Bill No.: HB-5395
Title: AN ACT REQUIRING AN EVALUATION OF THE STATE’S ENVIRONMENTAL JUSTICE LAW.
Vote Date: 3/25/2019
Vote Action: Joint Favorable Substitute
PH Date: 3/18/2019
File No.: 649

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SPONSORS OF BILL:
Rep. Larry B. Butler, 75th Dist.
Rep. Geraldo C. Reyes, 75th Dist.
Rep. Travis Simms, 140th Dist.
Rep. Anne Meiman Hughes, 135th Dist.
Rep. Christopher Rosario, 128th Dist.

REASONS FOR BILL:
In 2017, the F&G Transfer Station (F&G) applied to the City of Waterbury’s Zoning commission to expand their waste hauling practice from 100 tons a day to 700 tons per day. The application was denied by a vote of 5-2. After the Zoning Commission denied the application, F&G filed suit against the City of Waterbury. F&G and the City of Waterbury reached a settlement to allow the company to expand their practice to 300 tons per day. This settlement was approved by the Zoning Commission in 2018.

Currently, the City of Waterbury is designated by the Connecticut Department of Economic and Community Development as one of 25 distressed municipalities; thus, is subject to the Environmental Justice Law, section 22a-20a of the general statutes. The Environment Justice Law requires a public participation process for applicants seeking to construct or site certain facilities in distressed municipalities, and provides certain guidance for such public participation process.
While public outcry against the project was prevalent, concern was shared with the committee that many project notification and public participation processes are insufficient. Proponents of the bill shared concern of the disproportional impact environmental degradation issues have on urban, low-income and minority populated communities and advocate for clearer transparency during a project's application process.

The bill seeks to strengthen the Environment Justice Law by (1) requiring, instead of allowing, applicants to use four specific methods to notify the public, (2) deeming an application insufficient if certain notice and information disclosure requirements are not met, (3) requiring a community environmental benefit agreement under certain conditions, (4) expanding the list of impacts that may be mitigated through a community environmental benefit agreement, and (5) expanding the list of mitigation activities that may be funded through an agreement.

**Substitute Language – LCO No. 6567**

Testimony submitted by the Connecticut Department of Energy and Environmental Protection requested that (1) the term “nullified” be changed to “deemed insufficient” to reflect permit terminology, and (2) replace the term “licensed environmental professional” to “an environmental professional.” Licensed environmental professionals are a specific class of environmental professionals licensed to work on site remediation project, and not qualified to do certain tasks, such as air quality monitoring. Substitute language (1) replaced the term “nullified” to “deemed insufficient,” and (2) changed the term “licensed environmental professional” to “credentialed environmental professional.”

**RESPONSE FROM ADMINISTRATION/AGENCY:**

**Katie S. Dykes, Commissioner, Connecticut Department of Energy and Environmental Protection (DEEP):** Supports the bill. While supportive of the bill in that it provides clarity for applicants and DEEP working together to develop public participation, the bill should be amended to (1) change the word “nullified” in line 102 to “deemed insufficient” so that the terminology is consistent with permit terminology, and (2) replace the term licensed environmental professional” in line 119 to “an environmental professional” because licensed environmental professionals are a class of workers specific to brownfield remediation projects. DEEP testimony provided for information, that it may be difficult for municipalities and applicants to quantify the impacts of quality of life or asthma rates that are attributable to any individual facility.

**NATURE AND SOURCES OF SUPPORT:**

**Samantha Dynowski, State Director, Sierra Club Connecticut:** Research shows that minority and poor communities are impacted by air pollution at higher rates than other communities. The state’s Environmental Justice Law must provide communities a meaningful role in regulatory decisions that impact their lives.

**Michelle Eckman, Director of Education, The Connecticut Audubon Society:** Environmental degradation issues in Connecticut exist mostly in low-income and urban neighborhoods. All members of the public need to be aware of proposed development and opportunities and this bill will make it a requirement to include public participation.
Katherine M. Fiedler, Legal Fellow, and Bill Lucey, Soundkeeper, Connecticut Fund for the Environment/Save the Sound: Environmental justice is a national problem, however, Connecticut’s urban and rural neighborhoods routinely face pollution and public health threats. For instance, Killingly, a low-income rural community in northeastern Connecticut, is currently facing the prospect of an additional natural gas power plant down the road from an existing plant. While the Environmental Justice Act of 2008 was a critical step forward but the law left certain provisions voluntary, it left certain laws voluntary.

John Murray, Publisher and Editor, The Waterbury Observer: While supportive of the bill, language should be amended to include (1) expanding consideration to the amount of pollution already existing in environmental justice communities, (2) take into consideration the health of the population of environmental justice communities, and (3) require that the Connecticut Department of Energy and Environmental Protection apply more resources to manage and oversee the Environmental Justice Program. Testimony outlines a history of proceedings and the lack of steps taken by F&G Transfer Station to notify the public of the proposed application.

Susan Pronovost, Executive Director, Brass City Harvest: Residents of traditionally lower income, distressed, and disenfranchised neighborhoods often lack a voice in many activities that affect their surroundings. Additionally, developers often have legal staff that that poorer neighborhoods cannot afford. This bill gives traditionally excluded residents, a voice in the planned development process for certain facilities.

Alexander Rodriguez, Community Organizer, Connecticut League of Conservation Voters: Low-income black and Latino communities, such as Hartford, Waterbury, New Haven, and Bridgeport are disproportionately impacted by environmental threats. The Environmental Justice Law was enacted in 2008 because the legislature recognized the unjust placement power plants, sewage treatment plants, and other facilities near low-income and minority communities. These facilities are responsible for high rates of asthma and other respiratory diseases. Testimony included an example of the F&G Transfer Station expansion in 2018 and explained that F&G did not comply with the Environmental Justice Law because they did not clearly notify the public in both English and Spanish – to local area impacted by the application is predominantly Spanish speaking.

The Environment Committee received approximately 20 written testimonies in support of the bill explaining that (1) certain facilities that often negatively impact the environment are disproportionately located in low-income, and minority communities and (2) developers do not properly notify the public of their intent to develop or expand when submitting applications for approval.

NATURE AND SOURCES OF OPPOSITION:

None Submitted.

Reported by:  Pamela Bianca / Ussawin R. Bumpen    Date: 04/17/2019