



# House of Representatives

General Assembly

**File No. 219**

January Session, 2015

Substitute House Bill No. 5710

*House of Representatives, March 26, 2015*

The Committee on Environment reported through REP. ALBIS of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT AUTHORIZING THE COMMISSIONER OF ENERGY AND ENVIRONMENTAL PROTECTION TO SEEK ENFORCEMENT OF PROHIBITIONS AGAINST PERSONS ENCROACHING ON STATE-OWNED OPEN SPACE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-560a of the general statutes is amended by  
2 adding subsection (e) as follows (*Effective from passage*):

3 (NEW) (e) In the event that the Commissioner of Energy and  
4 Environmental Protection elects to administratively seek and recover  
5 any costs or restoration, as described in subsection (c) of this section,  
6 for any such encroachment on open space land that is under said  
7 commissioner's control or on any land for which the state holds a  
8 conservation easement interest pursuant to said commissioner's  
9 authority, prior to resolving or settling any such matter, the  
10 commissioner shall consult with the Attorney General on such matter  
11 to determine whether such resolution or settlement is reasonable,  
12 adequate and in the best interest of the state. If the Attorney General

13 determines that the encroachment that is the basis for any such matter  
14 may involve criminal conduct, the Attorney General shall refer such  
15 matter to the Office of the Chief State's Attorney.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	52-560a

**ENV**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Resources of the General Fund	GF - Revenue Gain	Potential	Potential

**Municipal Impact:** None

**Explanation**

This bill requires the Department of Energy and Environmental Protection to consult with the Attorney General (AG) before settling with a person who encroached on open space land or any land for which the state holds a conservation easement. Then, if the AG determines that the encroachment may involve criminal conduct, he must refer the matter to the chief state's attorney.

This may result in a revenue gain to the state, to the extent the AG or the chief state's attorney recovers a greater settlement amount than the agency would. The magnitude of any revenue gain is dependent upon 1) the number of cases and 2) the actual settlement of the case.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to any settlements recovered by the state.

**OLR Bill Analysis****sHB 5710*****AN ACT AUTHORIZING THE COMMISSIONER OF ENERGY AND ENVIRONMENTAL PROTECTION TO SEEK ENFORCEMENT OF PROHIBITIONS AGAINST PERSONS ENCROACHING ON STATE-OWNED OPEN SPACE.*****SUMMARY:**

This bill requires the Department of Energy and Environmental Protection (DEEP) commissioner to consult with the attorney general before settling with a person who encroached on open space land that is under the DEEP commissioner's control or any land for which the state holds a conservation easement under his authority. The consultation is to determine if the settlement or other resolution is reasonable, adequate, and in the state's best interest. If the attorney general determines that the encroachment may involve criminal conduct, he must refer the matter to the chief state's attorney.

EFFECTIVE DATE: Upon passage

**BACKGROUND*****Encroachment Prohibited***

By law, no one may, without the owner's permission or other legal authorization, encroach or cause anyone to encroach, on (1) open space land or (2) any land in which the state, its political subdivisions, or a nonprofit land conservation organization holds a conservation easement interest. The law allows anyone with a property interest in such land, or the attorney general, to bring an action against a violator in Superior Court. The law specifies the orders, awards, fines, costs, and fees the court may impose on people who illegally encroach on such land.

***Open Space Land***

By law, “open space land” includes any park, forest, wildlife management area, refuge, preserve, sanctuary, green, or wildlife area owned by the state, its political subdivisions, or a nonprofit land conservation organization.

***Encroach***

Under the law, “encroach” means to conduct an activity that damages or alters the land, vegetation, or other features, including erecting buildings or other structures; building roads, driveways, or trails; destroying or moving stone walls; cutting trees or other vegetation; removing boundary markers; installing lawns or utilities; or using, storing, or depositing vehicles, material, or debris.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 29 Nay 0 (03/11/2015)