

Environment Committee
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Senate Bill 271: An Act Concerning Floodplain Management and Mill Properties

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Good morning Senator Meyer, Representative Roy, Senator McKinney, Representative Chapin, and distinguished members of the Committee.

My name is Kent Schwendy and I am a Professional Engineer and Vice President of Development Services at Fuss & O'Neill, Inc., headquartered in Manchester, Connecticut. I am here today to offer testimony on Senate Bill 271, entitled "An Act Concerning Floodplain Management and Mill Properties".

Fuss & O'Neill, Inc. is a consulting engineering firm with more than 300 employees, over half of which are employed within the State of Connecticut. For more than 85 years we have provided professional engineering and environmental services to public and private clients throughout New England.

I am here to testify in support of this bill.

Historic mill sites are common throughout Connecticut and the rest of New England. Early industrialists located their facilities along waterways which provided a source of power, and in some cases transportation. Given the historical industrial uses, many of these sites are now categorized as brownfields and have fallen into decay as industry has moved to other areas.

In many communities across Connecticut, these once proud symbols of jobs and productivity are now blighted areas which serve no economic purpose, cut off access to the waterfront resources, and attract vandalism. In some cases the legal owners have abandoned the properties so municipalities not only cannot collect taxes, but are left as the caretakers of these environmentally contaminated and decaying properties.

The adaptive reuse, rehabilitation, or redevelopment of these mill sites should be a priority of the State as part of a sustainable, "green" initiative as they represent energy and materials that were previously expended. Public Act 08-174, entitled "An Act Concerning the Face of Connecticut Steering Committee, the Preservation of Farmland, a Municipal Grant Program for Development Projects, Loans for Brownfield Purchasers and Tax Exemptions for Open Space Land Held by or for Corporations" signed by Governor Rell on June 13, 2008 recognizes this priority. Additionally, Public Act 07-233, entitled "An Act Implementing the Recommendations of the Brownfields Task Force" designates brownfield redevelopment to be "in the public interest".

However, since many of these mill sites are located in floodplains, the redevelopment is hampered by regulations and requirements which are more restrictive in Connecticut than neighboring states or those imposed by the Federal Emergency Management Agency (FEMA) National Floodplain Insurance Program.

Several New England states, including Massachusetts, Maine, and New Hampshire simply defer to the FEMA requirements. Rhode Island has its own regulations and requirements, but these are not substantially more restrictive than the FEMA requirements. This puts Connecticut at a competitive disadvantage to other states like Massachusetts when trying to attract redevelopment of mill sites within floodplain areas.

Under FEMA requirements:

- The “base flood elevation” is considered to be the 100-year flood elevation and a freeboard height of at least one foot as “an extra margin of protection” is recommended, but not required.
- “Critical use facilities” (i.e., facilities with environmental release hazards, facilities with limited-mobility occupants, emergency agency and operations facilities, and utility facilities) are not allowed in the floodplain without addressing additional standards such as those for accessibility during flood events.
- Substantially rehabilitated structures are required to meet the based flood elevation.
- Residential buildings are required to be elevated above the base flood elevation and nonresidential buildings need to be flood-proofed below the base flood elevation.
- Historic buildings are exempt from the base flood elevation requirements where the structures are legally defined as “historical”, maintain this status after restoration, and flood reduction measures are taken.
- More stringent guidelines are provided for critical uses in the 500-year floodplain.

Under Current Connecticut requirements:

- The base flood elevation for residential properties (which are considered a critical activity in Connecticut) is considered to be the 500-year flood elevation. Freeboard is described as a “safety factor” but is not specifically defined.
- The definition of critical activity includes schools or residences, in the 500-year floodplain in which the commissioner determines that a slight chance of flooding is too great.
- New and substantially rehabilitated structures for human habitation must have the lowest floor one foot above the 500-year flood elevation.

Although these differences may seem relatively minor, the impact on cost, and in many cases the overall feasibility of rehabilitation of historic mill sites, is significantly impacted and rehabilitation is hindered or prohibited.

The Connecticut Department of Environmental Protection is charged with review and enforcement of these requirements and can grant exceptions. However, the department is currently overburdened and this bill represents an opportunity to provide relief to the department while at the same time creating greater opportunity for redevelopment of these

historical properties within floodplains. It would also level the playing field with surrounding states by providing a more uniform approach based on federal guidelines.

I urge you to adopt Senate Bill 271.

Thank you for your attention and I would be happy to answer any questions you may have.