



General Assembly

February Session, 2012

Amendment

LCO No. 4835

SB0037604835SD0

Offered by:

SEN. MEYER, 12th Dist.
SEN. LOONEY, 11th Dist.
SEN. MCKINNEY, 28th Dist.
SEN. BOUCHER, 26th Dist.
SEN. DUFF, 25th Dist.
SEN. FASANO, 34th Dist.

SEN. FRANTZ, 36th Dist.
SEN. KELLY, 21st Dist.
SEN. KISSEL, 7th Dist.
SEN. LEONE, 27th Dist.
SEN. STILLMAN, 20th Dist.
SEN. SUZIO, 13th Dist.

To: Senate Bill No. 376

File No. 282

Cal. No. 221

"AN ACT CONCERNING THE COASTAL MANAGEMENT ACT AND SHORELINE FLOOD AND EROSION CONTROL STRUCTURES."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 22a-92 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2012*):

5 (a) The following general goals and policies are established by this
6 chapter:

7 (1) To [insure] ensure that the development, preservation or use of
8 the land and water resources of the coastal area proceeds in a manner
9 consistent with the rights of private property owners and the
10 capability of the land and water resources to support development,

11 preservation or use without significantly disrupting either the natural
12 environment or sound economic growth;

13 (2) To preserve and enhance coastal resources in accordance with
14 the policies established by chapters 439, 440, 446i, 446k, 447, 474 and
15 477;

16 (3) To give high priority and preference to uses and facilities which
17 are dependent upon proximity to the water or the shorelands
18 immediately adjacent to marine and tidal waters;

19 (4) To resolve conflicts between competing uses on the shorelands
20 adjacent to marine and tidal waters by giving preference to uses that
21 minimize adverse impacts on natural coastal resources while
22 providing long term and stable economic benefits;

23 (5) To consider in the planning process the potential impact of a rise
24 in sea level, coastal flooding and erosion patterns on coastal
25 development so as to minimize damage to and destruction of life and
26 property and [reduce] minimize the necessity of public expenditure
27 and shoreline armoring to protect future new development from such
28 hazards;

29 (6) To encourage public access to the waters of Long Island Sound
30 by expansion, development and effective utilization of state-owned
31 recreational facilities within the coastal area that are consistent with
32 sound resource conservation procedures and constitutionally
33 protected rights of private property owners;

34 (7) To conduct, sponsor and assist research in coastal matters to
35 improve the data base upon which coastal land and water use
36 decisions are made;

37 (8) To coordinate the activities of public agencies to [insure] ensure
38 that state expenditures enhance development while affording
39 maximum protection to natural coastal resources and processes in a
40 manner consistent with the state plan for conservation and

41 development adopted pursuant to part I of chapter 297;

42 (9) To coordinate planning and regulatory activities of public
43 agencies at all levels of government to [insure] ensure maximum
44 protection of coastal resources while minimizing conflicts and
45 disruption of economic development; and

46 (10) To [insure] ensure that the state and the coastal municipalities
47 provide adequate planning for facilities and resources which are in the
48 national interest as defined in section 22a-93, as amended by this act,
49 and to [insure] ensure that any restrictions or exclusions of such
50 facilities or uses are reasonable. Reasonable grounds for the restriction
51 or exclusion of a facility or use in the national interest shall include a
52 finding that such a facility or use: (A) May reasonably be sited outside
53 the coastal boundary; (B) fails to meet any applicable federal and state
54 environmental, health or safety standard or (C) unreasonably restricts
55 physical or visual access to coastal waters. This policy does not exempt
56 any nonfederal facility in use from any applicable state or local
57 regulatory or permit program nor does it exempt any federal facility or
58 use from the federal consistency requirements of Section 307 of the
59 federal Coastal Zone Management Act.

60 (b) In addition to the policies stated in subsection (a), the following
61 policies are established for federal, state and municipal agencies in
62 carrying out their responsibilities under this chapter:

63 (1) Policies concerning development, facilities and uses within the
64 coastal boundary are: (A) To manage uses in the coastal boundary
65 through existing municipal planning, zoning and other local
66 regulatory authorities and through existing state structures, dredging,
67 wetlands, and other state siting and regulatory authorities, giving
68 highest priority and preference to water-dependent uses and facilities
69 in shorefront areas; (B) to locate and phase sewer and water lines so as
70 to encourage concentrated development in areas which are suitable for
71 development; and to disapprove extension of sewer and water services
72 into developed and undeveloped beaches, barrier beaches and tidal

73 wetlands except that, when necessary to abate existing sources of
74 pollution, sewers that will accommodate existing uses with limited
75 excess capacity may be used; (C) to promote, through existing state
76 and local planning, development, promotional and regulatory
77 authorities, the development, reuse or redevelopment of existing
78 urban and commercial fishing ports giving highest priority and
79 preference to water dependent uses, including but not limited to
80 commercial and recreational fishing and boating uses; to disallow uses
81 which unreasonably congest navigation channels, or unreasonably
82 preclude boating support facilities elsewhere in a port or harbor; and
83 to minimize the risk of oil and chemical spills at port facilities; (D) to
84 require that structures in tidal wetlands and coastal waters be
85 designed, constructed and maintained to minimize adverse impacts on
86 coastal resources, circulation and sedimentation patterns, water
87 quality, and flooding and erosion, to reduce to the maximum extent
88 practicable the use of fill, and to reduce conflicts with the riparian
89 rights of adjacent landowners; (E) to disallow the siting within the
90 coastal boundary of new tank farms and other new fuel and chemical
91 storage facilities which can reasonably be located inland and to require
92 any new storage tanks which must be located within the coastal
93 boundary to abut existing storage tanks or to be located in urban
94 industrial areas and to be adequately protected against floods and
95 spills; (F) to make use of rehabilitation, upgrading and improvement of
96 existing transportation facilities as the primary means of meeting
97 transportation needs in the coastal area; (G) to encourage increased
98 recreational boating use of coastal waters, where feasible, by (i)
99 providing additional berthing space in existing harbors, (ii) limiting
100 non-water-dependent land uses that preclude boating support
101 facilities, (iii) increasing state-owned launching facilities, and (iv)
102 providing for new boating facilities in natural harbors, new protected
103 water areas and in areas dredged from dry land; (H) to protect coastal
104 resources by requiring, where feasible, that such boating uses and
105 facilities (i) minimize disruption or degradation of natural coastal
106 resources, (ii) utilize existing altered, developed or redevelopment
107 areas, (iii) are located to assure optimal distribution of state-owned

108 facilities to the state-wide boating public, and (iv) utilize ramps and
109 dry storage rather than slips in environmentally sensitive areas; (I) to
110 protect and where feasible, upgrade facilities serving the commercial
111 fishing and recreational boating industries; to maintain existing
112 authorized commercial fishing and recreational boating harbor space
113 unless the demand for these facilities no longer exists or adequate
114 space has been provided; to design and locate, where feasible,
115 proposed recreational boating facilities in a manner which does not
116 interfere with the needs of the commercial fishing industry; and (J) to
117 require reasonable mitigation measures where development would
118 adversely impact historical, archaeological, or paleontological
119 resources that have been designated by the state historic preservation
120 officer.

121 (2) Policies concerning coastal land and water resources within the
122 coastal boundary are: (A) To manage coastal bluffs and escarpments so
123 as to preserve their slope and toe; to discourage uses which do not
124 permit continued natural rates of erosion and to disapprove uses that
125 accelerate slope erosion and alter essential patterns and supply of
126 sediments to the littoral transport system; (B) to manage rocky
127 shorefronts so as to [insure] ensure that development proceeds in a
128 manner which does not irreparably reduce the capability of the system
129 to support a healthy intertidal biological community; to provide
130 feeding grounds and refuge for shorebirds and finfish, and to dissipate
131 and absorb storm and wave energies; (C) to preserve the dynamic form
132 and integrity of natural beach systems in order to provide critical
133 wildlife habitats, a reservoir for sand supply, a buffer for coastal
134 flooding and erosion, and valuable recreational opportunities; to
135 [insure] ensure that coastal uses are compatible with the capabilities of
136 the system and do not unreasonably interfere with natural processes of
137 erosion and sedimentation, and to encourage the restoration and
138 enhancement of disturbed or modified beach systems; (D) to manage
139 intertidal flats so as to preserve their value as a nutrient source and
140 reservoir, a healthy shellfish habitat and a valuable feeding area for
141 invertebrates, fish and shorebirds; to encourage the restoration and

142 enhancement of degraded intertidal flats; to allow coastal uses that
143 minimize change in the natural current flows, depth, slope,
144 sedimentation, and nutrient storage functions and to disallow uses that
145 substantially accelerate erosion or lead to significant despoliation of
146 tidal flats; (E) to preserve tidal wetlands and to prevent the
147 despoliation and destruction thereof in order to maintain their vital
148 natural functions; to encourage the rehabilitation and restoration of
149 degraded tidal wetlands and where feasible and environmentally
150 acceptable, to encourage the creation of wetlands for the purposes of
151 shellfish and finfish management, habitat creation and dredge spoil
152 disposal; (F) to manage coastal hazard areas so as to [insure] ensure
153 that development proceeds in such a manner that hazards to life and
154 property are minimized and to promote nonstructural solutions to
155 flood and erosion problems except in those instances where structural
156 alternatives prove unavoidable and necessary to protect [existing]
157 inhabited structures constructed as of January 1, 1995, infrastructural
158 facilities or water dependent uses; (G) to promote, through existing
159 state and local planning, development, promotional and regulatory
160 programs, the use of existing developed shorefront areas for marine-
161 related uses, including but not limited to, commercial and recreational
162 fishing, boating and other water-dependent commercial, industrial and
163 recreational uses; (H) to manage undeveloped islands in order to
164 promote their use as critical habitats for those bird, plant and animal
165 species which are indigenous to such islands or which are increasingly
166 rare on the mainland; to maintain the value of undeveloped islands as
167 a major source of recreational open space; and to disallow uses which
168 will have significant adverse impacts on islands or their resource
169 components; (I) to regulate shoreland use and development in a
170 manner which minimizes adverse impacts upon adjacent coastal
171 systems and resources; and (J) to maintain the natural relationship
172 between eroding and depositional coastal landforms and to minimize
173 the adverse impacts of erosion and sedimentation on coastal land uses
174 through the promotion of nonstructural mitigation measures.
175 Structural solutions are permissible when necessary and unavoidable
176 for the protection of infrastructural facilities, water-dependent uses, or

177 [existing] inhabited structures constructed as of January 1, 1995, and
178 where there is no feasible, less environmentally damaging alternative
179 and where all reasonable mitigation measures and techniques have
180 been provided to minimize adverse environmental impacts.

181 (c) In addition to the policies stated in subsections (a) and (b), the
182 following policies are established for federal and state agencies in
183 carrying out their responsibilities under this chapter:

184 (1) Policies concerning development, facilities and uses within the
185 coastal boundary are: (A) To minimize the risk of spillage of petroleum
186 products and hazardous substances, to provide effective containment
187 and cleanup facilities for accidental spills and to disallow offshore oil
188 receiving systems that have the potential to cause catastrophic oil spills
189 in the Long Island Sound estuary; (B) to disallow any filling of tidal
190 wetlands and nearshore, offshore and intertidal waters for the purpose
191 of creating new land from existing wetlands and coastal waters which
192 would otherwise be undevelopable, unless it is found that the adverse
193 impacts on coastal resources are minimal; (C) to initiate in cooperation
194 with the federal government and the continuing legislative committee
195 on state planning and development a long-range planning program for
196 the continued maintenance and enhancement of federally-maintained
197 navigation facilities in order to effectively and efficiently plan and
198 provide for environmentally sound dredging and disposal of dredged
199 materials; to encourage, through the state permitting program for
200 dredging activities, the maintenance and enhancement of existing
201 federally-maintained navigation channels, basins and anchorages and
202 to discourage the dredging of new federally-maintained navigation
203 channels, basins and anchorages; (D) to reduce the need for future
204 dredging by requiring that new or expanded navigation channels,
205 basins and anchorages take advantage of existing or authorized water
206 depths, circulation and siltation patterns and the best available
207 technologies for reducing controllable sedimentation; (E) to disallow
208 new dredging in tidal wetlands except where no feasible alternative
209 exists and where adverse impacts to coastal resources are minimal; (F)
210 to require that new or improved shoreline rail corridors be designed

211 and constructed so as (i) to prevent tidal and circulation restrictions
212 and, when practicable, to eliminate any such existing restrictions, (ii) to
213 improve or have a negligible adverse effect on coastal access and
214 recreation and (iii) to enhance or not unreasonably impair the visual
215 quality of the shoreline; (G) to require that coastal highways and
216 highway improvements, including bridges, be designed and
217 constructed so as to minimize adverse impacts on coastal resources; to
218 require that coastal highway and highway improvements give full
219 consideration to mass transportation alternatives and to require that
220 coastal highways and highway improvements where possible enhance,
221 but in no case decrease coastal access and recreational opportunities;
222 (H) to disallow the construction of major new airports and to
223 discourage the substantial expansion of existing airports within the
224 coastal boundary; to require that any expansion or improvement of
225 existing airports minimize adverse impacts on coastal resources,
226 recreation or access; (I) to manage the state's fisheries in order to
227 promote the economic benefits of commercial and recreational fishing,
228 enhance recreational fishing opportunities, optimize the yield of all
229 species, prevent the depletion or extinction of indigenous species,
230 maintain and enhance the productivity of natural estuarine resources
231 and preserve healthy fisheries resources for future generations; (J) to
232 make effective use of state-owned coastal recreational facilities in order
233 to expand coastal recreational opportunities including the
234 development or redevelopment of existing state-owned facilities where
235 feasible; (K) to require as a condition in permitting new coastal
236 structures, including but not limited to, groins, jetties or breakwaters,
237 that access to, or along, the public beach below mean high water must
238 not be unreasonably impaired by such structures and to encourage the
239 removal of illegal structures below mean high water which
240 unreasonably obstruct passage along the public beach; and (L) to
241 promote the revitalization of inner city urban harbors and waterfronts
242 by encouraging appropriate reuse of historically developed
243 shorefronts, which may include minimized alteration of an existing
244 shorefront in order to achieve a significant net public benefit, provided
245 (i) such shorefront site is permanently devoted to a water dependent

246 use or a water dependent public use such as public access or recreation
247 for the general public and the ownership of any filled lands remain
248 with the state or an instrumentality thereof in order to secure public
249 use and benefit in perpetuity, (ii) landward development of the site is
250 constrained by highways, railroads or other significant infrastructure
251 facilities, (iii) no other feasible, less environmentally damaging
252 alternatives exist, (iv) the adverse impacts to coastal resources of any
253 shorefront alteration are minimized and compensation in the form of
254 resource restoration is provided to mitigate any remaining adverse
255 impacts, and (v) such reuse is consistent with the appropriate
256 municipal coastal program or municipal plan of development.

257 (2) Policies concerning coastal land and other resources within the
258 coastal boundary are: (A) To manage estuarine embayments so as to
259 [insure] ensure that coastal uses proceed in a manner that assures
260 sustained biological productivity, the maintenance of healthy marine
261 populations and the maintenance of essential patterns of circulation,
262 drainage and basin configuration; to protect, enhance and allow
263 natural restoration of eelgrass flats except in special limited cases,
264 notably shellfish management, where the benefits accrued through
265 alteration of the flat may outweigh the long-term benefits to marine
266 biota, waterfowl, and commercial and recreational finfisheries and (B)
267 to maintain, enhance, or, where feasible, restore natural patterns of
268 water circulation and fresh and saltwater exchange in the placement or
269 replacement of culverts, tide gates or other drainage or flood control
270 structures.

271 (d) In addition to the policies in this section, the policies of the state
272 plan of conservation and development adopted pursuant to part I of
273 chapter 297 shall be applied to the area within the coastal boundary in
274 accordance with the requirements of section 16a-31.

275 (e) For the purposes of this section, "feasible, less environmentally
276 damaging alternative" includes, but is not limited to, relocation of an
277 inhabited structure to a landward location, elevation of an inhabited
278 structure, restoration or creation of a dune or vegetated slope, or living

279 shorelines techniques utilizing a variety of structural and organic
280 materials, such as tidal wetland plants, submerged aquatic vegetation,
281 coir fiber logs, sand fill and stone to provide shoreline protection and
282 maintain or restore costal resources and habitat; and "reasonable
283 mitigation measures and techniques" includes, but is not limited to,
284 provisions for upland migration of on-site tidal wetlands,
285 replenishment of the littoral system and the public beach with suitable
286 sediment at a frequency and rate equivalent to the sediment removed
287 from the site as a result of the proposed structural solution, or on-site
288 or off-site removal of existing shoreline flood and erosion control
289 structures from public or private shoreline property to the same or
290 greater extent as the area of shoreline impacted by the proposed
291 structural solution.

292 (f) In the case of any application for a shoreline flood and erosion
293 control structure that is denied on the basis of a finding that there may
294 be feasible, less environmentally damaging alternatives to such
295 structure or that reasonable mitigation measures and techniques have
296 not been provided, the commissioner or the municipal commission, as
297 applicable, shall propose on the record, in writing, the types of feasible
298 alternatives or mitigation measures and techniques that the applicant
299 may investigate, provided this subsection shall not be construed to
300 shift the burden from the applicant to prove that such applicant is
301 entitled to approval of the proposed shoreline flood and erosion
302 control structure or to present alternatives to such structure.

303 Sec. 2. Section 22a-93 of the general statutes is amended by adding
304 subdivision (19) as follows (*Effective October 1, 2012*):

305 (NEW) (19) "Rise in sea level" means the arithmetic mean of the
306 most recent equivalent per decade rise in the surface level of the tidal
307 and coastal waters of the state, as documented for an annual, decadal
308 or centenary period, at any sites specified in the state in National
309 Oceanic and Atmospheric online or printed publications.

310 Sec. 3. Subsections (a) to (c), inclusive, of section 22a-109 of the

311 general statutes are repealed and the following is substituted in lieu
312 thereof (*Effective from passage*):

313 (a) A coastal site plan shall be filed with the municipal zoning
314 commission to aid in determining the conformity of a proposed
315 building, use, structure or shoreline flood and erosion control
316 structure, as defined in subsection (c) of this section, fully or partially
317 within the coastal boundary, with the specific provisions of the zoning
318 regulations of the municipality and the provisions of sections 22a-105
319 and 22a-106, and in the case of shoreline flood and erosion control
320 structures, the provisions of sections 22a-359 to 22a-363, inclusive, as
321 amended by this act, and any regulations adopted thereunder. A
322 coastal site plan required under this section may be modified or denied
323 if it fails to comply with the requirements already set forth in the
324 zoning regulations of the municipality and, in addition, the coastal site
325 plan may be modified, conditioned or denied in accordance with the
326 procedures and criteria listed in sections 22a-105 and 22a-106. A
327 coastal site plan for a shoreline flood and erosion control structure may
328 be modified, conditioned or denied if it fails to comply with the
329 requirements, standards and criteria of sections 22a-359 to 22a-363,
330 inclusive, as amended by this act, and any regulations adopted
331 thereunder. A coastal site plan for a shoreline flood and erosion
332 structure shall be approved if the commission makes specific written
333 findings that such structure is necessary and unavoidable for the
334 protection of infrastructural facilities, cemetery or burial grounds,
335 water-dependent uses or inhabited structures constructed as of
336 January 1, 1995, that there is no feasible, less environmentally
337 damaging alternative and that all reasonable mitigation measures and
338 techniques are implemented to minimize adverse environmental
339 impacts. Review of a coastal site plan under the requirements of this
340 section shall supersede any review required by the municipality under
341 subsection (g) of section 8-3 and shall be in addition to any applicable
342 zoning regulations of any special district exercising zoning authority
343 under special act. The provisions of this section shall not be construed
344 to limit the authority of the Commissioner of Energy and

345 Environmental Protection under sections 22a-359 to 22a-363, inclusive,
346 as amended by this act.

347 (b) The zoning commission may by regulation exempt any or all of
348 the following uses from the coastal site plan review requirements of
349 this chapter: (1) Minor additions to or modifications of existing
350 buildings or detached accessory buildings, such as garages and utility
351 sheds; (2) construction of new or modification of existing structures
352 incidental to the enjoyment and maintenance of residential property
353 including but not limited to walks, terraces, driveways, swimming
354 pools, tennis courts, docks and detached accessory buildings; (3)
355 construction of new or modification of existing on-premise structures
356 including fences, walls, pedestrian walks and terraces, underground
357 utility connections, essential electric, gas, telephone, water and sewer
358 service lines, signs and such other minor structures as will not
359 substantially alter the natural character of coastal resources or restrict
360 access along the public beach; (4) construction of an individual single-
361 family residential structure except when such structure is located on
362 an island not connected to the mainland by an existing road bridge or
363 causeway or except when such structure is in or within one hundred
364 feet of the following coastal resource areas: Tidal wetlands, coastal
365 bluffs and escarpments and beaches and dunes; (5) activities
366 conducted for the specific purpose of conserving or preserving soil,
367 vegetation, water, fish, shellfish, wildlife and other coastal land and
368 water resources; (6) interior modifications to buildings; and (7) minor
369 changes in use of a building, structure or property except those
370 changes occurring on property adjacent to or abutting coastal waters.
371 Gardening, grazing and the harvesting of crops shall be exempt from
372 the requirements of this chapter. Notwithstanding the provisions of
373 this subsection, shoreline flood and erosion control structures as
374 defined in subsection (c) of this section shall not be exempt from the
375 requirements of this chapter.

376 (c) For the purposes of this section, "shoreline flood and erosion
377 control structure" means any structure the purpose or effect of which is
378 to control flooding or erosion from tidal, coastal or navigable waters

379 and includes breakwaters, bulkheads, groins, jetties, revetments,
380 riprap, seawalls and the placement of concrete, rocks or other
381 significant barriers to the flow of flood waters or the movement of
382 sediments along the shoreline. The term shall not include: (1) [any]
383 Any addition, reconstruction, change or adjustment to any walled and
384 roofed building which is necessary for such building to comply with
385 the requirements of the Code of Federal Regulations, Title 44, Part 50,
386 and any municipal regulation adopted thereunder, or (2) any activity,
387 including, but not limited to, living shorelines projects, for which the
388 primary purpose or effect is the restoration or enhancement of tidal
389 wetlands, beaches, dunes or intertidal flats.

390 Sec. 4. Section 22a-359 of the general statutes is repealed and the
391 following is substituted in lieu thereof (*Effective October 1, 2012*):

392 (a) The Commissioner of Energy and Environmental Protection
393 shall regulate dredging and the erection of structures and the
394 placement of fill, and work incidental thereto, in the tidal, coastal or
395 navigable waters of the state waterward of the [high tide] coastal
396 jurisdiction line. Any decisions made by the commissioner pursuant to
397 this section shall be made with due regard for indigenous aquatic life,
398 fish and wildlife, the prevention or alleviation of shore erosion and
399 coastal flooding, the use and development of adjoining uplands, the
400 improvement of coastal and inland navigation for all vessels, including
401 small craft for recreational purposes, the use and development of
402 adjacent lands and properties and the interests of the state, including
403 pollution control, water quality, recreational use of public water and
404 management of coastal resources, with proper regard for the rights
405 and interests of all persons concerned.

406 (b) After consultation with the Commissioner of Transportation, the
407 Commissioner of Energy and Environmental Protection may consider
408 any sunken or grounded vessel, scow, lighter or similar structure lying
409 within the tidal, coastal or navigable waters of the state to be an
410 encroachment subject to the provisions of this section and sections 22a-
411 360 to 22a-363, inclusive.

412 (c) As used in this section and sections 22a-360 to [22a-363] 22a-
413 363b, inclusive, ["high tide line"] "coastal jurisdiction line" means [a
414 line or mark left upon tide flats, beaches, or along shore objects that
415 indicates the intersection of the land with the water's surface at the
416 maximum height reached by a rising tide. The mark may be
417 determined by (1) a line of oil or scum along shore objects, (2) a more
418 or less continuous deposit of fine shell or debris on the foreshore or
419 berm, (3) physical markings or characteristics, vegetation lines, tidal
420 gauge, or (4) by any other suitable means delineating the general
421 height reached by a rising tide. The term includes spring high tides
422 and other high tides that occur with periodic frequency but does not
423 include storm surges in which there is a departure from the normal or
424 predicted reach of the tide due to the piling up of water against a coast
425 by strong winds such as those accompanying a hurricane or other
426 intense storm] the location of the topographical elevation of the highest
427 predicted tide for the period beginning in 1983 and ending in 2001,
428 referenced to the most recent National Tidal Datum Epoch as
429 published by the National Oceanic and Atmospheric Administration
430 and described in terms of feet of elevation above the North American
431 Vertical Datum of 1988.

432 (d) For any tidal, coastal or navigable waters of the state located
433 upstream of a tide gate, weir, or other device that modifies the flow of
434 tidal waters, the coastal jurisdiction line for such tidal, coastal or
435 navigable waters shall be the elevation of mean high water as found at
436 the downstream location of such device.

437 (e) As used in this section and sections 22a-360 to 22a-363a,
438 inclusive, "navigable waters" means Long Island Sound, any cove, bay
439 or inlet of Long Island Sound, and that portion of any tributary, river
440 or stream that empties into Long Island Sound upstream to the first
441 permanent obstruction to navigation for watercraft from Long Island
442 Sound.

443 Sec. 5. Section 22a-360 of the general statutes is repealed and the
444 following is substituted in lieu thereof (*Effective October 1, 2012*):

445 In order to carry out the purposes of sections 22a-359 to 22a-363,
446 inclusive, as amended by this act, the commissioner is authorized to
447 establish boundaries waterward of the [high tide] coastal jurisdiction
448 line along tidal, coastal and navigable waters for equitable regulation
449 of use, dredging, obstruction and encroachment thereof, and to
450 establish areas for development of small boat basins or other facilities,
451 provided such establishments shall be made in accordance with a
452 general plan prepared for the orderly development of the area or
453 region.

454 Sec. 6. Subsection (a) of section 22a-361 of the general statutes is
455 repealed and the following is substituted in lieu thereof (*Effective*
456 *October 1, 2012*):

457 (a) (1) No person, firm or corporation, public, municipal or private,
458 shall dredge, erect any structure, place any fill, obstruction or
459 encroachment or carry out any work incidental thereto or retain or
460 maintain any structure, dredging or fill, in the tidal, coastal or
461 navigable waters of the state waterward of the [high tide] coastal
462 jurisdiction line until such person, firm or corporation has submitted
463 an application and has secured from the Commissioner of Energy and
464 Environmental Protection a certificate or permit for such work and has
465 agreed to carry out any conditions necessary to the implementation of
466 such certificate or permit.

467 (A) Except as provided in subdivision (3) of this subsection, each
468 application for a permit, except for an emergency authorization, for
469 any structure, filling or dredging which uses or occupies less than five
470 thousand five hundred square feet in water surface area based on the
471 perimeters of the project shall be accompanied by a fee equal to eighty
472 cents per square foot provided such fee shall not be less than six
473 hundred sixty dollars.

474 (B) Except as provided in subdivision (3) of this subsection, each
475 application for a permit for any structure, filling or dredging which
476 uses or occupies five thousand five hundred square feet or more but

477 less than five acres in water surface area based on the perimeters of the
478 project shall be accompanied by a fee of three thousand five hundred
479 fifty dollars plus ten cents per square foot for each square foot in
480 excess of five thousand five hundred square feet.

481 (C) Except as provided in subdivision (3) of this subsection, each
482 application for a permit for any structure, filling or dredging which
483 uses or occupies five or more acres in water surface area based on the
484 perimeters of the project shall be accompanied by a fee of nineteen
485 thousand four hundred seventy-five dollars plus five hundred twenty-
486 five dollars per acre for each acre or part thereof in excess of five acres.

487 (D) Except as provided in subdivision (3) of this subsection, each
488 application for a mooring area or multiple mooring facility, regardless
489 of the area to be occupied by moorings, shall be accompanied by a fee
490 of six hundred sixty dollars provided that such mooring areas or
491 facilities shall not include fixed or floating docks, slips or berths.

492 (E) Application fees for aquaculture activities shall not be based on
493 areal extent.

494 (2) The commissioner may waive or reduce any fee payable
495 pursuant to subdivision (1) of this subsection for (A) a tidal wetlands
496 or coastal resource restoration or enhancement activity, (B)
497 experimental activities or demonstration projects, (C) nonprofit
498 academic activities, or (D) public access activities in tidal, coastal or
499 navigable waters, provided no fee shall be waived or reduced for
500 activities required by statute, regulation, permit, order or enforcement
501 action. The application fee for the retention of a structure built in
502 violation of this subsection where such structure is ineligible for a
503 certificate of permission under section 22a-363b, as amended by this
504 act, shall be four times the fee calculated in accordance with
505 subparagraphs (A) to (D), inclusive, of subdivision (1) of this
506 subsection. The commissioner may lower any such fee based upon the
507 commissioner's finding of significant extenuating circumstances,
508 including, but not limited to, whether the applicant acquired such real

509 estate interest in the work site after the date of the unauthorized
510 activity and is not otherwise liable for the unauthorized activity as a
511 result of actions taken prior to the acquisition and did not know and
512 had no reason to know of the unauthorized activity. As used in this
513 section, "resource restoration or enhancement activity" means an action
514 taken to return a wetland or coastal resource to a prior natural
515 condition or to improve the natural functions or habitat value of such
516 resource, but shall not include actions required pursuant to an
517 enforcement action of the commissioner, and "public access activities"
518 means activities whose principal purpose is to provide or increase
519 access for the general public to tidal, coastal or navigable waters,
520 including, but not limited to, boardwalks, boat ramps, observation
521 areas and fishing piers.

522 (3) The commissioner may adopt regulations in accordance with the
523 provisions of chapter 54 to vary the permit fees described in
524 subdivision (1) of this subsection and the cost of public notice required
525 pursuant to section 22a-6h, provided such regulations shall contain a
526 simplified schedule that promotes expedited approval of applications
527 that are consistent with all applicable standards and criteria. In the
528 event the commissioner adopts such regulations, such permit fees shall
529 be the amount established in such regulations.

530 Sec. 7. Section 22a-363a of the general statutes is repealed and the
531 following is substituted in lieu thereof (*Effective October 1, 2012*):

532 For the purposes of this section and sections 22a-361, as amended by
533 this act, 22a-361a, 22a-362, 22a-363b, as amended by this act, and 22a-
534 363d to 22a-363f, inclusive: "Substantial maintenance" means
535 rebuilding, reconstructing, or reestablishing to a preexisting condition
536 and dimension any structure, fill, obstruction or encroachment;
537 "routine maintenance" means replacement and repair of out-of-water
538 structures including the surfaces of docks, piers, wharves and bridges,
539 replacement or repair in any year of up to twenty-five per cent of all
540 pilings approved in accordance with section 22a-361, as amended by
541 this act, and seasonal installation, reinstallation or repair of floating

542 docks, provided that all locations, dimensions, elevations and
543 materials shall remain the same as or equivalent to that approved in
544 accordance with said section; "perimeter permit" means a permit
545 issued in accordance with said section, establishing boundaries
546 waterward of the [high tide] coastal jurisdiction line within which
547 recreational marinas layout of in-water slips, docks and moorings may
548 be reconfigured; "work" means any activity, construction, or site
549 preparation, erection of structures or placement of fill, including but
550 not limited to grading, excavating, dredging or disposing of dredged
551 material, depositing of soil, stones, sand, gravel, mud, aggregate or
552 construction materials, filling, removing vegetation or other material,
553 or other modification of a site within the tidal, coastal or navigable
554 waters of the state waterward of the [high tide] coastal jurisdiction
555 line.

556 Sec. 8. Subsection (a) of section 22a-363b of the general statutes is
557 repealed and the following is substituted in lieu thereof (*Effective*
558 *October 1, 2012*):

559 (a) Routine maintenance of permitted structures, fill, obstructions or
560 encroachments or routine maintenance of structures, fill, obstructions
561 or encroachments in place prior to June 24, 1939, and continuously
562 maintained and serviceable since that date shall be exempt from the
563 requirements of obtaining certificates of permission or permits
564 pursuant to section 22a-363a, as amended by this act, this section or
565 section 22a-361, as amended by this act. The following activities may
566 be eligible for a certificate of permission, in accordance with the
567 provisions of subsections (c) and (d) of this section: (1) Substantial
568 maintenance or repair of existing structures, fill, obstructions or
569 encroachments authorized pursuant to section 22a-33 or 22a-361, as
570 amended by this act; (2) substantial maintenance of any structures, fill,
571 obstructions or encroachments in place prior to June 24, 1939, and
572 continuously maintained and serviceable since such time; (3)
573 maintenance dredging of areas which have been dredged and
574 continuously maintained and serviceable as authorized pursuant to
575 section 22a-33 or 22a-361, as amended by this act; (4) activities allowed

576 pursuant to a perimeter permit and requiring authorization by the
577 commissioner; (5) the removal of derelict structures or vessels; (6)
578 minor alterations or amendments to permitted activities consistent
579 with the original permit; (7) minor alterations or amendments to
580 activities completed prior to June 24, 1939; (8) placement of temporary
581 structures for water-dependent uses, as defined in section 22a-93, as
582 amended by this act; (9) open water marsh management, tidal wetland
583 restoration, resource restoration or enhancement activity, as defined in
584 subsection (a) of section 22a-361, as amended by this act, and
585 conservation activities undertaken by or under the supervision of the
586 Department of Energy and Environmental Protection; (10) the
587 placement or reconfiguration of piers, floats, docks or moorings within
588 existing waterward boundaries of recreational marinas or yacht clubs
589 which have been authorized pursuant to section 22a-33 or 22a-361, as
590 amended by this act; and (11) substantial maintenance or repair of
591 structures, fill, obstructions or encroachments placed landward of the
592 mean high waterline and waterward of the [high tide] coastal
593 jurisdiction line completed prior to October 1, 1987, and continuously
594 maintained and serviceable since said date. Notwithstanding the
595 provisions of sections 22a-29 to 22a-35, inclusive, the commissioner
596 may issue a certificate of permission for activities enumerated in this
597 subsection which are to be conducted in tidal wetlands. Upon
598 issuance, such certificate shall be in lieu of the permit required
599 pursuant to section 22a-32.

600 Sec. 9. Section 16a-27 of the 2012 supplement to the general statutes
601 is repealed and the following is substituted in lieu thereof (*Effective*
602 *October 1, 2012*):

603 (a) The secretary, after consultation with all appropriate state,
604 regional and local agencies and other appropriate persons, shall, prior
605 to March 1, 2012, complete a revision of the existing plan and enlarge it
606 to include, but not be limited to, policies relating to transportation,
607 energy and air. Any revision made after May 15, 1991, shall identify
608 the major transportation proposals, including proposals for mass
609 transit, contained in the master transportation plan prepared pursuant

610 to section 13b-15. Any revision made after July 1, 1995, shall take into
611 consideration the conservation and development of greenways that
612 have been designated by municipalities and shall recommend that
613 state agencies coordinate their efforts to support the development of a
614 state-wide greenways system. The Commissioner of Energy and
615 Environmental Protection shall identify state-owned land for inclusion
616 in the plan as potential components of a state greenways system.

617 (b) Any revision made after August 20, 2003, shall take into account
618 (1) economic and community development needs and patterns of
619 commerce, and (2) linkages of affordable housing objectives and land
620 use objectives with transportation systems.

621 (c) Any revision made after March 1, 2006, shall (1) take into
622 consideration risks associated with natural hazards, including, but not
623 limited to, flooding, high winds and wildfires; (2) identify the potential
624 impacts of natural hazards on infrastructure and property; and (3)
625 make recommendations for the siting of future infrastructure and
626 property development to minimize the use of areas prone to natural
627 hazards, including, but not limited to, flooding, high winds and
628 wildfires.

629 (d) Any revision made after July 1, 2005, shall describe the progress
630 towards achievement of the goals and objectives established in the
631 previously adopted state plan of conservation and development and
632 shall identify (1) areas where it is prudent and feasible (A) to have
633 compact, transit accessible, pedestrian-oriented mixed-use
634 development patterns and land reuse, and (B) to promote such
635 development patterns and land reuse, (2) priority funding areas
636 designated under section 16a-35c, and (3) corridor management areas
637 on either side of a limited access highway or a rail line. In designating
638 corridor management areas, the secretary shall make
639 recommendations that (A) promote land use and transportation
640 options to reduce the growth of traffic congestion; (B) connect
641 infrastructure and other development decisions; (C) promote
642 development that minimizes the cost of new infrastructure facilities

643 and maximizes the use of existing infrastructure facilities; and (D)
644 increase intermunicipal and regional cooperation.

645 (e) Any revision made after October 1, 2008, shall (1) for each policy
646 recommended (A) assign a priority; (B) estimate funding for
647 implementation and identify potential funding sources; (C) identify
648 each entity responsible for implementation; and (D) establish a
649 schedule for implementation; and (2) for each growth management
650 principle, determine three benchmarks to measure progress in
651 implementation of the principles, one of which shall be a financial
652 benchmark.

653 (f) Any revision made after October 1, 2009, shall take into
654 consideration the protection and preservation of Connecticut Heritage
655 Areas.

656 (g) Any revision made after December 1, 2011, shall take into
657 consideration (1) the state water supply and resource policies
658 established in sections 22a-380 and 25-33c, and (2) the list prepared by
659 the Commissioner of Public Health pursuant to section 25-33q.

660 (h) Any revision made after October 1, 2012, shall (1) take into
661 consideration risks associated with increased coastal erosion,
662 depending on site topography, caused by a rise in sea level, as defined
663 in section 22a-93, as amended by this act, (2) identify the impacts of
664 such increased erosion on infrastructure and natural resources, and (3)
665 make recommendations for the siting of future infrastructure and
666 property development to minimize the use of areas prone to such
667 erosion.

668 [(h)] (i) Thereafter on or before March first in each revision year the
669 secretary shall complete a revision of the plan of conservation and
670 development.

671 Sec. 10. (NEW) (*Effective October 1, 2012*) (a) The Commissioner of
672 Energy and Environmental Protection may, within available
673 appropriations, establish a pilot program to encourage innovative and

674 low-impact approaches to shoreline protection and adaptation to a rise
 675 in sea level. Such approaches may include living shorelines techniques
 676 utilizing a variety of structural and organic materials, including, but
 677 not limited to, tidal wetland plants, submerged aquatic vegetation, coir
 678 fiber logs, sand fill and stone to provide shoreline protection and
 679 maintain or restore coastal resources and habitat. The commissioner
 680 may solicit proposals for site-specific pilot projects utilizing such
 681 approaches and may offer technical assistance for such projects.
 682 Whenever such projects are proposed within the Department of
 683 Energy and Environmental Protection's regulatory jurisdiction under
 684 section 22a-32 or 22a-361 of the general statutes, as amended by this
 685 act, the commissioner may select not more than three projects per year
 686 to receive expedited regulatory approval pursuant to section 22a-363b
 687 of the general statutes, as amended by this act.

688 (b) The Commissioner of Energy and Environmental Protection,
 689 within available appropriations, may, in conjunction with academic
 690 institutions, nongovernmental organizations or federal agencies, seek
 691 funds for and prepare a shoreline management study for the purpose
 692 of enhancing the resilience of coastal communities to coastal hazards
 693 and a rise in sea level, with special consideration for areas significantly
 694 impacted by coastal storms.

695 (c) The University of Connecticut and the Connecticut State
 696 University System may, within available appropriations, in
 697 conjunction with other academic institutions and state and federal
 698 agencies, seek funds for and establish a program to develop and
 699 maintain science and engineering capacity within the state to support
 700 shoreline planning and management to enhance the resilience of
 701 coastal communities to coastal hazards and a rise in sea level."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	22a-92
Sec. 2	October 1, 2012	22a-93
Sec. 3	from passage	22a-109(a) to (c)

Sec. 4	<i>October 1, 2012</i>	22a-359
Sec. 5	<i>October 1, 2012</i>	22a-360
Sec. 6	<i>October 1, 2012</i>	22a-361(a)
Sec. 7	<i>October 1, 2012</i>	22a-363a
Sec. 8	<i>October 1, 2012</i>	22a-363b(a)
Sec. 9	<i>October 1, 2012</i>	16a-27
Sec. 10	<i>October 1, 2012</i>	New section