



General Assembly

February Session, 2024

Raised Bill No. 5433

LCO No. 2613



Referred to Committee on COMMERCE

Introduced by:
(CE)

AN ACT ESTABLISHING A PROCEDURE FOR THE STATE HISTORIC PRESERVATION OFFICER TO MAKE DETERMINATIONS CONCERNING CERTAIN ENVIRONMENTAL EFFECTS.

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

1 Section 1. Section 22a-1b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2024*):

3 The General Assembly directs that, to the fullest extent possible:

4 (a) Each state department, institution or agency shall review its
5 policies and practices to [insure] ensure that they are consistent with the
6 state's environmental policy as set forth in sections 22a-1 and 22a-1a.

7 (b) (1) Each sponsoring agency shall, prior to a decision to prepare an
8 environmental impact evaluation pursuant to subsection (c) of this
9 section for an action which may significantly affect the environment,
10 conduct an early public scoping process, provided such sponsoring
11 agency consults with the State Historic Preservation Officer in
12 accordance with the provisions of section 2 of this act prior to
13 conducting such scoping process. For purposes of this section, "State

14 Historic Preservation Officer" means the individual appointed by the
15 Governor pursuant to 54 USC 302301(1), as amended from time to time,
16 to administer the state historic preservation program in accordance with
17 54 USC 302303, as amended from time to time.

18 (2) To initiate an early public scoping process, the sponsoring agency
19 shall provide notice on a form that has been approved by the Council
20 on Environmental Quality, which shall include, but not be limited to,
21 the date, time and location of any proposed public scoping meeting and
22 the duration of the public comment period pursuant to subdivision (3)
23 of this subsection, to the council, the Office of Policy and Management
24 and any other state agency whose activities may reasonably be expected
25 to affect or be affected by the proposed action.

26 (3) Members of the public and any interested state agency
27 representatives may submit comments on the nature and extent of any
28 environmental impacts of the proposed action during the thirty days
29 following the publication of the notice of the early public scoping
30 process pursuant to this section.

31 (4) A public scoping meeting shall be held at the discretion of the
32 sponsoring agency or if twenty-five persons or an association having
33 not less than twenty-five persons requests such a meeting within ten
34 days of the publication of the notice in the Environmental Monitor. A
35 public scoping meeting shall be held not less than ten days following
36 the notice of the proposed action in the Environmental Monitor. The
37 public comment period shall remain open for at least five days following
38 the meeting.

39 (5) A sponsoring agency shall provide the following at a public
40 scoping meeting: (A) A description of the proposed action; (B) a
41 description of the purpose and need of the proposed action; (C) a list of
42 the criteria for a site for the proposed action; (D) a list of potential sites
43 for the proposed action; (E) the resources of any proposed site for the
44 proposed action; (F) the environmental limitations of such sites; (G)
45 potential alternatives to the proposed action; and (H) any information

46 the sponsoring agency deems necessary.

47 (6) Any agency submitting comments or participating in the public
48 scoping meeting pursuant to this section shall include, to the extent
49 practicable, but not be limited to, information about (A) the resources of
50 any proposed site for the proposed action, (B) any plans of the
51 commenting agency that may affect or be affected by the proposed
52 action, (C) any permits or approvals that may be necessary for the
53 proposed action, and (D) any appropriate measures that would mitigate
54 the impact of the proposed action, including, but not limited to,
55 recommendations as to preferred sites for the proposed action or
56 alternatives for the proposed action that have not been identified by the
57 sponsoring agency.

58 (7) The sponsoring agency shall consider any comments received
59 pursuant to this section or any information obtained during the public
60 scoping meeting in selecting the proposed actions to be addressed in the
61 environmental impact evaluation and shall evaluate in its
62 environmental impact evaluation any substantive issues raised during
63 the early public scoping process that pertain to a proposed action or site
64 or alternative actions or sites.

65 (c) Each state department, institution or agency responsible for the
66 primary recommendation or initiation of actions which may
67 significantly affect the environment shall in the case of each such
68 proposed action make a detailed written evaluation of its environmental
69 impact before deciding whether to undertake or approve such action.
70 All such environmental impact evaluations shall be detailed statements
71 setting forth the following: (1) A description of the proposed action
72 which shall include, but not be limited to, a description of the purpose
73 and need of the proposed action, and, in the case of a proposed facility,
74 a description of the infrastructure needs of such facility, including, but
75 not limited to, parking, water supply, wastewater treatment and the
76 square footage of the facility; (2) the environmental consequences of the
77 proposed action, including cumulative, direct and indirect effects which
78 might result during and subsequent to the proposed action; (3) any

79 adverse environmental effects which cannot be avoided and irreversible
80 and irretrievable commitments of resources should the proposal be
81 implemented; (4) alternatives to the proposed action, including the
82 alternative of not proceeding with the proposed action and, in the case
83 of a proposed facility, a list of all the sites controlled by or reasonably
84 available to the sponsoring agency that would meet the stated purpose
85 of such facility; (5) an evaluation of the proposed action's consistency
86 and each alternative's consistency with the state plan of conservation
87 and development, an evaluation of each alternative including, to the
88 extent practicable, whether it avoids, minimizes or mitigates
89 environmental impacts, and, where appropriate, a description of
90 detailed mitigation measures proposed to minimize environmental
91 impacts, including, but not limited to, where appropriate, a site plan; (6)
92 an analysis of the short term and long term economic, social and
93 environmental costs and benefits of the proposed action; (7) the effect of
94 the proposed action on the use and conservation of energy resources;
95 and (8) a description of the effects of the proposed action on sacred sites
96 or archaeological sites of state or national importance. In the case of an
97 action which affects existing housing, the evaluation shall also contain a
98 detailed statement analyzing (A) housing consequences of the proposed
99 action, including direct and indirect effects which might result during
100 and subsequent to the proposed action by income group as defined in
101 section 8-37aa and by race, and (B) the consistency of the housing
102 consequences with the state's consolidated plan for housing and
103 community development prepared pursuant to section 8-37t. As used in
104 this section, "sacred sites" and "archaeological sites" have the same
105 meanings as provided in section 10-381.

106 (d) (1) The Council on Environmental Quality shall publish a
107 document at least once a month to be called the Environmental Monitor
108 which shall include any notices the council receives pursuant to sections
109 22a-1b to 22a-1i, inclusive, as amended by this act, and shall include
110 notice of the opportunity to request a public scoping meeting. Filings of
111 such notices received by five o'clock p.m. on the first day of each month
112 shall be published in the Environmental Monitor that is issued not later

113 than ten days thereafter.

114 (2) The Council on Environmental Quality shall post the
115 Environmental Monitor on its Internet site and distribute a subscription
116 or a copy of the Environmental Monitor by electronic mail to any state
117 agency, municipality or person upon request. The council shall also
118 provide the Environmental Monitor to the clerk of each municipality for
119 posting in its town hall.

120 (e) Any state department, institution or agency that conducts an
121 environmental impact evaluation pursuant to subsection (c) of this
122 section may enter into a contract with a person for the preparation of
123 such evaluation, provided such department, institution or agency: (1)
124 Guides such person in the preparation of such evaluation, (2)
125 participates in the preparation of such evaluation, (3) independently
126 reviews such evaluation prior to submitting such evaluation for
127 comment pursuant to section 22a-1d, and (4) assures that any third party
128 responsible for conducting any activity that is the subject of such
129 evaluation is not a party to such contract. Such department, institution
130 or agency may require any such third party responsible for conducting
131 any activity that is the subject of such evaluation to remit a fee to such
132 department, institution or agency in an amount sufficient to pay for the
133 cost of hiring a person to prepare such evaluation in accordance with
134 the provisions of this subsection.

135 Sec. 2. (NEW) (*Effective October 1, 2024*) (a) As used in this section:

136 (1) "Actions which may significantly affect the environment" has the
137 same meaning as provided in section 22a-1c of the general statutes;

138 (2) "Historic structures and landmarks" has the same meaning as
139 provided in section 10-410 of the general statutes;

140 (3) "State entity" means a state department, institution or agency
141 under section 22a-1b of the general statutes, as amended by this act;

142 (4) "State funding recipient" means a recipient of state funding under

143 section 22a-1b of the general statutes, as amended by this act; and

144 (5) "State Historic Preservation Officer" has the same meaning as
145 provided in section 22a-1b of the general statutes, as amended by this
146 act.

147 (b) Each sponsoring agency under section 22a-1b of the general
148 statutes, as amended by this act, shall consult with the State Historic
149 Preservation Officer to determine whether an individual activity or a
150 sequence of planned activities proposed to be undertaken by the
151 sponsoring agency, a state entity or a state funding recipient is within
152 the category of actions which may significantly affect the environment
153 because such activity or sequence of activities could have a major impact
154 on the state's historic structures and landmarks. In making such
155 determination, the State Historic Preservation Officer shall collaborate
156 with the sponsoring agency, state entity or state funding recipient, as
157 applicable. An initial determination by the State Historic Preservation
158 Officer shall be made not later than thirty days after the officer receives
159 information the officer deems reasonably necessary to make such
160 determination.

161 (c) If the State Historic Preservation Officer determines that such
162 individual activity or sequence of planned activities will not have any
163 effect on historic structures and landmarks, or is not within the category
164 of actions which may significantly affect the environment because such
165 activity or sequence of activities will not have a major impact on historic
166 structures and landmarks, said officer shall provide written notice of
167 such determination to the sponsoring agency.

168 (d) (1) If the State Historic Preservation Officer determines that such
169 individual activity or sequence of planned activities is within the
170 category of actions which will significantly affect the environment
171 because such activity or sequence of activities will have a major impact
172 on historic structures and landmarks, the officer shall propose a
173 mitigation plan requiring the sponsoring agency, state entity or state
174 funding recipient, as applicable, to mitigate such impact.

175 (2) The sponsoring agency, state entity or state funding recipient, as
176 applicable, shall, to the extent possible, submit to the State Historic
177 Preservation Officer all pertinent information regarding such individual
178 activity or sequence of planned activities that may affect such mitigation
179 plan. Such information shall be considered by the officer in the
180 development of the mitigation plan.

181 (3) The State Historic Preservation Officer shall memorialize the
182 mitigation plan in a proposed mitigation agreement that may be
183 executed by the officer and the sponsoring agency, state entity or state
184 funding recipient, as applicable. The execution of such mitigation
185 agreement shall constitute a determination by the State Historic
186 Preservation Officer that said officer is satisfied the environmental effect
187 will be mitigated.

188 (e) (1) If the sponsoring agency, state entity or state funding recipient
189 declines to execute a proposed mitigation agreement as described in
190 subdivision (3) of subsection (d) of this section, such sponsoring agency,
191 state entity or state funding recipient may, not later than fifteen days
192 after the State Historic Preservation Officer proposes such mitigation
193 plan, submit a request to the Commissioner of Economic and
194 Community Development to review the proposed mitigation plan and
195 to make recommendations to revise such plan. Such request shall be in
196 the form and manner prescribed by the commissioner and may include
197 a request for a conference with the commissioner, the State Historic
198 Preservation Officer, the sponsoring agency, the state entity or the state
199 funding recipient, as applicable, and any other interested party.

200 (2) (A) Not later than thirty days after receiving such request, the
201 commissioner shall (i) if such conference was requested, hold such
202 conference, and (ii) make recommendations, if any, for revisions to the
203 mitigation plan. If such revisions are recommended, the State Historic
204 Preservation Officer shall include such revisions in a revised mitigation
205 plan and shall memorialize such revised mitigation plan in a revised
206 mitigation agreement. Such revised mitigation agreement may be
207 executed by the officer and the sponsoring agency, state entity or the

208 state funding recipient, as applicable. The execution of such revised
209 mitigation agreement shall constitute a determination by the State
210 Historic Preservation Officer that said officer is satisfied the
211 environmental effect will be mitigated.

212 (B) If the commissioner makes no recommendations for revisions to
213 the mitigation plan, the review by the commissioner pursuant to this
214 subsection shall be concluded. The sponsoring agency, state entity or
215 state funding recipient, as applicable, may subsequently elect to execute
216 the mitigation agreement proposed by the State Historic Preservation
217 Officer pursuant to subdivision (3) of subsection (d) of this section. The
218 execution of such mitigation agreement shall constitute a determination
219 by the State Historic Preservation Officer that said officer is satisfied the
220 environmental effect will be mitigated.

221 (f) A state funding recipient may, at any time while the State Historic
222 Preservation Officer is making a determination or developing a
223 mitigation plan pursuant to this section, elect to pay mitigation costs of
224 the lesser of fifteen per cent of such state funding or seven hundred fifty
225 thousand dollars. If such state funding recipient makes such election,
226 the State Historic Preservation Officer shall memorialize such election in
227 a mitigation agreement executed by the officer and such recipient. The
228 execution of such mitigation agreement shall constitute a determination
229 by the State Historic Preservation Officer that said officer is satisfied the
230 environmental effect will be mitigated.

231 (g) If the State Historic Preservation Officer proposes a mitigation
232 plan pursuant to subdivision (1) of subsection (d) of this section but a
233 mitigation agreement is not executed under subsection (d), (e) or (f) of
234 this section, the sponsoring agency shall conduct an early public scoping
235 process in accordance with subsection (b) of section 22a-1b of the
236 general statutes, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2024	22a-1b

Sec. 2	October 1, 2024	New section
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Statement of Purpose:

To establish a procedure for the State Historic Preservation Officer to make determinations concerning certain environmental effects and establish mitigation plans concerning such environmental effects.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]