



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – February 23, 2009
Environment Committee

Testimony Submitted by Commissioner Gina McCarthy
Department of Environment Protection

Proposed Senate Bill 569 - AN ACT CONCERNING ENHANCEMENTS TO THE INLAND WETLANDS AND WATERCOURSES ACT

Proposed House Bill 5820 - AN ACT CONSERVING NATURAL VEGETATION NEAR WETLANDS AND WATERCOURSES

Thank you for the opportunity to present testimony in favor of these two proposed bills that seek to amend the Inland Wetlands and Watercourses Act (the "Act"), sections 22a-36 through 45 of the Connecticut General Statutes.

Proposed Senate Bill No. 569 - AN ACT CONCERNING ENHANCEMENTS TO THE INLAND WETLANDS AND WATERCOURSES ACT would amend the Act to make it clear that a person proposing a regulated activity has the burden of proof regarding entitlement to a permit and would provide that inland wetlands agencies may consider all relevant evidence brought before such agency. This would include evidence from a variety of sources, not just testimony from experts. Our state court decisions regarding appeals of municipal inland wetlands agencies are applying an increasingly stringent standard concerning expert testimony. As a result, municipal inland wetlands agencies have become limited in their considerations of direct observations, environmental reviews, and policy and guidance documents during their proceedings.

Many towns are hampered by fiscal constraints which restrict their ability to hire experts to evaluate information and provide testimony regarding information submitted on behalf of applicants. This bill would provide an opportunity to "even the playing field" for municipal inland wetlands agencies other than the current Department of Environmental Protection's recommendation that they hire experts using funds raised from application fees.

The Department of Environmental Protection considers this bill to be supportive of our municipal inland wetlands agencies and the protection of our wetlands and watercourses without any increased fiscal burden on the municipalities or the state.

With regard to Proposed House Bill No. 5820 AN ACT CONSERVING NATURAL VEGETATION NEAR WETLANDS AND WATERCOURSES, the Department supports the concept of the protection and conservation of vegetation near wetlands and watercourses as a mechanism to regulate activities affecting such wetlands and watercourses. While the Department supports this concept and continues to advise municipal inland wetlands agencies regarding the regulation of activities outside of wetlands and watercourses, the details of this proposal that would amend the Inland Wetlands and Watercourses Act need to be studied to determine the natural resource affects and fiscal impacts to the municipalities and the Department. We therefore recommend that the Department work with the parties interested in this proposal such that we can be fully informed regarding the consequences of any amendments to the Act.

Thank you for the opportunity to present testimony on these proposals. If you should require any additional information, please contact the Department's legislative liaison, Robert La France, at 424-3401.