



General Assembly

February Session, 2012

**Amendment**

LCO No. 4912

**\*SB0044004912SD0\***

Offered by:

SEN. MEYER, 12<sup>th</sup> Dist.  
REP. DONOVAN, 84<sup>th</sup> Dist.  
REP. ROY, 119<sup>th</sup> Dist.  
SEN. RORABACK, 30<sup>th</sup> Dist.  
REP. CHAPIN, 67<sup>th</sup> Dist.

SEN. CASSANO, 4<sup>th</sup> Dist.  
SEN. FASANO, 34<sup>th</sup> Dist.  
REP. AMAN, 14<sup>th</sup> Dist.  
REP. GENTILE, 104<sup>th</sup> Dist.  
REP. FRITZ, 90<sup>th</sup> Dist.

To: Subst. Senate Bill No. 440

File No. 377

Cal. No. 282

**"AN ACT CONCERNING PHOSPHOROUS REDUCTION IN STATE WATERS."**

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

3 "Section 1. (*Effective from passage*) The Commissioner of Energy and  
4 Environmental Protection, or the commissioner's designee, shall, in  
5 consultation with the chief elected officials of the cities of Danbury,  
6 Meriden and Waterbury and the towns of Cheshire, Southington and  
7 Wallingford, or such chief elected officials' designees, develop a state-  
8 wide strategy to reduce phosphorous loading in inland nontidal  
9 waters in order to comply with standards established by the United  
10 States Environmental Protection Agency. Such state-wide strategy  
11 shall (1) establish a state-wide response to address phosphorous  
12 nonpoint source pollution, (2) create a workable, cost-effective

13 approach for municipalities to use in order to comply with standards  
14 established by the United States Environmental Protection Agency for  
15 phosphorous reduction, and (3) determine the proper scientific  
16 methods by which to measure current phosphorous levels in inland  
17 nontidal waters and to make future projections of phosphorous levels  
18 in such waters.

19 Sec. 2. (NEW) (*Effective January 1, 2013*) (a) For the purposes of this  
20 section:

21 (1) "Established lawn" means any area of ground that is covered  
22 with any species of grass for two or more growing seasons and that is  
23 customarily kept mowed;

24 (2) "Golf course" means an area solely designated for the play or  
25 practice of the game of golf, including, but not limited to, surrounding  
26 grounds, trees and ornamental beds; and

27 (3) "Impervious surface" means any structure, surface or  
28 improvement that reduces or prevents absorption of stormwater into  
29 land, including, but not limited to, porous paving, paver blocks,  
30 gravel, crushed stone, decks, patios and elevated structures.

31 (b) Notwithstanding chapter 427a of the general statutes, no person  
32 shall apply fertilizer, as defined in section 22-111b of the general  
33 statutes, any soil amendment, as defined in section 22-111aa of the  
34 general statutes, or any compost that contains phosphate to an  
35 established lawn, except when: (1) A soil testing method approved by  
36 the Commissioner of Agriculture and performed within the previous  
37 two years indicates the soil is lacking in phosphorus and fertilizer, soil  
38 amendments or compost containing phosphate is needed for the  
39 growth of such lawn, or (2) such fertilizer, soil amendment or compost  
40 containing phosphate is used for establishing new grass or repairing  
41 such lawn with seed or sod.

42 (c) The provisions of this section shall not apply to: (1) Property  
43 classified as agricultural land, as defined in section 22-26bb of the

44 general statutes, or (2) a golf course.

45 (d) Notwithstanding subsection (b) of this section, no person shall  
46 apply any fertilizer, as defined in section 22-111b of the general  
47 statutes, soil amendment, as defined in section 22-111aa of the general  
48 statutes, or compost that contains phosphate to any lawn during the  
49 period beginning December first and ending March fifteenth of the  
50 following year.

51 (e) Notwithstanding chapters 427a and 441 of the general statutes  
52 and subsections (b) and (d) of this section, no person shall apply any  
53 fertilizer, as defined in section 22-111b of the general statutes, soil  
54 amendment, as defined in section 22-111aa of the general statutes, or  
55 compost that contains phosphate to any portion of a lawn that is  
56 located twenty feet or less from any brook, stream, river, lake, pond,  
57 sound or any other body of water, except if such fertilizer, soil  
58 amendment or compost is applied with the use of a drop spreader,  
59 rotary spreader with a deflector or targeted spray liquid, such  
60 application may occur on any portion of lawn that is located not less  
61 than fifteen feet from any such brook, stream, river, lake, pond, sound  
62 or any other body of water.

63 (f) No person shall apply any fertilizer, as defined in section 22-111b  
64 of the general statutes, soil amendment, as defined in section 22-111aa  
65 of the general statutes, or compost that contains phosphate to any  
66 impervious surface.

67 (g) For use by the general public or posting and distribution at retail  
68 points of sale, the Commissioner of Agriculture may approve  
69 consumer information on use restrictions and best practices for  
70 fertilizer, soil amendments and compost that contain phosphate.

71 (h) The Commissioner of Agriculture may adopt regulations, in  
72 accordance with chapter 54 of the general statutes, to implement the  
73 provisions of this section.

74 (i) Any person who violates subsection (b), (d), (e), (f) or (g) of this

75 section shall be assessed a civil penalty by the Commissioner of  
76 Agriculture of five hundred dollars.

77 (j) Nothing in this section shall be construed to prohibit the use of  
78 any fertilizer, soil amendment or compost that contains 0.67 per cent or  
79 less phosphate.

80 Sec. 3. Subsection (c) of section 22a-478 of the general statutes is  
81 repealed and the following is substituted in lieu thereof (*Effective from*  
82 *passage*):

83 (c) The funding of an eligible water quality project shall be pursuant  
84 to a project funding agreement between the state, acting by and  
85 through the commissioner, and the municipality undertaking such  
86 project and shall be evidenced by a project fund obligation or grant  
87 account loan obligation, or both, or an interim funding obligation of  
88 such municipality issued in accordance with section 22a-479. A project  
89 funding agreement shall be in a form prescribed by the commissioner.  
90 Eligible water quality projects shall be funded as follows:

91 (1) A nonpoint source pollution abatement project shall receive a  
92 project grant of seventy-five per cent of the cost of the project  
93 determined to be eligible by the commissioner.

94 (2) A combined sewer project shall receive (A) a project grant of fifty  
95 per cent of the cost of the project, and (B) a loan for the remainder of  
96 the costs of the project, not exceeding one hundred per cent of the  
97 eligible water quality project costs.

98 (3) A construction contract eligible for financing awarded by a  
99 municipality on or after July 1, [1999] 2012, as a project undertaken for  
100 [nitrogen] nutrient removal shall receive a project grant of thirty per  
101 cent of the cost of the project associated with [nitrogen] nutrient  
102 removal, a twenty per cent grant for the balance of the cost of the  
103 project not related to [nitrogen] nutrient removal, and a loan for the  
104 remainder of the costs of the project, not exceeding one hundred per  
105 cent of the eligible water quality project costs. [Nitrogen] Nutrient

106 removal projects under design or construction on July 1, [1999] 2012,  
107 and projects that have been constructed but have not received  
108 permanent, Clean Water Fund financing, on July 1, [1999] 2012, shall  
109 be eligible to receive a project grant of thirty per cent of the cost of the  
110 project associated with [nitrogen] nutrient removal, a twenty per cent  
111 grant for the balance of the cost of the project not related to [nitrogen]  
112 nutrient removal, and a loan for the remainder of the costs of the  
113 project, not exceeding one hundred per cent of the eligible water  
114 quality project costs.

115 (4) If supplemental federal grant funds are available for Clean Water  
116 Fund projects specifically related to the clean-up of Long Island Sound  
117 that are funded on or after July 1, [2003] 2012, a distressed  
118 municipality, as defined in section 32-9p, may receive a combination of  
119 state and federal grants in an amount not to exceed fifty per cent of the  
120 cost of the project associated with [nitrogen] nutrient removal, a  
121 twenty per cent grant for the balance of the cost of the project not  
122 related to [nitrogen] nutrient removal, and a loan for the remainder of  
123 the costs of the project, not exceeding one hundred per cent of the  
124 allowable water quality project costs.

125 (5) A municipality with a water pollution control project, the  
126 construction of which began on or after July 1, 2003, which has (A) a  
127 population of five thousand or less, or (B) a population of greater than  
128 five thousand which has a discrete area containing a population of less  
129 than five thousand that is not contiguous with the existing sewerage  
130 system, shall be eligible to receive a grant in the amount of twenty-five  
131 per cent of the design and construction phase of eligible project costs,  
132 and a loan for the remainder of the costs of the project, not exceeding  
133 one hundred per cent of the eligible water quality project costs.

134 (6) Any other eligible water quality project shall receive (A) a project  
135 grant of twenty per cent of the eligible cost, and (B) a loan for the  
136 remainder of the costs of the project, not exceeding one hundred per  
137 cent of the eligible project cost.

138 (7) Project agreements to fund eligible project costs with grants from  
 139 the Clean Water Fund that were executed during or after the fiscal year  
 140 beginning July 1, 2003, shall not be reduced according to the provisions  
 141 of the regulations adopted under section 22a-482.

142 (8) On or after July 1, 2002, an eligible water quality project that  
 143 exclusively addresses sewer collection and conveyance system  
 144 improvements may receive a loan for one hundred per cent of the  
 145 eligible costs provided such project does not receive a project grant.  
 146 Any such sewer collection and conveyance system improvement  
 147 project shall be rated, ranked, and funded separately from other water  
 148 pollution control projects and shall be considered only if it is highly  
 149 consistent with the state's conservation and development plan, or is  
 150 primarily needed as the most cost effective solution to an existing area-  
 151 wide pollution problem and incorporates minimal capacity for growth.

152 (9) All loans made in accordance with the provisions of this section  
 153 for an eligible water quality project shall bear an interest rate of two  
 154 per cent per annum. The commissioner may allow any project fund  
 155 obligation, grant account loan obligation or interim funding obligation  
 156 for an eligible water quality project to be repaid by a borrowing  
 157 municipality prior to maturity without penalty."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>January 1, 2013</i>	New section
Sec. 3	<i>from passage</i>	22a-478(c)