



House of Representatives

General Assembly

File No. 228

January Session, 2011

Substitute House Bill No. 5068

House of Representatives, March 28, 2011

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

AN ACT CREATING A REBUTTABLE PRESUMPTION FOR THE APPROVAL OF AN INLAND WETLANDS PERMIT FOR A DRY HYDRANT.

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

1 Section 1. Section 22a-40 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) The following operations and uses shall be permitted in
4 wetlands and watercourses, as of right:

5 (1) Grazing, farming, nurseries, gardening and harvesting of crops
6 and farm ponds of three acres or less essential to the farming
7 operation, and activities conducted by, or under the authority of, the
8 Department of Environmental Protection for the purposes of wetland
9 or watercourse restoration or enhancement or mosquito control. The
10 provisions of this subdivision shall not be construed to include road
11 construction or the erection of buildings not directly related to the
12 farming operation, relocation of watercourses with continual flow,

13 filling or reclamation of wetlands or watercourses with continual flow,
14 clear cutting of timber except for the expansion of agricultural crop
15 land, the mining of top soil, peat, sand, gravel or similar material from
16 wetlands or watercourses for the purposes of sale;

17 (2) A residential home (i) for which a building permit has been
18 issued or (ii) on a subdivision lot, provided the permit has been issued
19 or the subdivision has been approved by a municipal planning, zoning
20 or planning and zoning commission as of the effective date of
21 promulgation of the municipal regulations pursuant to subsection (b)
22 of section 22a-42a or as of July 1, 1974, whichever is earlier, and further
23 provided no residential home shall be permitted as of right pursuant
24 to this subdivision unless the permit was obtained on or before July 1,
25 1987;

26 (3) Boat anchorage or mooring;

27 (4) Uses incidental to the enjoyment and maintenance of residential
28 property, such property defined as equal to or smaller than the largest
29 minimum residential lot site permitted anywhere in the municipality,
30 provided in any town, where there are no zoning regulations
31 establishing minimum residential lot sites, the largest minimum lot site
32 shall be two acres. Such incidental uses shall include maintenance of
33 existing structures and landscaping but shall not include removal or
34 deposition of significant amounts of material from or onto a wetland
35 or watercourse or diversion or alteration of a watercourse;

36 (5) Construction and operation, by water companies as defined in
37 section 16-1 or by municipal water supply systems as provided for in
38 chapter 102, of dams, reservoirs and other facilities necessary to the
39 impounding, storage and withdrawal of water in connection with
40 public water supplies except as provided in sections 22a-401 and 22a-
41 403; and

42 (6) Maintenance relating to any drainage pipe which existed before
43 the effective date of any municipal regulations adopted pursuant to
44 section 22a-42a or July 1, 1974, whichever is earlier, provided such pipe

45 is on property which is zoned as residential but which does not
46 contain hydrophytic vegetation. For purposes of this subdivision,
47 "maintenance" means the removal of accumulated leaves, soil, and
48 other debris whether by hand or machine, while the pipe remains in
49 place.

50 (b) The following operations and uses shall be permitted, as
51 nonregulated uses in wetlands and watercourses, provided they do not
52 disturb the natural and indigenous character of the wetland or
53 watercourse by removal or deposition of material, alteration or
54 obstruction of water flow or pollution of the wetland or watercourse:

55 (1) Conservation of soil, vegetation, water, fish, shellfish and
56 wildlife; and

57 (2) Outdoor recreation including play and sporting areas, golf
58 courses, field trials, nature study, hiking, horseback riding, swimming,
59 skin diving, camping, boating, water skiing, trapping, hunting, fishing
60 and shellfishing where otherwise legally permitted and regulated.

61 (c) Any dredging or any erection, placement, retention or
62 maintenance of any structure, fill, obstruction or encroachment, or any
63 work incidental to such activities, conducted by a state agency, which
64 activity is regulated under sections 22a-28 to 22a-35, inclusive, or
65 sections 22a-359b to 22a-363f, inclusive, shall not require any permit or
66 approval under sections 22a-36 to 22a-45, inclusive.

67 (d) There shall be a rebuttable presumption for the approval of any
68 application for the installation of a dry hydrant in a wetlands or
69 watercourse, provided such dry hydrant is only to be used for
70 firefighting purposes. Such presumption may be rebutted by a finding
71 that there is feasible and prudent alternative access to a public water
72 supply that has a less adverse impact on the wetlands or watercourse.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	22a-40

Statement of Legislative Commissioners:

In subsection (d), "wetlands and watercourses" was changed to "wetlands or watercourse" in two places for accuracy and "to be" was added in the third line for proper grammar.

ENV *Joint Favorable Subst.*

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: None

Municipal Impact: None

Explanation

The bill grants the presumed approval of dry hydrant permits under certain conditions. This has no fiscal impact because the permit fees are still being remitted to DEP and municipalities.

Fees for dry hydrant permits vary by municipality but generally range between \$100 and \$200. In addition, DEP imposes a \$60 permit fee (\$2 of the \$60 total is remitted to the municipality).

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5068*****AN ACT CREATING A REBUTTABLE PRESUMPTION FOR THE APPROVAL OF AN INLAND WETLANDS PERMIT FOR A DRY HYDRANT.*****SUMMARY:**

By law, municipal inland wetlands agencies have the authority to regulate dry hydrant installation in inland wetlands and watercourses.

Under this bill, an application for installing a dry hydrant for firefighting purposes in an inland wetlands or watercourse is presumed approved. The presumption can be rebutted by a finding that a feasible and prudent alternative access to a public water supply has a less adverse impact on the wetlands or watercourse.

EFFECTIVE DATE: October 1, 2011

BACKGROUND***Dry Hydrants***

A dry hydrant is a permanent non-pressurized pipe system installed in a water source to provide a supply of water. Dry hydrants are often used for firefighting purposes in rural areas where fire hydrants are unavailable.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 26 Nay 0 (03/09/2011)