

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 12-100—SB 351

Environment Committee

Planning and Development Committee

**AN ACT CONCERNING CERTAIN CEMETERY EROSION
MITIGATION EFFORTS WITHIN THE COASTAL BOUNDARY AND
THE APPEAL OF CERTAIN DECISIONS UNDER THE WATER
POLLUTION CONTROL ACT**

SUMMARY: This act adds cemetery and burial grounds to the list of land uses that can be protected by structural solutions within the coastal boundary.

The act also requires the Department of Energy and Environmental Protection (DEEP) commissioner to conduct a hearing at an applicant's request on an application for a (1) water quality certification under the federal Water Pollution Control Act (WPCA) or (2) permit to conduct certain activities in tidal, coastal, or navigable waters below the high tide line, under certain circumstances. It allows any person aggrieved by the DEEP commissioner's final decision on these applications to appeal to Superior Court.

EFFECTIVE DATE: October 1, 2012, except the provision concerning cemetery and burial ground protection is effective upon passage.

CEMETERY AND BURIAL GROUNDS

The act allows the use of structural solutions to protect a cemetery or burial ground in the coastal boundary.

By law, it is state policy in the coastal boundary for federal, state, and municipal agencies to (1) maintain the natural relationship between eroding and depositional coastal landforms and (2) minimize the adverse effects of erosion and sedimentation by promoting nonstructural mitigation measures.

But the law allows structural solutions, such as retaining walls, to erosion and sedimentation's adverse effects when necessary and unavoidable to protect (1) infrastructural facilities, (2) water-dependent uses, and (3) existing inhabited structures. There must be no feasible, less environmentally damaging alternative, and all reasonable mitigation measures and techniques must have been taken to minimize adverse environmental impacts.

APPLICATION HEARINGS

Water Quality Certification

The act allows an applicant for a water quality certification under Section 401 of the WPCA to request a hearing on the application within 30 days of the date the DEEP commissioner publishes notice of his tentative determination or causes it to be published. It requires the DEEP commissioner to hold a hearing if the

OLR PUBLIC ACT SUMMARY

applicant's request is timely and in writing.

Activity in Tidal, Coastal, or Navigable Waters

The act also requires the DEEP commissioner to hold a public hearing on an application to conduct certain regulated activities in tidal, coastal, or navigable waters below the high tide line if the applicant requests one in writing. By law, DEEP regulates dredging, erecting structures, placing fill, and related work in such waters.

Existing law allows the DEEP commissioner to hold a public hearing before approving or denying an application if he determines it is in the public interest. He must hold one if he receives a petition signed by at least 25 people requesting one and the application will (1) significantly affect a shellfish area, (2) have interstate ramifications, or (3) require a certificate of environmental compatibility and public need or approval from the Federal Energy Regulatory Commission.

BACKGROUND

Coastal Boundary

By law, the "coastal boundary" is the furthest inland of (1) the 100-year-frequency coastal flood zone, (2) a 1,000-foot setback from the mean high-water mark, or (3) a 1,000-foot setback from the inland boundary of the tidal wetlands (CGS § 22a-94(b)).

Water Pollution Control Act

The federal Water Pollution Control Act (33 USC § 1251 et seq.), also known as the Clean Water Act, is aimed at restoring and maintaining the chemical, physical, and biological integrity of the nation's waters. Under Section 401 of the act, applicants for certain federal licenses or permits must obtain a certification from the state that the proposed activity is consistent with the WPCA and state water quality standards.

Related Act

PA 12-101 also adds cemetery and burial grounds to types of land uses that can be protected by structural solutions in the coastal boundary. It removes the statutory definition of and references to "high tide line," replacing it with "coastal jurisdiction line."

OLR Tracking: KLM:SP:PF:eh