



Senate

General Assembly

File No. 352

January Session, 2005

Substitute Senate Bill No. 1149

Senate, April 14, 2005

The Committee on Environment reported through SEN. STILLMAN of the 20th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MINOR REVISIONS TO ENVIRONMENTAL PROTECTION PROVISIONS.

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

1 Section 1. Subsection (g) of section 22a-178 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (g) When an order issued by the commissioner to any person
5 pursuant to this chapter becomes final, except for an order to create or
6 use emission reduction credits, the [respondent to such order shall file]
7 commissioner shall cause a certified copy or notice of the final order to
8 be filed on the land records in the town where the subject property is
9 located, and such certified copy or notice shall constitute a notice to the
10 owner's heirs, successors and assigns. [Notwithstanding the provisions
11 of this subsection, where the respondent to a final order does not own
12 the subject property, the commissioner shall record notice of such
13 order on the land records in the town where the subject property is

14 located.] When the order has been fully complied with or revoked, the
15 commissioner shall issue a [certificate] notice showing such
16 compliance or revocation, which [certificate the recipient of such
17 certificate shall record,] notice the commissioner shall cause to be
18 recorded on the land records in the town wherein the order was
19 previously recorded. [Notwithstanding the provisions of this
20 subsection, where the recipient of such certificate does not own the
21 subject property, the commissioner shall record such certificate on the
22 land records in the town where the subject property is located. A
23 person filing a notice, a final order or a certificate pursuant to this
24 subsection shall submit to the commissioner a certified copy of the
25 filing indicating the volume and page number upon which the notice,
26 final order or certificate is filed.]

27 Sec. 2. Subdivision (3) of subsection (k) of section 22a-174 of the
28 general statutes is repealed and the following is substituted in lieu
29 thereof (*Effective October 1, 2005*):

30 (3) Any general permit under this subsection shall be issued for a
31 fixed term. A general permit covering an activity regulated under the
32 federal Clean Air Act shall be issued for a term of no more than five
33 years. A general permit covering an activity regulated under the
34 federal Clean Air Act shall contain such additional conditions as may
35 be required by that act. The commissioner may, not earlier than two
36 hundred seventy days prior to the expiration date stated in the permit,
37 send notice to the permittee that an application for permit renewal
38 shall be submitted not later than one hundred eighty days prior to the
39 expiration date stated in the permit. If the permittee submits a
40 sufficient application for renewal within such time, the permit shall be
41 continued in accordance with subsection (b) of section 4-182. If the
42 permittee does not submit a sufficient application for renewal within
43 such time, the permit shall expire unless the commissioner extends the
44 permit pursuant to section 22a-6j.

45 Sec. 3. Section 22a-403 of the general statutes is repealed and the
46 following is substituted in lieu thereof (*Effective October 1, 2005*):

47 (a) Before any person constructs, alters, rebuilds, substantially
48 repairs, adds to, replaces or removes any [such] dam, dike, reservoir or
49 similar structure, such person shall apply to the commissioner for a
50 permit to undertake such work. The application for such permit shall
51 be in triplicate, the original of which, with necessary drawings, plans,
52 specifications and other data, shall be submitted to the commissioner,
53 in the form and to the extent required by him. If the commissioner
54 finds that an application is complete, he shall (1) notify the applicant
55 by certified mail, return receipt requested, of his intent to grant a
56 permit with or without terms and conditions or to deny a permit for
57 such work, and (2) publish notice of such intention in a newspaper
58 having a general circulation in the area in which the proposed work
59 will take place or have effect. The commissioner shall mail notice of
60 such intent to the chief executive officer, the inland wetland agency,
61 and the planning, zoning and conservation commissions of each town
62 in which the work will take place or have effect. The commissioner
63 may hold a hearing prior to approving or denying any application if,
64 in his discretion, the public interest will be best served thereby, and he
65 shall hold a hearing if, within thirty days after such notice has been
66 published, he receives a petition requesting such a hearing signed by
67 at least twenty-five persons. Notice of such hearing shall be published
68 at least thirty days before the hearing in a newspaper having a general
69 circulation in the area in which the work will take place or have effect.

70 (b) The commissioner or his representative, engineer or consultant
71 shall determine the impact of the construction work on the
72 environment, on the safety of persons and property and on the inland
73 wetlands and watercourses of the state in accordance with the
74 provisions of sections 22a-36 to 22a-45, inclusive, and shall further
75 determine the need for a fishway in accordance with the provisions of
76 section 26-136, and shall examine the documents and inspect the site,
77 and, upon approval thereof, the commissioner shall issue a permit
78 authorizing the proposed construction work under such conditions as
79 the commissioner may direct. The commissioner shall send a copy of
80 the permit to the town clerk in any municipality in which the structure
81 is located or any municipality which will be affected by the structure.

82 An applicant for a permit issued under this section to alter, rebuild,
83 repair or remove an existing dam shall not be required to obtain a
84 permit under sections 22a-36 to 22a-45a, inclusive, or section 22a-342 or
85 22a-368. An applicant for a permit issued under this section to
86 construct a new dam shall not be required to obtain a permit under
87 sections 22a-36 to 22a-45a, inclusive, for such construction.

88 (c) Notwithstanding the provisions of this section, the commissioner
89 may construct, alter, rebuild, substantially repair, add to, replace or
90 remove any dam, dike, reservoir or other similar structure, with their
91 appurtenances, that are owned by the state and that are under the
92 commissioner's control without issuance of a permit pursuant to this
93 chapter, and without a permit, certification or approval pursuant to
94 part I of chapter 439, or chapters 440, 444, 446i and 476a, provided such
95 action is consistent with the policies contained in part I of chapter 439
96 and chapters 440, 444, 446i and 476a. Nothing in this subsection shall
97 preclude an action under section 22a-16.

98 Sec. 4. Subsection (l) of section 1-79 of the general statutes is
99 repealed and the following is substituted in lieu thereof (*Effective*
100 *October 1, 2005*):

101 (l) "Quasi-public agency" means the Connecticut Development
102 Authority, Connecticut Innovations, Incorporated, Connecticut Health
103 and Education Facilities Authority, Connecticut Higher Education
104 Supplemental Loan Authority, Connecticut Housing Finance
105 Authority, Connecticut Housing Authority, Connecticut Resources
106 Recovery Authority, [Connecticut Hazardous Waste Management
107 Service,] Lower Fairfield County Convention Center Authority, Capital
108 City Economic Development Authority and Connecticut Lottery
109 Corporation.

110 Sec. 5. Subdivision (1) of section 1-120 of the general statutes is
111 repealed and the following is substituted in lieu thereof (*Effective*
112 *October 1, 2005*):

113 (1) "Quasi-public agency" means the Connecticut Development

114 Authority, Connecticut Innovations, Incorporated, Connecticut Health
115 and Educational Facilities Authority, Connecticut Higher Education
116 Supplemental Loan Authority, Connecticut Housing Finance
117 Authority, Connecticut Housing Authority, Connecticut Resources
118 Recovery Authority, [Connecticut Hazardous Waste Management
119 Service,] Capital City Economic Development Authority and
120 Connecticut Lottery Corporation.

121 Sec. 6. Subsections (b) and (c) of section 16-50j of the general statutes
122 are repealed and the following is substituted in lieu thereof (*Effective*
123 *October 1, 2005*):

124 (b) Except for proceedings under chapter 445, this subsection and
125 subsection (c) of this section, [and sections 22a-134cc, 22a-134ff and
126 22a-163 to 22a-163u, inclusive,] the council shall consist of: (1) The
127 Commissioner of Environmental Protection, or his designee; (2) the
128 chairman, or his designee, of the Public Utilities Control Authority; (3)
129 one designee of the speaker of the House and one designee of the
130 president pro tempore of the Senate; and (4) five members of the
131 public, to be appointed by the Governor, at least two of whom shall be
132 experienced in the field of ecology, and not more than one of whom
133 shall have affiliation, past or present, with any utility or governmental
134 utility regulatory agency, or with any person owning, operating,
135 controlling, or presently contracting with respect to a facility, a
136 hazardous waste facility as defined in section 22a-115 [, a regional low-
137 level radioactive waste facility as defined in section 22a-163a] or ash
138 residue disposal area.

139 (c) For proceedings under chapter 445, subsection (b) of this section
140 [.] and this subsection, [and sections 22a-134cc, 22a-134ff and 22a-163
141 to 22a-163u, inclusive,] the council shall consist of (1) the
142 Commissioners of Public Health and Public Safety or their designated
143 representatives; (2) the designees of the speaker of the House of
144 Representatives and the president pro tempore of the Senate as
145 provided in subsection (b) of this section; (3) the five members of the
146 public as provided in subsection (b) of this section; and (4) four ad hoc

147 members, three of whom shall be electors from the municipality in
148 which the proposed facility is to be located and one of whom shall be
149 an elector from a neighboring municipality likely to be most affected
150 by the proposed facility. The municipality most affected by the
151 proposed facility shall be determined by the permanent members of
152 the council. If any one of the five members of the public or of the
153 designees of the speaker of the House of Representatives or the
154 president pro tempore of the Senate resides [(1)] (A) in the
155 municipality in which a hazardous waste facility is proposed to be
156 located for a proceeding concerning a hazardous waste facility or in
157 which a low-level radioactive waste facility is proposed to be located
158 for a proceeding concerning a low-level radioactive waste facility, or
159 [(2)] (B) in the neighboring municipality likely to be most affected by
160 the proposed facility, the appointing authority shall appoint a
161 substitute member for the proceedings on such proposal. If any
162 appointee is unable to perform his duties on the council due to illness,
163 or has a substantial financial or employment interest which is in
164 conflict with the proper discharge of his duties under this chapter, the
165 appointing authority shall appoint a substitute member for
166 proceedings on such proposal. An appointee shall report any
167 substantial financial or employment interest which might conflict with
168 the proper discharge of his duties under this chapter to the appointing
169 authority who shall determine if such conflict exists. If any state
170 agency is the applicant, an appointee shall not be deemed to have a
171 substantial employment conflict of interest because of employment
172 with the state unless such appointee is directly employed by the state
173 agency making the application. Ad hoc members shall be appointed by
174 the chief elected official of the municipality they represent and shall
175 continue their membership until the council issues a letter of
176 completion of the development and management plan to the applicant.

177 Sec. 7. Subdivision (10) of section 25-201 of the general statutes is
178 repealed and the following is substituted in lieu thereof (*Effective*
179 *October 1, 2005*):

180 (10) "Major state plan" means the master transportation plan

181 adopted pursuant to section 13b-15, the plan for development of
182 outdoor recreation adopted pursuant to section 22a-21, the solid waste
183 management plan adopted pursuant to section 22a-211, the state-wide
184 plan for the management of water resources adopted pursuant to
185 section 22a-352, the state-wide environmental plan adopted pursuant
186 to section 22a-8, the plan for the disposal of dredged material for Long
187 Island Sound, the historic preservation plan adopted under the
188 National Historic Preservation Act, as amended, the state-wide facility
189 and capital plan adopted pursuant to section 4b-23, the water quality
190 management plan adopted under the federal Clean Water Act, the
191 marine resources management plan, [the Connecticut hazardous waste
192 management plan adopted pursuant to section 22a-134cc,] the plan for
193 managing forest resources, the wildlife management plans and the
194 salmon restoration plan.

195 Sec. 8. Subdivision (4) of section 25-231 of the general statutes is
196 repealed and the following is substituted in lieu thereof (*Effective*
197 *October 1, 2005*):

198 (4) "Major state plan" means any of the following: The master
199 transportation plan adopted pursuant to section 13b-15, the plan for
200 development of outdoor recreation adopted pursuant to section 22a-21,
201 the solid waste management plan adopted pursuant to section 22a-211,
202 the state-wide plan for the management of water resources adopted
203 pursuant to section 22a-352, the state-wide environmental plan
204 adopted pursuant to section 22a-8, the historic preservation plan
205 adopted under the National Historic Preservation Act, 16 USC 470 et
206 seq., the state-wide facility and capital plan adopted pursuant to
207 section 4b-23, the long-range state housing plan adopted pursuant to
208 section 8-37t, the comprehensive energy plan adopted pursuant to
209 section 16a-7a, the water quality management plan adopted under the
210 federal Clean Water Act, 33 USC 1251 et seq., [the Connecticut
211 hazardous waste management plan adopted pursuant to section 22a-
212 134cc,] any plans for managing forest resources adopted pursuant to
213 section 23-20 and the Connecticut River Atlantic Salmon Compact
214 adopted pursuant to section 26-302.

215 Sec. 9. Section 22a-161d of the general statutes is repealed and the
216 following is substituted in lieu thereof (*Effective October 1, 2005*):

217 The Connecticut commissioner of the Northeast Interstate Low-
218 Level Radioactive Waste Compact shall not take any action which
219 accepts for disposal any low-level radioactive waste [, as defined in
220 section 22a-163a,] which was generated outside the Northeast
221 Interstate Low-Level Radioactive Waste Compact unless approval for
222 such disposal is granted, in writing, by the chief elected official of the
223 municipality in which a low-level radioactive waste disposal facility is
224 located.

225 Sec. 10. Subsection (a) of section 51-344a of the general statutes is
226 repealed and the following is substituted in lieu thereof (*Effective*
227 *October 1, 2005*):

228 (a) Whenever the term "judicial district of Hartford-New Britain" or
229 "judicial district of Hartford-New Britain at Hartford" is used or
230 referred to in the following sections of the general statutes, it shall be
231 deemed to mean or refer to the judicial district of Hartford on and after
232 September 1, 1998: Sections 1-205, 1-206, 2-48, 3-21a, 3-62d, 3-70a, 3-
233 71a, 4-61, 4-160, 4-164, 4-177b, 4-180, 4-183, 4-197, 5-202, 5-276a, 8-30g,
234 9-7a, 9-7b, 9-369b, 10-153e, 12-208, 12-237, 12-268l, 12-312, 12-330m, 12-
235 405k, 12-422, 12-448, 12-454, 12-456, 12-463, 12-489, 12-522, 12-554, 12-
236 565, 12-572, 12-586f, 12-597, 12-730, 13b-34, 13b-235, 13b-315, 13b-375,
237 14-57, 14-66, 14-67u, 14-110, 14-195, 14-311, 14-311c, 14-324, 14-331, 15-
238 125, 15-126, 16-41, 16a-5, 17b-60, 17b-100, 17b-238, 17b-531, 19a-85, 19a-
239 86, 19a-123d, 19a-425, 19a-498, 19a-517, 19a-526, 19a-633, 20-12f, 20-13e,
240 20-29, 20-40, 20-45, 20-59, 20-73a, 20-86f, 20-99, 20-114, 20-133, 20-154,
241 20-156, 20-162p, 20-192, 20-195p, 20-202, 20-206c, 20-227, 20-238, 20-247,
242 20-263, 20-271, 20-307, 20-341f, 20-363, 20-373, 20-404, 20-414, 21a-55,
243 21a-190i, 21a-196, 22-7, 22-37, 22-64, 22-195, 22-228, 22-248, 22-254, 22-
244 320d, 22-326a, 22-344b, 22-386, 22a-6b, 22a-7, 22a-16, 22a-30, 22a-34,
245 22a-53, 22a-60, 22a-62, 22a-63, 22a-66h, 22a-106a, 22a-119, [22a-163m,]
246 22a-167, 22a-180, 22a-182a, 22a-184, 22a-220a, 22a-220d, 22a-225, 22a-
247 226, 22a-226c, 22a-227, 22a-250, 22a-255l, 22a-276, 22a-285a, 22a-285g,

248 22a-285j, 22a-310, 22a-342a, 22a-344, 22a-361a, 22a-374, 22a-376, 22a-
 249 408, 22a-430, 22a-432, 22a-438, 22a-449f, 22a-449g, 22a-459, 23-5e, 23-
 250 65m, 25-32e, 25-36, 28-5, 29-158, 29-161z, 29-317, 29-323, 29-329, 29-334,
 251 29-340, 29-369, 30-8, 31-109, 31-249b, 31-266, 31-266a, 31-270, 31-273, 31-
 252 284, 31-285, 31-339, 31-355a, 31-379, 35-3c, 35-42, 36a-186, 36a-187, 36a-
 253 471a, 36a-494, 36a-517, 36a-587, 36a-647, 36a-684, 36a-718, 36a-807, 36b-
 254 26, 36b-27, 36b-30, 36b-50, 36b-71, 36b-72, 36b-74, 36b-76, 38a-41, 38a-
 255 52, 38a-134, 38a-139, 38a-140, 38a-147, 38a-150, 38a-185, 38a-209, 38a-
 256 225, 38a-226b, 38a-241, 38a-337, 38a-470, 38a-620, 38a-657, 38a-687, 38a-
 257 774, 38a-776, 38a-817, 38a-843, 38a-868, 38a-906, 38a-994, 42-103c, 42-
 258 110d, 42-110k, 42-110p, 42-182, 46a-5, 46a-56, 46a-100, 47a-21, 49-73, 51-
 259 44a, 51-81b, 51-194, 52-146j, 53-392d and 54-211a.

260 Sec. 11. Subsection (f) of section 22a-137 of the general statutes is
 261 repealed and the following is substituted in lieu thereof (*Effective*
 262 *October 1, 2005*):

263 (f) The provisions of this section shall not apply to the disposal of
 264 low-level radioactive waste in accordance with the provisions of
 265 sections 22a-161 to [22a-165f] 22a-162a, inclusive.

266 Sec. 12. Sections 22a-134aa to 22a-134oo, inclusive, 22a-163 to 22a-
 267 163aa, inclusive, 22a-164 and 22a-165 to 22a-165h, inclusive, of the
 268 general statutes are repealed. (*Effective October 1, 2005*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-178(g)
Sec. 2	<i>October 1, 2005</i>	22a-174(k)(3)
Sec. 3	<i>October 1, 2005</i>	22a-403
Sec. 4	<i>October 1, 2005</i>	1-79(l)
Sec. 5	<i>October 1, 2005</i>	1-120(1)
Sec. 6	<i>October 1, 2005</i>	16-50j(b) and (c)
Sec. 7	<i>October 1, 2005</i>	25-201(10)
Sec. 8	<i>October 1, 2005</i>	25-231(4)
Sec. 9	<i>October 1, 2005</i>	22a-161d
Sec. 10	<i>October 1, 2005</i>	51-344a(a)

Sec. 11	October 1, 2005	22a-137(f)
Sec. 12	October 1, 2005	Repealer section

Statement of Legislative Commissioners:

New sections were added to delete references to repealed sections.

ENV *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:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Department of Environmental Protection	Various - Cost/Savings	Minimal	Minimal

Municipal Impact: None

Explanation

Requiring the filing of environmental protection orders on land records by the Department of Environmental Protection (DEP) can be handled with existing resources of DEP and the impacted municipality.

Allowing the DEP to issue a notice and receive applications for general permit registrations under the Clean Air Act before the expiration of the permit will have no net impact on DEP. The permit fees will offset the workload.

The bill exempts the DEP from obtaining a DEP permit for building or making changes to dams, dikes, reservoirs if the state owns the structure or the structure is under the department's control. This is anticipated to result in a decrease in costs and commensurate workload to DEP and increase agency efficiency.

The elimination of the Connecticut Hazardous Waste management Service and the associated laws relating to low-level radioactive waste facilities will have no impact since these provisions are obsolete.

OLR Bill Analysis

sSB 1149

AN ACT CONCERNING MINOR REVISIONS TO ENVIRONMENTAL PROTECTION PROVISIONS**SUMMARY:**

This bill:

1. exempts the Department of Environmental Protection (DEP) commissioner from a number of environmental laws when she builds, repairs, replaces or removes dams, dikes, reservoirs or similar structures on state-owned lands under her control;
2. eliminates the Connecticut Hazardous Waste Management Service, which has not met for 10 years, and laws relating to low-level radioactive waste facilities, the Low Level Radioactive Waste Facility Trust Fund, Low Level Radioactive Waste Advisory Committee, and Low Level Radioactive Waste Management Fund;
3. removes the siting of low-level radioactive waste facilities and consultation on the preparation of a hazardous waste management plan from the duties of the Connecticut Siting Council;
4. modifies filing requirements for certain DEP air pollution orders; and
5. changes renewal procedures for general permits regulated under the federal Clean Air Act.

EFFECTIVE DATE: October 1, 2005

DAMS, DIKES, AND RESERVOIRS

Under current law, any person who builds, alters, rebuilds, substantially repairs, adds to, replaces or removes any dam, dike, reservoir or similar structure must obtain a DEP permit.

This bill exempts the commissioner from this permit process when she seeks to build or make such changes to a dam, dike, reservoir or similar structure, with its appurtenances, if: (1) the state owns the structure, and (2) it is under the commissioner's control. The bill also exempts the commissioner from the need to obtain any permit, certification, or approval under the Connecticut Environmental Policy Act and laws governing (1) wetlands and watercourses, (2) coastal management, (3) water resources, and (4) flood management, if her actions are consistent with the policies those laws express. But the bill does not exempt the commissioner from a law authorizing people to sue in Superior Court to protect the public trust in the state's air, water, or other natural resources from unreasonable pollution, impairment or destruction.

FILING REQUIREMENTS

Under current law, recipients of DEP orders to correct certain air pollution violations must file a certified copy or notice of the final order in the land records of the town where the violation occurred. The bill instead requires the commissioner to cause such a copy or notice to be filed. The bill requires the commissioner to issue a notice, rather than a certificate, showing that such an order has been complied with or revoked. She must cause notice of compliance or revocation to be recorded in the land records in the town where the order was previously recorded.

GENERAL PERMIT RENEWAL PROCEDURES

The bill authorizes the commissioner, no sooner than 270 days before the expiration date of a general permit for an activity regulated under the federal Clean Air Act, to notify the permittee that he must apply to renew the permit at least 180 days before the permit expires. It requires the commissioner to continue the permit if the permittee submits a sufficient application by that deadline. If the permittee does not submit a sufficient renewal application at least 180 days before the expiration date, the permit will expire unless the commissioner extends it.

CONNECTICUT HAZARDOUS WASTE MANAGEMENT SERVICE

The bill repeals laws:

1. creating the Connecticut Hazardous Waste Management Service (CHWMS) and an Office of Environmental Business Assistance within it;
2. concerning CHWMS's duties with regard to promoting the appropriate management of hazardous waste and the siting of low-level radioactive waste disposal facilities; and
3. creating a low-level radioactive waste account and low-level radioactive waste management fund.

It removes the (1) siting of low-level hazardous waste facilities and consultation on a hazardous waste management plan from the duties of the Connecticut Siting Council, and (2) Connecticut Hazardous Waste Management Plan from the list of major state plans to be considered under the Multiple Use River and Protected Rivers acts.

The bill repeals one statutory definition of low-level radioactive waste, but does not change another law defining low-level radioactive waste for purposes of the Northeast Interstate Low-Level Radioactive Waste Compact, of which Connecticut is a member (see BACKGROUND). For the purposes of the compact, low-level radioactive waste is defined by federal law, and excludes waste generated by atomic energy defense activities or federal research and development activities.

BACKGROUND

Connecticut Environmental Policy Act

The Connecticut Environmental Policy Act identifies and evaluates the impact of proposed state actions that could significantly affect the environment. It requires that certain information be available to decision makers and the public, and that it be considered in deciding whether and how to proceed with the project.

The Connecticut Hazardous Waste Management Service (CHWMS) and Low-Level Radioactive Waste

The General Assembly created CHWMS in 1983 to promote the safe management of hazardous waste. According to DEP, it has not met or been staffed for about 10 years. In 1987 the General Assembly assigned it the task of managing low-level radioactive waste disposal and developing criteria for siting a waste disposal facility in

Connecticut. The state does not have such a facility. It instead ships its low-level radioactive waste to facilities in Barnwell, South Carolina and Clive, Utah. According to officials of the Atlantic Interstate Low-Level Radioactive Waste Management Compact, of which Connecticut is a member (and into which the Northeast Interstate Compact has been incorporated), Connecticut is assured of enough storage space at the South Carolina facility to handle its projected long-term disposal needs.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 28 Nay 0