



House of Representatives

General Assembly

File No. 101

February Session, 2008

Substitute House Bill No. 5145

House of Representatives, March 20, 2008

The Committee on Environment reported through REP. ROY, R. of the 119th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ENVIRONMENTALLY STRESSED AND ENVIRONMENTAL JUSTICE COMMUNITIES.

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

1 Section 1. (NEW) (*Effective October 1, 2008*) (a) As used in this
2 section:

3 (1) "Environmental justice" means the equal protection and
4 meaningful involvement of all people, regardless of race, ethnicity or
5 income, in the development, implementation and enforcement of
6 environmental laws, regulations and policies;

7 (2) "Environmental justice community" means a United States
8 census tract, as determined in accordance with the most recent United
9 States census, (A) for which fifty per cent or more of the population
10 consists of low income persons who are not institutionalized and have
11 an income below two hundred per cent of the federal poverty level, or
12 (B) an environmentally stressed community, as defined in subdivision
13 (3) of this subsection.

14 (3) "Environmentally stressed community" means a United States
15 census tract in which three or more affecting facilities are located
16 within a one-mile radius or in which a limited access highway and two
17 or more affecting facilities are located within one-half mile; and

18 (4) "Affecting facilities" means electric generating facilities, sludge or
19 solid waste incinerators or combustors, sewage treatment plants with a
20 capacity of more than fifty gallons per day, intermediate processing
21 centers, volume reduction facilities, multitown recycling facilities,
22 active landfills, asphalt and concrete batching facilities, major sources
23 of air pollution, as defined by the federal Clean Air Act, and sources
24 with air emissions that exceed the federal Toxic Release Inventory
25 reporting threshold pursuant to the federal Emergency Planning and
26 Community Right-to-Know Act of 1986 and the Pollution Prevention
27 Act, as defined on January 1, 2007.

28 (b) (1) Not later than January 1, 2010, the Department of
29 Environmental Protection, the Department of Public Utility Control
30 and the Connecticut Siting Council shall each adopt regulations, in
31 accordance with the provisions of chapter 54 of the general statutes,
32 that describe the departments' or council's procedures concerning the
33 consideration of environmental and health effects of all affecting
34 facilities located within one mile of a proposed new or expanded
35 affecting facility in an environmental justice community or an
36 environmentally stressed community, when granting licenses, permits
37 or authorizations or in other decision-making processes that relate to
38 the proposed new or expanded affecting facility. Such procedures shall
39 include, but not be limited to, enhanced public notification and
40 outreach to increase public participation, requirements for negotiated
41 environmental benefits to environmental justice and affected
42 community residents, and enhanced enforcement of environmental
43 laws and regulations for new and existing facilities in environmental
44 justice and environmentally stressed communities.

45 (2) Not later than January 1, 2010, the Department of Environmental
46 Protection, the Department of Public Utility Control and the

47 Department of Transportation shall each adopt regulations, in
 48 accordance with the provisions of chapter 54 of the general statutes,
 49 describing actions each department shall take to identify opportunities
 50 and take appropriate action to encourage investments, remediation
 51 and redevelopment in environmental justice and environmentally
 52 stressed communities, provided such communities have adopted a
 53 local plan of development that is consistent with the state plan of
 54 conservation and development.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	New section

Statement of Legislative Commissioners:

Section 1(4) was redrafted to correct the title to the Emergency Planning and Community Right-to-Know Act of 1986.

ENV *Joint Favorable Subst.-LCO*

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Public Utility Control, Dept.	CC&PUCF - Cost	102,000	105,000

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

Municipal Impact: None

Explanation

This bill requires the Department of Public Utility Control (DPUC) to adopt two types of regulations: 1) regulations and procedures for considering the environmental and health effects in the construction of new or expansion of existing specific facilities located in environmental justice communities and environmentally stressed communities; 2) regulations that require DPUC to describe what actions they will take to encourage redevelopment in the specified areas.

These types of regulations are outside the subject matter expertise of the agency. DPUC would need to hire an Environmental Analyst II, at a salary of approximately \$61,000¹ to research and write the regulations.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ The total fiscal impact of \$102,000 for FY09 includes the base salary, fringe benefits and other expenses associated with a new hire.

OLR Bill Analysis**HB 5145*****AN ACT CONCERNING ENVIRONMENTALLY STRESSED AND ENVIRONMENTAL JUSTICE COMMUNITIES.*****SUMMARY:**

This bill requires the Department of Environmental Protection (DEP), Department of Public Utility Control (DPUC) and Siting Council each to adopt regulations that describe their procedures for considering the environmental and health effects of their permitting and other decision-making processes for construction or expansion of certain facilities (“affecting facilities”) located in environmental justice communities and environmentally stressed communities, i.e., those with concentrated poverty or that already have several of these facilities.

The bill also requires DEP, DPUC, and the Department of Transportation to adopt regulations describing actions they will take to identify opportunities and take appropriate action to encourage investments, remediation, and redevelopment in these areas, provided these communities have adopted local development plans consistent with the state Plan of Conservation and Development. All of the bill’s regulations must be adopted by January 1, 2010.

EFFECTIVE DATE: October 1, 2008

CONSIDERING ENVIRONMENTAL AND HEALTH EFFECTS IN DECISION-MAKING***Agency regulations and types of facilities***

The bill requires DEP, DPUC, and the Siting Council to adopt regulations that describe their procedures for considering the environmental and health effects of all existing facilities located within

one mile of a proposed new or expanded facility in certain areas when they make a licensing, permitting, authorizing, or other decision about the facility. The bill applies to decisions made about the following types of facilities:

1. power plants;
2. sludge and solid waste incinerators or combustors;
3. sewage treatment plants with a capacity over 50 million gallons per day;
4. four types of solid waste facilities (intermediate processing centers, volume reduction facilities, multi-town recycling facilities, and active landfills);
5. asphalt and concrete batching facilities;
6. major sources of pollution under the Clean Air Act (e.g., large factories); and
7. sources emitting toxic substances in an amount that is subject to reporting requirements under the federal Community Right to Know Act.

Environmentally Stressed and Environmental Justice Communities

The bill applies to two types of areas. The first type is “environmentally stressed communities,” which are census tracts that have (1) three or more of these facilities within a one-mile radius or (2) two of these facilities and a limited access highway within a half mile. The other area is an “environmental justice community,” which includes (1) environmentally stressed communities and (2) other census tracts where half or more of the people not living in institutions have incomes below 200% of the federal poverty level.

The procedures must at least provide for (1) enhanced public notification and outreach to increase public participation, (2)

requirements for negotiated environmental benefits to residents of the affected areas, and (3) enhanced enforcement of environmental laws and regulations for new and existing facilities in these areas.

BACKGROUND

Community Right to Know Act

This 1986 federal act establishes requirements for federal, state, and local governments and industry regarding emergency planning and reporting on hazardous and toxic chemicals.

Related bill

The Energy and Technology Committee favorably reported a similar bill, SB 118 on March 6, 2008. They are duplicate bills, except that SB 118 adds the stipulation that an inconsistency between the local plan of development and the state Conservation and Development Plan does not make a municipality or project ineligible to receive state funds for encouraging investments, remediation, or redevelopment.

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 21 Nay 7 (03/07/2008)