



Senate

General Assembly

File No. 163

January Session, 2011

Senate Bill No. 869

Senate, March 23, 2011

The Committee on Planning and Development reported through SEN. CASSANO of the 4th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING THE TIME IN WHICH A REGULATED
ACTIVITY MUST BE CONDUCTED UNDER A PERMIT ISSUED BY AN
INLAND WETLANDS COMMISSION.***

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

1 Section 1. Subsection (d) of section 22a-42a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2011*):

4 (d) (1) In granting, denying or limiting any permit for a regulated
5 activity the inland wetlands agency, or its agent, shall consider the
6 factors set forth in section 22a-41, and such agency, or its agent, shall
7 state upon the record the reason for its decision. In granting a permit
8 the inland wetlands agency, or its agent, may grant the application as
9 filed or grant it upon other terms, conditions, limitations or
10 modifications of the regulated activity which are designed to carry out
11 the policy of sections 22a-36 to 22a-45, inclusive. Such terms may
12 include any reasonable measures which would mitigate the impacts of
13 the regulated activity and which would (A) prevent or minimize

14 pollution or other environmental damage, (B) maintain or enhance
15 existing environmental quality, or (C) in the following order of
16 priority: Restore, enhance and create productive wetland or
17 watercourse resources. No person shall conduct any regulated activity
18 within an inland wetland or watercourse which requires zoning or
19 subdivision approval without first having obtained a valid certificate
20 of zoning or subdivision approval, special permit, special exception or
21 variance or other documentation establishing that the proposal
22 complies with the zoning or subdivision requirements adopted by the
23 municipality pursuant to chapters 124 to 126, inclusive, or any special
24 act. The agency may suspend or revoke a permit if it finds after giving
25 notice to the permittee of the facts or conduct which warrant the
26 intended action and after a hearing at which the permittee is given an
27 opportunity to show compliance with the requirements for retention of
28 the permit, that the applicant has not complied with the conditions or
29 limitations set forth in the permit or has exceeded the scope of the
30 work as set forth in the application. The applicant shall be notified of
31 the agency's decision by certified mail within fifteen days of the date of
32 the decision and the agency shall cause notice of [their] its order in
33 issuance, denial, revocation or suspension of a permit to be published
34 in a newspaper having a general circulation in the town wherein the
35 wetland or watercourse lies. In any case in which such notice is not
36 published within such fifteen-day period, the applicant may provide
37 for the publication of such notice within ten days thereafter.

38 (2) Any permit issued under this section for the development of
39 property for which an approval is required under section 8-3, 8-25 or 8-
40 26 shall be valid for five years. [provided the] The agency may
41 establish a specific time period within which any regulated activity
42 shall be conducted, provided no agency shall require a regulated
43 activity to be conducted in less than three years. Any permit issued
44 under this section for any other activity shall be valid for not less than
45 two years and not more than five years. Any such permit shall be
46 renewed upon request of the permit holder unless the agency finds
47 that there has been a substantial change in circumstances which
48 requires a new permit application or an enforcement action has been

49 undertaken with regard to the regulated activity for which the permit
50 was issued provided no permit may be valid for more than ten years.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2011</i>	22a-42a(d)
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PD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Department of Environmental Protection	GF - Potential Revenue Loss	Minimal	Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 12 \$	FY 13 \$
Various Municipalities	Potential Revenue Loss	Minimal	Minimal

Explanation

Enactment of the bill may preclude certain applications to inland wetland agencies for re-approval of projects for which a regulated activity is not completed within locally established deadlines of less than three years.

To the extent that this occurs (a) the municipality will not collect locally established application fees¹, and (b) the Department of Environmental Protection will not collect a \$58 land use application fee.²

The Out Years

¹ Pursuant to Section 8-1c CGS, any municipality may establish a schedule of reasonable fees for the processing of applications by a zoning commission, planning commission, combined planning and zoning commission, zoning board of appeals or inland wetlands commission.

² Pursuant to Section 22a-27j, an additional \$60 fee is paid by applicants seeking approval from planning and zoning, wetlands and coastal management agencies. \$2 of such fee is retained at the local level for administrative costs, with the remaining \$58 remitted to the DEP for deposit into the General Fund. \$873,503 was collected in FY 10.

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

OLR Bill Analysis**SB 869*****ACT CONCERNING THE TIME IN WHICH A REGULATED ACTIVITY MUST BE CONDUCTED UNDER A PERMIT ISSUED BY AN INLAND WETLANDS COMMISSION.*****SUMMARY:**

This bill prohibits a municipal inland wetlands agency from requiring a developer to conduct a regulated activity under a permit in less than three years (see BACKGROUND).

By law, municipalities must regulate activities affecting inland wetlands and watercourses within their boundaries. The law (1) requires an agency permit for regulated activities in a municipality's inland wetland or watercourse boundaries and (2) makes such a permit for property development valid up to five years from approval. Current law allows an agency to set a specific time period in which regulated activity related to property development must be completed. Under the bill, an agency may still set a specific time, but it cannot be less than three years.

By law, in general, an agency must renew a permit if there has been no substantial change in circumstances or a related enforcement action for up to 10 years.

The bill also makes a technical change.

EFFECTIVE DATE: October 1, 2011

BACKGROUND***Regulated Activity***

By law, a "regulated activity" is any operation within or use of wetlands or watercourses involving (1) removal or deposit of material or (2) any obstruction, construction, alteration, or pollution of wetlands

or watercourses. The law exempts certain agricultural, residential, and other activities.

Related Law

The law gives developers more time to complete certain ongoing projects without seeking reapproval from an inland wetlands agency, if the project was approved between July 1, 2006 and July 1, 2009. Under the law, property development inland wetland permits approved during this period expire not less than six years after approval and may be extended up to 11 years (subject to substantial change or an enforcement action).

Related Bill

On March 7, 2011, the Planning and Development Committee favorably reported SB 859, An Act Extending the Time of Expiration of Certain Land Use Permits. The bill provides more time to developers of certain projects approved between July 1, 2006 and July 1, 2011. For inland wetland permits approved during this timeframe, the bill extends validity to not less than nine years from approval and allows extensions for up to 14 years (subject to a substantial change or an enforcement action).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 20 Nay 0 (03/07/2011)