
OLR Bill Analysis

sSB 814 (File 416, as amended by Senate "A")*

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

1. contain specific factual allegations setting forth the nature of the alleged unreasonable pollution, impairment, or destruction; and
2. allow the reviewing authority to determine whether the intervention implicates an issue within its jurisdiction (see BACKGROUND).

For the purposes of this statute, the bill defines "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.

*Senate Amendment "A" replaces the original bill (File 416). It eliminates the provisions (1) defining "judicial review," (2) requiring verified pleadings to state the material facts upon which the intervention is based, and (3) creating filing deadlines for intervention petitions.

EFFECTIVE DATE: October 1, 2013

BACKGROUND

Nizzardo v. State Traffic Commission

In 2002, the Connecticut Supreme Court held that verified pleadings made under 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.*).

Environmental Interventions

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.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 17 Nay 2 (03/22/2013)

Environment Committee

Joint Favorable

Yea 22 Nay 5 (05/02/2013)

Judiciary Committee

Joint Favorable

Yea 43 Nay 1 (05/21/2013)