

Public Hearing – March 3, 2021
Environment Committee

Testimony Submitted by Commissioner Katie S. Dykes

House Bill No. 6496 – An Act Concerning Certain Soil-Related Initiatives.

Thank you for the opportunity to present testimony regarding House Bill No. 6496 – An Act Concerning Certain Soil-Related Initiatives. The purpose of this bill is threefold. Section 1 proposes to establish a pilot program and regulatory process for approving sites where low-risk, lightly contaminated materials can be beneficially reused as fill for the redevelopment of environmentally impaired or underutilized sites. Sections 2 through 5 propose to introduce a new responsibility for Department of Energy and Environmental Protection (DEEP) to provide minimum state-wide standards for soil health, conduct surveys, investigations and research concerning the problems of soil health, and work with soil and water conservation districts and boards on such matters. Section 6 of the bill requires that DEEP to create a new permitting program for maintenance marine dredging that differs from the existing program and authorities.

DEEP thanks the committee for raising section 1 of this bill, which is DEEP's proposal. However, we have some concerns with sections 2 through 6 of the bill.

DEEP has been approached by a number of developers identifying opportunities for redevelopment at locations that require beneficial reuse of very large quantities of soils and similar materials prior to redevelopment and which locations also require resolution of environmental issues. This bill establishes an opportunity to provide environmentally responsible, in-state options for the beneficial reuse of certain soils that otherwise would be long-hauled out-of-state for disposal. These reclamation projects would foster economic growth and facilitate the reclamation of or redevelopment of environmentally impaired and underutilized properties, which in turn would lower redevelopment costs, provide local reuse options for lightly contaminated soils and reduce environmental and health impacts of long-distance hauling for disposal. Establishing a meaningful approval process that is protective of human health and the environment can provide predictability and meet the needs of potential redevelopers, thereby reinvigorating dormant properties, creating additional opportunities for employment and increasing the municipal tax base.

In order to protect human health and the environment, this bill requires DEEP to consider criteria regarding the proposed redevelopment site's environmental setting and conditions, and the compatibility of the quality of the materials proposed for beneficial reuse.

This bill recognizes the important role municipalities have in redevelopment and revitalization projects and seeks to ensure that the residents and municipal officials are fully engaged in the reclamation project process and the project is supported by the host municipality.

Establishing these pilot reclamation projects for the beneficial use of certain soils that would likely be destined for out of state disposal also supports the goal of self-sufficiency for management of such soils in Connecticut.

DEEP requests that the Committee consider making two minor edits to the wording of Section 1 of this bill to add clarity to its intent, as follows:

- Line 8: change the statutory reference for criteria established by regulations, from “title 22a” to “section 22a-133k.” DEEP believes that the appropriate criteria to apply to soil and dewatered sediment are those established pursuant to section 22a-133k of the general statutes.
- Line 71: change the “or,” that is between “GC” and “(ii),” to “and.” By changing to “and,” some potentially inappropriate sites will correctly be precluded from qualifying for the pilot program. That is, the change would preclude from the pilot those sites in GB areas which are not served by a public drinking water supply and would also preclude those sites in GA areas which are served by a public drinking water supply.

The bill also includes language regarding soil health, as described above in the summary of sections 2 through 5. While DEEP agrees with the concept and importance of addressing soil health, soil health is a multi-faceted issue that requires careful consideration and collaboration with all stakeholders before adding this substantial responsibility to DEEP’s authority. Healthy soils are critical to assuring our agricultural soils are sustainable with less fertilizer application, help with carbon sequestration, and control nutrient runoff to our lakes and rivers. DEEP is concerned that the broad nature of the bill will require substantial additional staff resources to adequately develop this new program.

DEEP would welcome the opportunity to work with other state agencies like the Department of Agriculture and our partners, such as the Council on Soil and Water Conservation, the five Conservation Districts, and federal agencies to determine what actions can assure soil health throughout Connecticut and the necessary timeframe for each action. By working with the aforementioned organizations, we could research federal resources and gather stakeholder input from the agricultural community, watershed organizations, and others who have an interest in soil health, to thoroughly discuss what soil health means for Connecticut.

Regarding section 6 of the bill, while DEEP understands the frustrations some applicants may have experienced regarding delays in the permitting of maintenance dredging projects, the DEEP permit process is not what is holding up these projects. The U.S. Army Corps of Engineers (ACOE) exercises concurrent jurisdiction over dredging and dredged material disposal in Connecticut waters. The ACOE has seen a slowdown in making its determinations concerning the suitability of disposal of dredged sediments. Changing state statutes will not alleviate this concern.

DEEP has a long-established streamlined permit process, the Certificate of Permission under CGS §§22a-363a through 22a-363c, which includes maintenance dredging, among other categories of activities. Decisions on these applications are made no later than 90 days after submission. Based on the above considerations, we respectfully request that section 6 of the bill be removed if the bill goes forward. DEEP, however, is willing to work with stakeholders to clarify expectations for state and federal permitting timeframes so expectations can be aligned with such timeframes.

Thank you for the opportunity to present testimony on this proposal. Should you have any questions, please do not hesitate to contact James Albis at James.Albis@ct.gov.