



# Senate

General Assembly

**File No. 554**

February Session, 2004

Senate Bill No. 591

*Senate, April 13, 2004*

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## **AN ACT CONCERNING THE PROTECTION OF LONG ISLAND SOUND.**

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

1 Section 1. Section 25-157 of the general statutes, as amended by  
2 section 6 of public act 03-123 and section 1 of public act 03-148, is  
3 repealed and the following is substituted in lieu thereof (*Effective from*  
4 *passage*):

5 Notwithstanding any other provision of the general statutes, no  
6 state agency, including, but not limited to, the Department of  
7 Environmental Protection and the Connecticut Siting Council, shall  
8 consider or render a final decision for any applications relating to  
9 electric power line crossings, gas pipeline crossings or  
10 telecommunications crossings of Long Island Sound that has required  
11 or will require a certificate issued pursuant to section 16-50k, as  
12 amended, or approval by the Federal Energy Regulatory Commission  
13 including, but not limited to, electrical power line, gas pipeline or  
14 telecommunications applications that are pending or received after

15 June 3, 2002, for a period of [two] three years after June 3, 2002. Such  
16 moratorium shall not apply to applications relating solely to the  
17 maintenance, repair or replacement necessary for repair of electrical  
18 power lines, gas pipelines or telecommunications facilities currently  
19 used to provide service to customers located on islands or peninsulas  
20 off the Connecticut coast or harbors, embayments, tidal rivers, streams  
21 or creeks. Nothing in section 16-244j, this section or sections 25-157a to  
22 25-157c, inclusive, as amended, shall be construed to affect the project  
23 in the corridor across Long Island Sound, from Norwalk to Northport,  
24 New York, to replace the existing electric cables that cross the sound.

25 Sec. 2. Section 26-194 of the general statutes, as amended by section  
26 2 of public act 03-263 and section 146 of public act 03-6 of the June 30  
27 special session, is repealed and the following is substituted in lieu  
28 thereof (*Effective July 1, 2004*):

29 (a) The Commissioner of Agriculture and Consumer Protection may  
30 lease in the name of the state, under such regulations as he may  
31 prescribe and for a period not longer than ten years, all shellfish areas  
32 that have been conveyed to the state or placed under state jurisdiction  
33 by the town of West Haven and any undesignated grounds, within the  
34 exclusive jurisdiction of the state, for the purpose of planting and  
35 cultivating shellfish. The authority herein conferred shall include the  
36 Cornell Reef, Portchester, Great Captain's Island, Field Point and  
37 Greenwich Point natural beds as located and described in section 3295  
38 of the general statutes, revision of 1918. Any person desiring to lease  
39 grounds for such purpose shall make application in writing to the  
40 commissioner and all grounds leased by authority of the provisions of  
41 this section shall be leased to the highest responsible bidder, for a  
42 minimum fee of two dollars per acre. Such lease or lease renewal shall  
43 require the lessee to make a good faith effort to cultivate and harvest  
44 shellfish from the leased area. Such lease or lease renewal shall  
45 prohibit the lessee from entering a contract whereby the lessee agrees  
46 not to cultivate and harvest shellfish for any period of time. No lessee  
47 may enter an agreement with a third party that will prevent the lessee  
48 from carrying out the lessee's obligations under the lease unless the

49 Department of Agriculture and Consumer Protection and the Attorney  
50 General have approved such agreement. The form of such application  
51 and lease shall be approved by the Attorney General, and all such  
52 leases shall be recorded in the records of the commissioner. No lease  
53 shall be granted to a resident of a state which does not lease shellfish  
54 grounds to residents of this state, except that any nonresident who was  
55 granted a lease on or before October 1, 1985, may, upon the expiration  
56 of such lease, apply for a renewal or further lease as provided in this  
57 section. The commissioner shall grant any such lease to nonresidents  
58 upon the same terms and conditions as to residents of this state. Any  
59 lessee or holder of oyster ground, on the expiration of any lease thereof  
60 which has been or which may be granted, shall, upon application to  
61 the commissioner, have the preference in the reletting of such ground  
62 for a like term to that granted in the original lease, unless such  
63 applicant, at the time for granting such application, is in arrears for  
64 rent on the original lease of such ground. Such application for such  
65 renewal or further lease shall be granted without notice or  
66 advertisement of the pendency thereof; provided no renewal or further  
67 lease of such ground shall be granted when the commissioner, for  
68 cause, ceases to lease such ground for oyster culture. All assignments  
69 or transfers of leases shall be subject to the approval of the  
70 commissioner and shall be recorded in his records. Any person who  
71 interferes with, annoys or molests another in the enjoyment of any  
72 lease authorized by the provisions of this section shall be subject to the  
73 penalties provided in section 26-237. The provisions of sections 26-212,  
74 as amended, 26-215, as amended, and 26-232, as amended, shall not  
75 apply to any shellfish grounds leased pursuant to the provisions of this  
76 section.

77 (b) Notwithstanding the provisions of subsection (a) of this section,  
78 any owner of a utility line or public use structure that impacts on a  
79 leased area shall pay to the lessee the costs of removing or relocating  
80 any shellfish. Nothing in this subsection shall be construed to prohibit  
81 the state or any lessee from recovering damages incurred by the state  
82 or the lessee caused by the installation, construction or presence of  
83 such utility line or public use structure.



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 Agriculture	GF - Revenue Gain	See Below	See Below
Department of Environmental Protection	GF - Revenue Gain	See Below	See Below
Siting Council, CT	CC&PUCF - None	None	None

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

**Municipal Impact:** None

**Explanation**

Extending the moratorium for a third year will maintain current practice and have no fiscal impact on the Department of Environmental Protection (DEP) or the Connecticut Siting Council.

Assuming there are four certified facilities, including the Iroquois Pipeline, Cross Sound Cable, Islander East and Connecticut Light and Power (replacement cables), and assuming each crossing is ten miles long, the thirty-cent per linear foot assessment will increase revenue by approximately \$64,000 per year. Future crossings would further increase revenue. Based on the formula in the legislation, the Department of Agriculture would receive approximately \$48,000 for the programs specified and DEP would receive \$16,000.

Since the bill does not specify that the revenue be deposited into a separate account within the general fund for agencies' use, the funds will be deposited into the General Fund. Therefore, it is not clear how the funds would be utilized by the agencies.

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**OLR BILL ANALYSIS**

SB 591

**AN ACT CONCERNING THE PROTECTION OF LONG ISLAND SOUND****SUMMARY:**

This bill extends for a third year, until June 3, 2005, the moratorium on state agency consideration or final decision on applications relating to electric power lines, gas pipelines, or telecommunications crossings of Long Island Sound.

It requires the Department of Agriculture and Consumer Protection (DACP) commissioner to impose an annual fee of 30 cents per linear foot on the state portion of any facility that crosses the Sound and that requires either (1) a certificate of environmental compatibility and public need from the Connecticut Siting Council or (2) Federal Energy Regulatory Commission (FERC) approval. He must use 75% of the fee proceeds to restore and seed shellfish beds and may award grants for such restoration and reseeded. The bill authorizes the commissioner to adopt regulations governing the application for, and administration of, such grants.

Under the bill, the Department of Environmental Protection (DEP) commissioner must use 25% of the annual fee proceeds for the performance of his duties (see COMMENT).

EFFECTIVE DATE: Upon passage, except that the annual fee provision takes effect July 1, 2004

**LONG ISLAND SOUND MORATORIUM**

The moratorium, first enacted by PA 02-95, applies to any facility that requires either (1) a certificate of environmental compatibility and public need from the Connecticut Siting Council or (2) Federal Energy Regulatory Commission (FERC) approval. By law, the moratorium does not apply to maintenance, repair, or replacement work needed to repair electric power lines, gas pipelines, or telecommunications crossings currently serving customers located on islands or peninsulas off the Connecticut coast or harbors, embayments, tidal rivers, streams,

or creeks. It also does not affect a project to replace existing electric cables in the Sound between Norwalk and Northport, New York.

## **BACKGROUND**

### ***Certificate of Environmental Compatibility and Public Need***

By law, a Siting Council certificate is required to build or modify fuel pipelines, electric transmission lines, generating plants and substations, and certain other facilities.

### ***FERC Approval***

FERC approves the location and construction of interstate gas pipelines and approves rates for the wholesale sale of electricity and transmission of electricity in interstate commerce.

## **COMMENT**

### ***Use of Annual Fees***

The bill requires the DACP commissioner to impose the annual fee, but requires the DEP commissioner to use 25% of the proceeds for the performance of his duties. It is unclear how the DACP commissioner provides the money to the DEP commissioner.

## **COMMITTEE ACTION**

Environment Committee

Joint Favorable Change of Reference  
Yea 27    Nay 0

Finance, Revenue and Bonding Committee

Joint Favorable Report  
Yea 42    Nay 2