 or expand a resources recovery facility or a mixed municipal solid  
6 waste composting facility where any mixed municipal solid waste will  
7 be processed, or a disposal area for ash residue generated by resources  
8 recovery facilities or mixed municipal solid waste or a disposal area for  
9 the disposal of construction and demolition waste pursuant to section  
10 22a-208x unless said commissioner makes a written determination that  
11 such facility or disposal area is necessary to meet the solid waste  
12 disposal needs of the state and will not result in substantial excess  
13 capacity of resources recovery facilities, disposal areas or mixed

14 municipal solid waste composting facilities.

15 (b) The commissioner shall publish, at the expense of the applicant,  
16 notice of the preliminary determination of need for the proposed  
17 facility or disposal area in a newspaper having a substantial circulation  
18 in the area affected. Publication shall be within sixty days of  
19 determination by the commissioner that the application is complete.  
20 Any person may submit written comments on the preliminary  
21 determination of need in the same manner as provided by the  
22 commissioner for the submission of comments on the application. The  
23 commissioner shall not make a final determination of need for the  
24 facility or disposal area unless a permit is issued. A preliminary  
25 determination of need shall be void if a permit is not issued. As used in  
26 this section, "preliminary determination of need" means a statement by  
27 the commissioner of the need for a resources recovery facility, a mixed  
28 municipal solid waste composting facility or disposal area during the  
29 pendency of an application to construct such facility or area.

30 (c) (1) The applicant for a permit to construct or expand a resources  
31 recovery facility or a mixed municipal solid waste composting facility  
32 requiring a determination of need under subsection (a) shall provide  
33 such information as the commissioner deems necessary, including, but  
34 not limited to:

35 (A) The design capacity of the proposed facility;

36 (B) The planned operating rate and throughput for the facility;

37 (C) An explanation of any difference between the information  
38 provided under subdivisions (A) and (B);

39 (D) The estimated amount of the following: (i) The mixed municipal  
40 solid waste generated by and received from each municipality and  
41 other customers that will send waste to the facility, in tons per day  
42 evidenced by contracts or letters of intent, (ii) the mixed municipal  
43 solid waste to be recycled pursuant to regulations adopted by the  
44 commissioner under section 22a-241b<sub>2</sub> and (iii) change in the amount

45 of mixed municipal solid waste generated because of population  
46 growth, waste generation, source reduction and industrial and  
47 commercial development over the design life of the facility.  
48 Information submitted under this subdivision shall include the  
49 methodology used to determine the estimates;

50 (E) A contingency plan for use of facility capacity if throughput  
51 declines or increases by at least ten per cent from the throughput  
52 estimated in the application;

53 (F) An analysis of reasonable levels of reserve capacity for seasonal  
54 peaks and unexpected facility outages;

55 (G) The capability of the applicant to complete the project;

56 (H) The technical feasibility of the proposed facility; and

57 (I) A demonstration that the throughput capacity of the proposed  
58 facility, when combined with the throughput capacity of all other  
59 resources recovery facilities with permits to construct under the  
60 provisions of section 22a-208a, existing resources recovery facilities  
61 with construction permits to expand and mixed municipal solid waste  
62 composting facilities, shall not exceed the total throughput capacity of  
63 resources recovery facilities and mixed municipal solid waste  
64 composting facilities needed to process waste generated in the state as  
65 set forth in the solid waste management plan adopted pursuant to  
66 section 22a-228.

67 (2) In making the determination required under this section, the  
68 commissioner shall consider the information submitted under  
69 subdivision (1) of this subsection, the current and anticipated  
70 availability of throughput capacity for mixed municipal solid waste at  
71 resources recovery facilities, mixed municipal solid waste composting  
72 facilities, land disposal areas, recycling facilities and other facilities  
73 that process or dispose of mixed municipal solid waste that have  
74 obtained all necessary permits to construct and any other information  
75 the commissioner deems pertinent and shall insure that no waste is

76 accounted for more than once as a result of transfer from one vehicle or  
77 facility to another or for any other reason.

78 (d) (1) The applicant for a permit to construct a disposal area for ash  
79 residue generated by resources recovery facilities or mixed municipal  
80 solid wastes which requires a certificate of need under subsection (a) of  
81 this section shall submit such information as the commissioner deems  
82 necessary, including but not limited to, (A) the name of the resources  
83 recovery facilities or municipalities to be served by the disposal area;  
84 (B) the transportation system needed to serve the disposal area; (C) the  
85 available capacity of other disposal areas for ash residue or mixed  
86 municipal solid waste in the state that have obtained all necessary  
87 permits to construct; and (D) the design capacity of the disposal area.

88 (2) In making the determination required under this subsection, the  
89 commissioner shall consider the information submitted pursuant to  
90 subdivision (1) of this subsection and any other information the  
91 commissioner deems pertinent.

92 [(e) The provisions of this section shall apply to any application for  
93 a permit under section 22a-208a for a resources recovery facility, for a  
94 disposal area for ash residue generated by resources recovery facilities,  
95 for a mixed municipal solid waste composting facility or for a disposal  
96 area for mixed municipal solid wastes which is pending on or  
97 submitted after July 1, 1989.]

98 (e) The applicant for a permit for the disposal of construction and  
99 demolition waste shall submit such information as the commissioner  
100 deems necessary, including, but not limited to, (1) the available  
101 capacity of other disposal areas for construction and demolition waste  
102 in the state that have obtained all necessary permits to construct or  
103 expand; (2) the design capacity of the disposal area; (3) the planned  
104 operating rate and throughput for the facility; and (4) the explanation  
105 of any difference between the information provided under  
106 subdivisions (2) and (3) of this subsection.

107 (f) This section shall not apply to an application for a permit or

108 permit modifications of any resources recovery facility operating as of  
109 June 30, 1993, provided there is no expansion after that date of the  
110 facility's boilers or waste handling and processing equipment. Any  
111 such facility shall comply with all applicable environmental laws and  
112 regulations. Nothing in this subsection and no action taken by the  
113 commissioner pursuant hereto shall validate or invalidate any permit  
114 or determination of need issued or approved prior to June 30, 1993, for  
115 any resources recovery facility not operating as of that date, or  
116 otherwise affect any action of the commissioner, proceedings or  
117 judicial review relating thereto, pending on or commenced after that  
118 date.

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

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**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 05 \$</b>	<b>FY 06 \$</b>
Department of Environmental Protection	EQ/GF - Cost	See Below	See Below

**Municipal Impact:** None

**Explanation**

Requiring the Department of Environmental Protection (DEP) Commissioner to complete a written needs assessment before issuing a permit for a disposal area to build or expand a construction and demolition waste facility is not anticipated to have a significant impact at this time. The department does not anticipate siting any new applicable facilities in the near future.

**OLR Bill Analysis**

SB 590

***AN ACT CONCERNING CERTIFICATES OF NEED FOR CONSTRUCTION AND DEMOLITION WASTE FACILITIES*****SUMMARY:**

This bill requires that the Department of Environmental Protection (DEP) commissioner complete a written needs assessment before issuing the necessary permit for a disposal area on which to build or expand a construction and waste disposal facility.

The bill requires the applicant for such permits to submit information that the commissioner deems necessary, but it does not require the commissioner to consider the information. Necessary information under the bill includes:

1. available capacity of other construction and demolition waste disposal areas in the state that have all the necessary construction and expansion permits;
2. design capacity of the disposal area;
3. the facility's planned operating rate and throughput (volume passing through); and
4. explanation for any difference between the design capacity and planned operating rate and throughput.

The bill repeals an outdated provision referring to applications for permits for certain areas and facilities that were pending on or submitted after July 1, 1989.

EFFECTIVE DATE: October 1, 2004

**BACKGROUND*****Construction and Demolition Waste***

By law, "construction and demolition waste" means building material and packaging waste from construction, remodeling, repair, and demolition operations on houses, commercial buildings, and other structures. But it excludes asbestos, clean fill, or solid waste with more than the DEP commissioner determined to be the minimum allowable quantities of (1) radioactive material regulated by law; (2) hazardous waste; and (3) liquid and semiliquid materials, such as paints and cleaning agents.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Report  
Yea 18    Nay 9