



Senate

General Assembly

File No. 634

February Session, 2016

Substitute Senate Bill No. 431

Senate, April 14, 2016

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING CONSENT ORDERS ENTERED INTO BY THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION.

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

1 Section 1. Section 22a-6dd of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Notwithstanding any provision of the general statutes, whenever
4 the [Department of Energy and Environmental Protection]
5 commissioner enters a consent order with a party, [concerning] such
6 consent order may not be modified or revoked without the consent of
7 the party. If the consent order concerns one or more parcels of land
8 and such consent order requires, in whole or in part, the remediation
9 of such land, the requirements and standards for such remediation
10 shall not be modified by the [department] commissioner unless both
11 the [department] commissioner and such party agree to such
12 modification. The commissioner or a party to any consent order may
13 seek declaratory and injunctive relief from the Superior Court to
14 resolve any dispute concerning the terms and conditions of, and

15 compliance with, the consent order. Such declaratory and injunctive
16 relief is in addition to any other administrative or civil remedies
17 allowed by law.

18 (b) The provisions of subsection (a) of this section shall apply to any
19 consent order entered into by the commissioner and a party before, on
20 or after the effective date of this section. For the purposes of this
21 section, "commissioner" means the Commissioner of Energy and
22 Environmental Protection, or the commissioner's designee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-6dd

Statement of Legislative Commissioners:

In Section 1(b), a definition of "commissioner" was added for internal consistency in the use of the term.

JUD *Joint Favorable Subst. -LCO*

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.

OFA Fiscal Note

State Impact: See Below

Municipal Impact: See Below

Explanation

The bill prohibits the Department of Energy and Environmental Protection (DEEP) from modifying or revoking a consent order unless the other party to the order agrees to the modification or revocation. The impact of this is uncertain, as it is not known how many, or to what extent, consent orders involving the state or municipalities, will be modified.¹

The Out Years

The ongoing fiscal impact in the outyears depends on the nature of the change contained in the remediation standard or consent order.

¹ Environmental settlements generated approximately \$5.4 million in FY 14, and \$230,035 in FY 15.

OLR Bill Analysis**sSB 431*****AN ACT CONCERNING CONSENT ORDERS ENTERED INTO BY THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION.*****SUMMARY:**

This bill prohibits the Department of Energy and Environmental Protection (DEEP) commissioner, or his designee, from modifying or revoking a consent order unless the other party to the order agrees to the modification or revocation. Under existing law, unchanged by the bill, he cannot modify a consent order's land remediation standards and requirements unless both parties to the order agree to the modification.

The bill also allows the commissioner or a party to a consent order to seek declaratory and injunctive relief from Superior Court to resolve a dispute concerning the consent order. Such relief is in addition to any other administrative or civil remedies the law allows.

By law, the commissioner is authorized to enter into contracts and orders and institute legal proceedings to enforce laws, regulations, and DEEP orders and permits (CGS § 22a-6).

Lastly, the bill specifies that it applies to any consent order entered into by the commissioner or his designee and a party before, on, or after its effective date. Thus, the bill applies retroactively.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 33 Nay 10 (03/28/2016)