



Testimony of:  
Save the Sound  
a program of Connecticut Fund for the Environment



**In Opposition of Raised Bill No. 376**

**AAC THE COASTAL MANAGEMENT ACT AND SHORELINE FLOOD  
AND EROSION CONTROL STRUCTURES**

Before the Environment Committee

March 16, 2012

Submitted by Leah Schmalz, Dir. of Legislative and Legal Affairs

*Save the Sound is a regional program dedicated to the restoration and protection of Long Island Sound; together with its parent organization, Connecticut Fund for the Environment ("CFE"), a statewide non-profit environmental advocacy organization, it represents over 5,400 members. Since 1978, CFE has used law, science and education to improve Connecticut's environment.*

Dear Senator Meyer, Representative Roy, and members of the Environment Committee:

Save the Sound, a program of Connecticut Fund for the Environment, submits this testimony in *opposition* to Raised Bill 376. If passed, this legislation would put a significant new burden on local commissions. We are concerned because the bill does not allow a commission to reject a permit application for a seawall, but instead requires that the commission either approve the permit or develop its own alternative design for a structure. This process is not only unduly burdensome, but it would also have the effect of easing the way for the construction of undesirable coastal structures, which are costly, cause accelerated erosion, and ultimately lead to decreased public access.

**Section 2 of SB 376 essentially nullifies municipal discretion in interpreting coastal policies**

The proposed language in Section 2 effectively nullifies any requirement that municipal zoning commissions determine if shoreline flood and erosion control structures proposed landward of the high tide line are consistent with the state's coastal policies. The language states that "a municipal zoning committee shall find a coastal site plan for a shoreline flood and erosion control structure...is consistent with...subsection (b) of section 22a-92...if," it is submitted with three alternatives certified by a structural engineer to be consistent with the coastal polices.

First, proposing three alternatives to a shoreline flood and erosion control structure that a third, not-governmental, party judges consistent with the Coastal Management Act cannot make an

original proposal consistent with coastal policies, yet that is exactly the result of reading Section 2 (a)(1) & (2) together.

For example, a person applying for a seawall must submit, with the application, three alternatives to that seawall (Section 2a(1)) and an engineer must certify that those alternatives—but not the original proposal for the seawall—are consistent with coastal policies (Section 2a(2)). If the commission disagrees, it must develop its own alternative to those alternatives, and that commission alternative cannot be “impractical” (which is not defined) or expensive (Section 2(b)). This process will then deem the original seawall proposal to have complied with the coastal policies found in 22a-92 (b) (language inserted in Section 1(b)(F)).

Second, even if the language of SB 376 is modified to correct this non-review of the original proposal, the final result will still be undesired. In the end this bill removes a commission’s ability to deny a permit under any circumstance and places an enormous new burden on their process. The commission has three choices 1) accept the original proposal, which again under the proposed language never undergoes its own review since mere inclusion of three certified alternatives seems to provide it with the compliance stamp of approval (see new language in Section 1 of SB 376), 2) accept one of the three alternatives certified by the applicant’s structural engineer, or 3) develop from scratch, its own alternative for the applicant. The loop created by this process is one that the commission can only escape by granting a permit. And worse, in many cases only after it expends its own resources to design and engineer the project for the applicant.

Hardening of the shoreline is argued to be appropriate under some limited circumstances, but as a matter of course, it can “cause changes to the coastal environment that threaten landscapes, public access, recreational opportunities, natural habitats, and fish populations.”<sup>1</sup> Seawalls “interrupt natural shoreline processes and sand movement that can lead to increased erosion downdrift from the structure...[and] destroys valuable shoreline habitats including wetlands and intertidal areas.”<sup>2</sup> Moreover, they can cause “increased erosion at the ends of the seawall on an adjacent beach that is not walled.”<sup>3</sup> Eventually the shoreline will migrate landward beyond the structure. “The effect of this migration will be the gradual loss of beach in front of the seawall or revetment as the water deepens and the shoreface moves landward....While private structures may be temporarily saved, the public beach is lost.”<sup>4</sup>

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<sup>1</sup> <http://www.csc.noaa.gov/magazine/2009/04/director.html>

<sup>2</sup> <http://coastalmanagement.noaa.gov/shoreline.html>

<sup>3</sup> <http://ocpc.msi.ucsb.edu/pdfs/Seawall.pdf>

<sup>4</sup> <http://www.beachapedia.org/Seawalls>

While it may be determined that some armoring of the shoreline may be necessary in rare occurrences, developing a new policy that makes it easy, which SB 376 does, is contrary to best coastal management practices as demonstrated by multiple provisions of the very part of the statute this bill seeks to avoid, 22a-92b:

- “structures in tidal wetlands and coastal waters be designed, constructed and maintained to minimize adverse impacts on coastal resources, circulations and sedimentation patterns, water quality, and flooding and erosion...”22a-92b(1)(D)
- “to preserve the dynamic form and integrity of natural beach systems...;to insure that coastal uses...do not unreasonably interfere with natural processes of erosion and sedimentation.” 22a-92(b)(2)(C).
- “...to promote non-structural solutions to flood and erosion problems...” 22a-92 (b)(2)(F)
- “...to minimize the adverse impacts of erosion and sedimentation on coastal land uses through the promotion of nonstructural mitigation measures...Structural solutions are permissible when necessary and unavoidable for the protection of infrastructural facilities, water-dependent uses, or existing inhabited structures, and where there is no feasible, less environmentally damaging alternative and where all reasonable mitigation measures and techniques have been provided to minimize adverse environmental impacts.” 22a-92 (b)(2)(J )

The issue of armoring the shoreline is a complex one that requires much discussion and evaluation. Instead of moving forward with SB 376, we ask that you work with the Speaker’s Shoreline Preservation Taskforce to analyze this issue and develop recommendations for next steps.

Thank you for your consideration

Sincerely,

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