



Senate

General Assembly

File No. 290

February Session, 2018

Substitute Senate Bill No. 347

Senate, April 5, 2018

The Committee on Environment reported through SEN. KENNEDY of the 12th Dist. and SEN. MINER of the 30th Dist., Chairpersons 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 COMMISSIONER 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 Section 22a-6dd of the general statutes is repealed and the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 unless a material
7 breach of such consent order occurs or such party fails to disclose
8 material information. If the consent order concerns one or more parcels
9 of land and such consent order requires, in whole or in part, the
10 remediation of such land, the requirements and standards for such
11 remediation shall not be modified by the [department] commissioner
12 unless both the [department] commissioner and such party agree to
13 such modification. The commissioner or a party to any consent order

14 may seek declaratory and injunctive relief from the Superior Court to
15 resolve any dispute concerning the terms and conditions of, and
16 compliance with, the consent order. Such declaratory and injunctive
17 relief shall be in addition to any other administrative or civil remedies
18 allowed by law.

19 (b) The provisions of subsection (a) of this section shall apply to any
20 consent order entered into by the commissioner and a party on or after
21 the effective date of this section.

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

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.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill prohibits the Department of Energy and Environmental Protection (DEEP) from modifying or revoking consent orders under certain conditions. Currently, DEEP is prohibited from modifying or revoking consent orders unless both parties to the order agree.

The impact is uncertain, as it is not known how many, or to what extent, consent orders involving the state or municipalities, would be modified or revoked.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sSB 347*****AN ACT CONCERNING CONSENT ORDERS ENTERED INTO BY THE COMMISSIONER OF ENERGY AND ENVIRONMENTAL PROTECTION.*****SUMMARY**

This bill prohibits the Department of Energy and Environmental Protection (DEEP) commissioner from modifying or revoking a consent order unless the other party to the order fails to disclose material information or there is a material breach of the order. Under existing law, unchanged by the bill, the commissioner cannot modify a consent order's land remediation standards and requirements unless both parties to the order agree.

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's terms and conditions, and the parties' compliance with it. Such relief must be in addition to any other administrative or civil remedies the law allows.

By law, the commissioner is authorized to, among other things, initiate and receive complaints on alleged violations of laws under DEEP's jurisdiction and hold hearings under the Uniform Administrative Procedure Act to enforce laws, regulations, and DEEP orders and permits (CGS § 22a-6).

The bill applies to any consent order entered into by the commissioner and a party on or after the bill's passage.

It also makes technical changes.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 16 Nay 14 (03/22/2018)