
OLR Bill Analysis

sSB 814

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

SUMMARY:

This bill sets conditions on verified pleadings by parties seeking to intervene in a proceeding on, or judicial review of, conduct that could harm the state's natural resources. The bill (1) specifies the contents of such pleadings, (2) creates deadlines for intervention petitions, and (3) defines "judicial review" and "reviewing authority" for these purposes.

By law, any individual, the attorney general, a state agency or municipality, corporation, organization, association, or other legal entity may intervene as a party in any administrative, licensing, or other proceeding, or any judicial review of a proceeding, by filing a verified pleading asserting that the proceeding or review involves conduct that has, or likely will, unreasonably pollute, impair, or destroy the public trust in the state's natural resources.

EFFECTIVE DATE: October 1, 2013

VERIFIED PLEADING

Under the bill, a verified pleading in a proceeding under CGS § 22-19 must:

1. contain specific factual allegations setting forth the nature of the alleged unreasonable pollution, impairment, or destruction; and
2. state the material facts upon which the intervention is based in sufficient detail to allow the reviewing authority to determine, based on the pleading itself, whether the intervention implicates

an issue within its jurisdiction (see BACKGROUND).

FILING DEADLINE

The bill generally requires intervenors' verified pleadings in such administrative, licensing, or other proceedings to be filed in accordance with any applicable statutory deadlines for filing evidence, testimony, or legal arguments. The bill also provides that a verified pleading may be filed on the earlier of the following:

1. within 15 days after an applicant's submission of a final modified application to the reviewing authority, or
2. before a reviewing authority issues a decision on an application.

Intervenors in a judicial review proceeding must file verified pleadings according to any applicable filing deadlines.

DEFINITIONS

For the purposes of this statute, the bill defines:

1. "judicial review" as an appeal of decision resulting from an administrative, licensing, or other proceeding that is made by a party to the original proceeding or an aggrieved person; and
2. "reviewing authority" as the board, commission, or other decision-making authority in an administrative, licensing, or other proceeding, or the court in a judicial review proceeding.

BACKGROUND

Nizzardo v. State Traffic Commission

In 2002 the Connecticut Supreme Court held that verified pleadings made pursuant to CGS § 22a-19 "must contain specific factual allegations setting forth the environmental issue that the intervenor intends to raise" (*Nizzardo v. State Traffic Commission*, 259 Conn. 131, 164-165 (2002)). In addition, it found that intervenors may only raise environmental concerns that are within the jurisdiction of the authority conducting the proceeding. It held "the facts contained [in a verified pleading] should be sufficient to allow the agency to determine from

the face of the petition whether the intervention implicates an issue within the agency's jurisdiction" (*Id.*).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 17 Nay 2 (03/22/2013)