



House of Representatives

General Assembly

File No. 99

February Session, 2024

Substitute House Bill No. 5218

House of Representatives, March 25, 2024

The Committee on Environment reported through REP. GRESKO of the 121st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE ESTABLISHMENT OF RIPARIAN BUFFERS AND REVISION OF CERTAIN INLAND WETLANDS PROVISIONS.

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

1 Section 1. (NEW) (*Effective from passage*) (a) Notwithstanding any
2 provision of the general statutes, the Department of Energy and
3 Environmental Protection may utilize funds available for stormwater
4 infrastructure for the purpose of acquiring conservation easements
5 located along streams and rivers in the state provided any such
6 conservation easement requires the property owner to maintain a buffer
7 along such stream or river in a vegetated condition. The Commissioner
8 of Energy and Environmental Protection may determine the percentage
9 of such funds to be utilized for the purposes described in this section.
10 For purposes of this section, "vegetated condition" means the retention
11 of native trees, shrubs and herbaceous cover in lieu of lawn, golf courses
12 and athletic fields.

13 (b) The Department of Energy and Environmental Protection shall
14 develop mandatory setbacks for development near streams, rivers and
15 inland wetlands in the state. Not later than January 1, 2025, said

16 department shall submit such proposed setbacks, in accordance with
17 section 11-4a of the general statutes, to the joint standing committee of
18 the General Assembly having cognizance of matters relating to the
19 environment.

20 Sec. 2. Subsections (l) and (m) of section 22a-39 of the general statutes
21 are repealed and the following is substituted in lieu thereof (*Effective*
22 *October 1, 2024*):

23 (l) Develop a comprehensive training program for inland wetlands
24 agency members. Not later than June 1, 2025, the commissioner shall
25 update such comprehensive training program to include all statutory
26 changes applicable to such inland wetland agencies and any common
27 law developments applicable to the considerations and authority of
28 such agencies. The commissioner shall concomitantly submit a copy of
29 such updated comprehensive training program to the joint standing
30 committee of the General Assembly having cognizance of matters
31 relating to the environment;

32 (m) Adopt regulations in accordance with the provisions of chapter
33 54 establishing reporting requirements for inland wetlands agencies,
34 which shall include provisions for reports to the commissioner on
35 permits, orders and other actions of such agencies and development of
36 a form for such reports. Such reports shall include, but not be limited to,
37 a statement from each inland wetlands agency that confirms that each
38 member of such agency completed the training required pursuant to
39 section 22a-42, as amended by this act; and

40 Sec. 3. Subsection (d) of section 22a-42 of the general statutes is
41 repealed and the following is substituted in lieu thereof (*Effective October*
42 *1, 2024*):

43 (d) [At least one] (1) Each member of the inland wetlands agency [or]
44 and staff of the agency shall be a person who has completed the
45 comprehensive training program developed by the commissioner
46 pursuant to section 22a-39, as amended by this act. The commissioner
47 shall make such training program available online. Any existing

48 member of the inland wetlands agency and staff of the agency shall
 49 complete such training program not later than June 1, 2026, and any
 50 member of such agency and staff of the agency who is appointed or
 51 hired, as applicable, after the effective date of this section shall complete
 52 such comprehensive training program not later than one year after such
 53 appointment or hiring, as applicable. Each member of the inland
 54 wetlands agency shall complete such comprehensive training program
 55 not less than every five years thereafter. Failure to have a member of the
 56 agency or staff with training shall not affect the validity of any action of
 57 the agency. The commissioner shall annually make such program
 58 available to one person from each town without cost to that person or
 59 the town. Each inland wetlands agency shall hold a meeting [at least]
 60 not less than once annually at which information [is] shall be presented
 61 to the members of the agency [which] that summarizes the provisions
 62 of the training program. The commissioner shall develop such
 63 information in consultation with interested persons affected by the
 64 regulation of inland wetlands and shall provide for distribution of
 65 online video presentations and related written materials [which] that
 66 convey such information to inland wetlands agencies. In addition to
 67 such materials, the commissioner, in consultation with such persons,
 68 shall prepare materials [which] that provide guidance to municipalities
 69 in carrying out the provisions of subsection (f) of section 22a-42a.

70 (2) The provisions of subdivision (1) of this subsection shall not be
 71 construed to apply to any member who is otherwise an attorney with
 72 experience in the area of inland wetlands.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2024</i>	22a-39(l) and (m)
Sec. 3	<i>October 1, 2024</i>	22a-42(d)

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:

Agency Affected	Fund-Effect	FY 25 \$	FY 26 \$
Department of Energy and Environmental Protection	GF - Cost	At least 150,000	See Below
UConn	GF - Revenue Gain	Up to 10,000	Up to 10,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes various changes regarding requirements related to riparian areas and inland wetlands. These changes result in multiple fiscal impacts beginning in FY 25, primarily to the Department of Energy and Environmental Protection (DEEP) as described below.

Section 1 requires DEEP to propose mandatory setbacks for developments near streams, rivers, and inland wetlands, which results in a cost of approximately \$150,000 in FY 25 for a consultant to carry out the work. This task will require research and is likely to involve a working group and efforts to reach out to stakeholders. The department does not have sufficient staff to complete these activities and produce the report by January 1, 2025. The cost estimate is based on a similar process conducted in recent years on a different topic.

This section also allows DEEP to use stormwater infrastructure funds to acquire conservation easements under certain circumstances. This provision has no fiscal impact as it does not require additional resources to be spent. The department is planning to use existing stormwater

infrastructure funds (an American Rescue Plan Act allocation) in other ways.

Section 2 results in a potential cost to DEEP in FY 25 associated with the requirement to update the inland wetlands training program. While no updates are currently expected, any statutory or legal changes regarding inland wetlands over the next several months would need to be incorporated into the training. If changes must be incorporated, DEEP would contract with Charter Oak State College, which previously developed the courses and would likely make the adjustments. The magnitude of the costs would be commensurate with the scale of any changes.

Section 3 requires certain members and all employees of town inland wetlands agencies to complete online training and periodic retraining. This is anticipated to result in a cost to DEEP and a commensurate revenue gain to the University of Connecticut (UConn, which hosts the training) of up to \$10,000 in both FY 25 and FY 26. Costs will continue into the out years.

The fiscal impacts in FY 25 and FY 26 are due to higher participation in the online training, in advance of the bill's June 1, 2026 training deadline. Under current law, only one person from each agency must complete the training, which is already provided by DEEP in the format required by the bill. It is estimated that approximately 1,350 inland wetlands agency members and staff will need to take the training between FY 25 and FY 26.¹ Assuming training participants are split equally between FY 25 and FY 26, and a projected per-registrant cost of \$7 per person, a cost of up to \$4,725 is expected in each fiscal year. This is an increase of approximately \$1,200 to \$3,000 beyond the annual per-registrant costs that would otherwise be expected based on participation in prior years (497 registrants in 2022 and 244 in 2023). Additionally, a

¹ Based on an OFA sample of online town inland wetland agency member listings. Among the 21 town listings viewed, the number of full and alternate members (excluding vacancies) ranged from six to ten, with a median and average of seven. As agency staff would also be subject to the requirement, with one staff person per town, on average eight people for each of 169 towns would engage in training.

higher customer service volume for UConn is expected to result in a further cost increase of approximately \$7,000 to \$9,000.

This estimate assumes that DEEP and UConn will reach agreement for a new online training contract with similar terms and a \$7 per registrant cost. The current contract expires July 31, 2024. If a different option for offering training is selected by DEEP, the bill's costs may vary from the information above.

To the extent that numerous inland wetlands commission members are attorneys with inland wetlands experience, and therefore are exempted from the training requirements, the fiscal impact may be less than anticipated, provided the contract costs are adjusted accordingly.

The Out Years

Section 3 of the bill results in out year costs due to the requirements that: (1) new members and staff complete training within one year of appointment or hire; and (2) all members retrain every five years. Out year costs will be less than \$10,000 per year due to the varied timing of these training requirements. Out year costs will vary depending on the number of training participants and the terms of the new training contract.

OLR Bill Analysis**sHB 5218*****AN ACT CONCERNING THE ESTABLISHMENT OF RIPARIAN BUFFERS AND REVISION OF CERTAIN INLAND WETLANDS PROVISIONS.*****SUMMARY**

This bill (1) requires the Department of Energy and Environmental Protection (DEEP) to update its inland wetlands training program and (2) broadens the current training requirement for municipal inland wetlands agencies by generally requiring all agency members and staff to be trained instead of only one person (§§ 2 & 3).

The bill allows DEEP to use funds available for stormwater infrastructure to acquire conservation easements along streams and rivers in the state, regardless of any state law requiring otherwise. DEEP may set the percentage of stormwater infrastructure funds that may be used for this purpose. The property owner of an acquired conservation easement must keep native trees, shrubs, and herbaceous cover along the stream or river instead of lawn, golf courses, and athletic fields (i.e., a “vegetated condition” buffer) (§ 1).

Lastly, the bill requires DEEP to (1) develop mandatory setbacks for development near streams, rivers, and inland wetlands in Connecticut and (2) submit them to the Environment Committee by January 1, 2025 (§ 1).

EFFECTIVE DATE: October 1, 2024, except the provisions on conservation easements and setbacks are effective upon passage.

INLAND WETLANDS AGENCY TRAINING***Updated Program***

By law, DEEP must develop a comprehensive training program for

municipal inland wetlands agency members. The bill requires it to update the training program by June 1, 2025, to include (1) all statutory changes that apply to these agencies and (2) any common law developments that apply to these agencies' considerations and authority. DEEP must give a copy of the training to the Environment Committee when it is updated.

Under current law, DEEP distributes the training via video presentations and related written materials. The bill requires online distribution.

Agency Member & Staff Requirement

Current law requires at least one inland wetlands agency member or staff person to complete DEEP's comprehensive training program. The bill instead generally requires each agency member and staff person to complete the training. It exempts members who are attorneys with inland wetlands experience.

Under the bill, existing inland wetlands agency members and staff must complete the updated training program by June 1, 2026. Those who are appointed or hired after October 1, 2024, must complete the training within one year after their appointment or hiring date. Agency members must then complete the training at least every five years. Current law has no retraining requirement.

The bill requires inland wetlands agencies to confirm to DEEP, as part of their existing reporting requirements, whether each agency member has completed the training. By law, failure to have agency members or staff trained does not affect the validity of the agency's actions.

Existing law, unchanged by the bill, requires DEEP to annually make the training available to one person in each town for free.

BACKGROUND

Related Bill

sHB 5170 (File 3), favorably reported by the Planning and Development Committee, similarly requires all agency members and

staff to complete the training, but has no attorney exemption and uses a four-year renewal period.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 28 Nay 6 (03/08/2024)