



Inland Wetlands & Watercourses Agency
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Connecticut General Assembly
Planning and Development Committee
Room 2100, Legislative Office Building
Hartford, CT 06106

Subject: S.B. No. 343 - AN ACT CONCERNING INTERVENTION IN PERMIT PROCEEDINGS PURSUANT TO THE ENVIRONMENTAL PROTECTION ACT OF 1971.

Members:

The bill requires that "Not later than thirty days after the date on which the verified pleading is filed, the intervenor or intervenors shall introduce evidence supporting any allegations of unreasonable pollution, impairment, or destruction of the public trust in the air, water or other natural resources of the state." Furthermore a hearing must be scheduled within 30 days and decision be made within 15 days to conclude whether "such submitted evidence substantially supports the allegations in the verified pleading."

We believe that the bill is problematic in the following ways;

1. Contrary to historical precedence, this bill places a burden of proof for demonstrating negative impacts on the intervenors. Currently the burden of proof that the resources will be protected is the applicant's responsibility.
2. Funds required to gather this evidence would likely be out of reach for most intervenors.
3. The intervenors have to put up a bond for the applicant if they are determined to have brought the intervention forward on frivolous ... reasons. If the commission denies the intervention this might likely be used by the applicant in court to call the bond. It is not clear who would hold this bond, how high it might be, or how it would be collected.
4. The technical nature of the "evidence" will likely require peer review, which all commissions are advised to do if they don't have experts on the commission. In this event, the schedule would be unrealistic, would have to fit into the current statutory time frame for processing applications, and likely impossible to manage. A possible scenario follows:
 - a. After submission of the "evidence" to the agency, a regular or special commission meeting would be scheduled as soon as possible to:
 - i. review the testimony
 - ii. estimate the cost for expert peer review if required
 - iii. collect "estimated" peer review fees from the applicant
 - b. Staff prepares and sends out an RFQ to potential consultants
 - c. Consultants prepare and submit a proposal, received in the office by staff
 - d. A second meeting is scheduled so IWWC can select the consultant
 - e. A purchase order and all documentary evidence is sent to the consultant
 - f. The consultant reviews the evidence and submits his report at a third meeting scheduled no later than 30 days after submission of the evidence where: