



Senate

General Assembly

File No. 369

February Session, 2012

Substitute Senate Bill No. 343

Senate, April 11, 2012

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 substitute bill ought to pass.

***AN ACT CONCERNING INTERVENTION IN PERMIT PROCEEDINGS
PURSUANT TO THE ENVIRONMENTAL PROTECTION ACT OF 1971.***

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

1 Section 1. Section 22a-19 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) (1) In any administrative, licensing or other proceeding, and in
4 any judicial review thereof made available by law, the Attorney
5 General, any political subdivision of the state, any instrumentality or
6 agency of the state or of a political subdivision thereof, any person,
7 partnership, corporation, association, organization or other legal entity
8 may intervene as a party on the filing of a verified pleading [asserting]
9 alleging that the proceeding or action for judicial review involves
10 conduct [which has, or which] that will, or that is reasonably likely to,
11 [have, the effect of unreasonably polluting, impairing or destroying]
12 unreasonably pollute, impair or destroy the public trust in the air,
13 water or other natural resources of the state and containing a sworn

14 statement of the material facts upon which the pleader relies in making
15 such allegation.

16 (2) The verified pleading shall: (A) State with specificity the nature
17 of the alleged pollution, impairment or destruction; (B) include the
18 names of all persons filing the verified pleading, including, in the case
19 of a partnership, corporation, association, organization or other legal
20 entity, the names of all individuals filing the verified pleading on
21 behalf of such partnership, corporation, association, organization or
22 other legal entity; and (C) disclose the names of the primary
23 individuals and all legal entities funding the intervention if such
24 pleading is filed by or on behalf of a partnership, corporation,
25 association, organization or other legal entity whose business,
26 commercial or industrial interests are at issue in such proceeding or
27 action for judicial review.

28 (b) In any administrative, licensing or other proceeding, the agency
29 shall consider the alleged unreasonable pollution, impairment or
30 destruction of the public trust in the air, water or other natural
31 resources of the state and no conduct shall be authorized or approved
32 which does, or is reasonably likely to, have such effect as long as,
33 considering all relevant surrounding circumstances and factors, there
34 is a feasible and prudent alternative consistent with the reasonable
35 requirements of the public health, safety and welfare.

| | | |
|-------------------------------------------------------------------------------|-----------------|--------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | October 1, 2012 | 22a-19 |

PD *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***

This bill sets stricter conditions for verified pleadings concerning proceedings on, or judicial review of, conduct that could negatively affect the state's natural resources. There is no anticipated fiscal impact to the state or municipalities as the bill is not expected to impact their ability to intervene in a proceeding or judicial review of conduct.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sSB 343****AN ACT CONCERNING INTERVENTION IN PERMIT PROCEEDINGS PURSUANT TO THE ENVIRONMENTAL PROTECTION ACT OF 1971.****SUMMARY:**

This bill sets more stringent conditions for verified pleadings concerning proceedings on or judicial review of conduct that could negatively affect the state's natural resources.

Under current law, any individual, the attorney general, a state agency or municipality, corporation, organization, association, or any other legal entity may intervene as a party in any administrative, licensing, or other proceeding or any judicial review of the proceeding by filing a verified pleading asserting that the proceeding or review involves conduct that has or is reasonably likely to have the effect of unreasonably polluting, impairing, or destroying the public trust in the state's natural resources.

The bill instead requires anyone intervening as a party in a proceeding or judicial review to allege in a verified pleading that the conduct in question will, or is reasonably likely to, unreasonably pollute, impair, or destroy the public trust in the state's natural resources and include with it (1) a sworn statement of the material facts that the pleader is relying on to make the allegation and (2) specific information.

EFFECTIVE DATE: October 1, 2012

VERIFIED PLEADING

Under the bill, the verified pleading must:

1. specify the nature of the alleged pollution, impairment, or

destruction;

2. include the names of anyone filing the verified pleading, including in the case of a partnership, corporation, association, organization or other legal entity, the names of all individuals filing the verified pleading on behalf of these entities; and
3. disclose the names of the primary individuals and all legal entities funding the intervention if it is filed by or on behalf of a partnership, corporation, association, organization, or other legal entity whose business, commercial, or industrial interests are at issue in the proceeding or judicial review.

BACKGROUND

The state's 1971 Environmental Protection Act states that (1) there is a public trust in the state's air, water, and other natural resources; (2) each person is entitled to the protection of these resources; and (3) it is in the public interest to provide everyone with an adequate remedy to protect these resources from unreasonable pollution, impairment, or destruction (CGS § 22a-15).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 16 Nay 5 (03/23/2012)