



STATE OF CONNECTICUT

OFFICE OF POLICY AND MANAGEMENT

TESTIMONY PRESENTED TO THE ENVIRONMENT COMMITTEE

March 4, 2016

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Secretary

Office of Policy and Management

Testimony Regarding Senate Bill No. 229

AN ACT CONCERNING THE ACCURACY AND APPLICABILITY OF CERTAIN ENVIRONMENTAL IMPACT EVALUATIONS

Senator Kennedy, Representative Albis and distinguished members of the Environment Committee, thank you for the opportunity to provide this testimony in opposition to Raised Senate Bill No. 229 "AN ACT CONCERNING THE ACCURACY AND APPLICABILITY OF CERTAIN ENVIRONMENTAL IMPACT EVALUATIONS".

This testimony is being submitted on behalf of all Executive Branch agencies, since OPM has broad oversight responsibilities associated with the Connecticut Environmental Policy Act (CEPA) process. In particular, OPM must determine whether or not Environmental Impact Evaluations (EIE) have been adequately prepared prior to any state agency undertaking certain actions that are subject to CEPA.

OPM is opposed to Senate Bill No. 229 because it would essentially force any sponsoring agency to prepare a new EIE, whenever requested in a petition signed by 100 or more persons, after an arbitrary five (5) year period has passed. Please note that Section 22a-1a-7(d) of the CEPA regulations currently provides a mechanism for revising an EIE when there is a substantive change in the proposed action from what was evaluated in the original EIE.

It is not unusual for many state agency-sponsored projects, particularly large construction projects, to have 5 or more years elapse between the completion of the EIE and the start of construction. This is because CEPA statutes and regulations seek to provide a public process by which a sponsoring agency, at the earliest possible time, determines whether or not a proposed action may have a significant impact on the environment.

Senate Bill No. 229 has the potential to create financial harm, particularly if a petition were to be made just prior to construction or breaking ground. At that point in a state project timeframe, a bid for the work has been accepted, bonding for construction allocated, and a construction contract award issued with specific timeframes identified for the contractor to complete the project. If the sponsoring agency was then required to "remake" the EIE, which could take from six to twelve months to complete, the ensuing delay or cancellation of construction activities may force the state to pay out the contractor for any justified financial impact. An unintended consequence of this bill is that it could also lead to contractor bid escalation, due to the additional uncertainty that potential contractors would have to account for when managing a project schedule.

While OPM does not support Senate Bill No. 229, we would be happy to work with the bill's proponents, and ultimately the Regulations Review Committee, to discuss how any legislative goals or interests might be better addressed in the revision of CEPA regulations that the Department of Energy and Environmental Protection (DEEP) is currently undertaking.

In summary, DEEP and OPM are committed to a public process, through the development of revised CEPA regulations, which ensures that EIEs will remain accurate and relevant throughout the project implementation cycle.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact Dan Morley of my staff at Daniel.Morley@ct.gov.