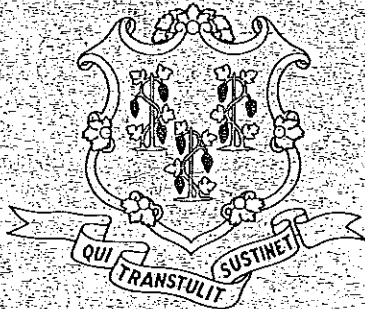


Council On Environmental Quality

Connecticut
General Assembly



LEGISLATIVE
PROGRAM REVIEW
AND
INVESTIGATIONS
COMMITTEE

SUNSET 1983

Volume IV - 5
January 1983

CONNECTICUT GENERAL ASSEMBLY

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 as the Legislative Program Review Committee to evaluate the efficiency and effectiveness of selected state programs and to recommend improvements where indicated. In 1975 the General Assembly expanded the Committee's function to include investigations and changed its name to the Legislative Program Review and Investigations Committee. During the 1977 session, the Committee's mandate was again expanded by the Executive Reorganization Act to include "Sunset" performance reviews of nearly 100 agencies, boards, and commissions, commencing on January 1, 1979.

The Committee is composed of twelve members, three each appointed by the Senate President Pro Tempore and Minority Leader, and the Speaker of the House and Minority Leader.

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COUNCIL ON ENVIRONMENTAL QUALITY

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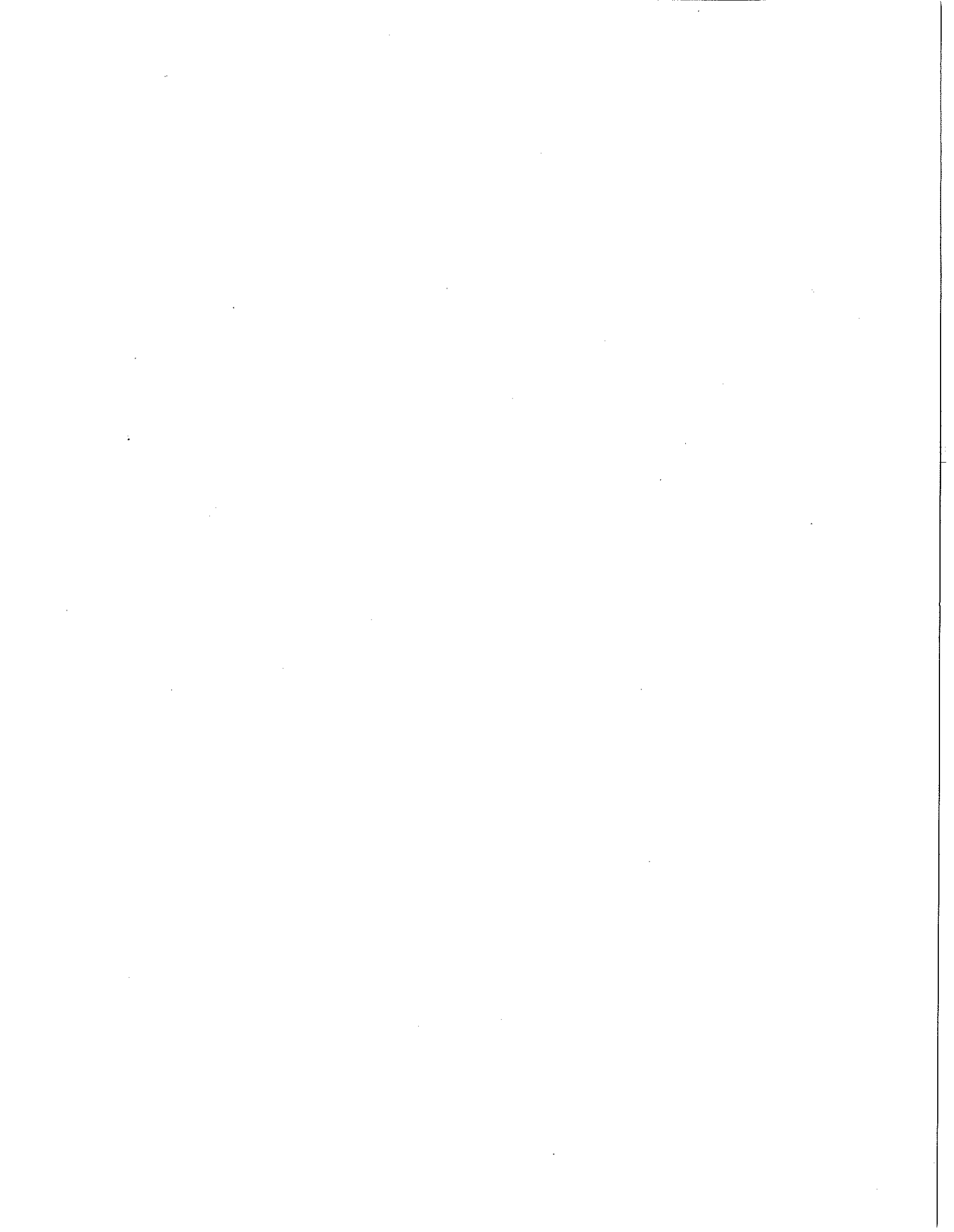
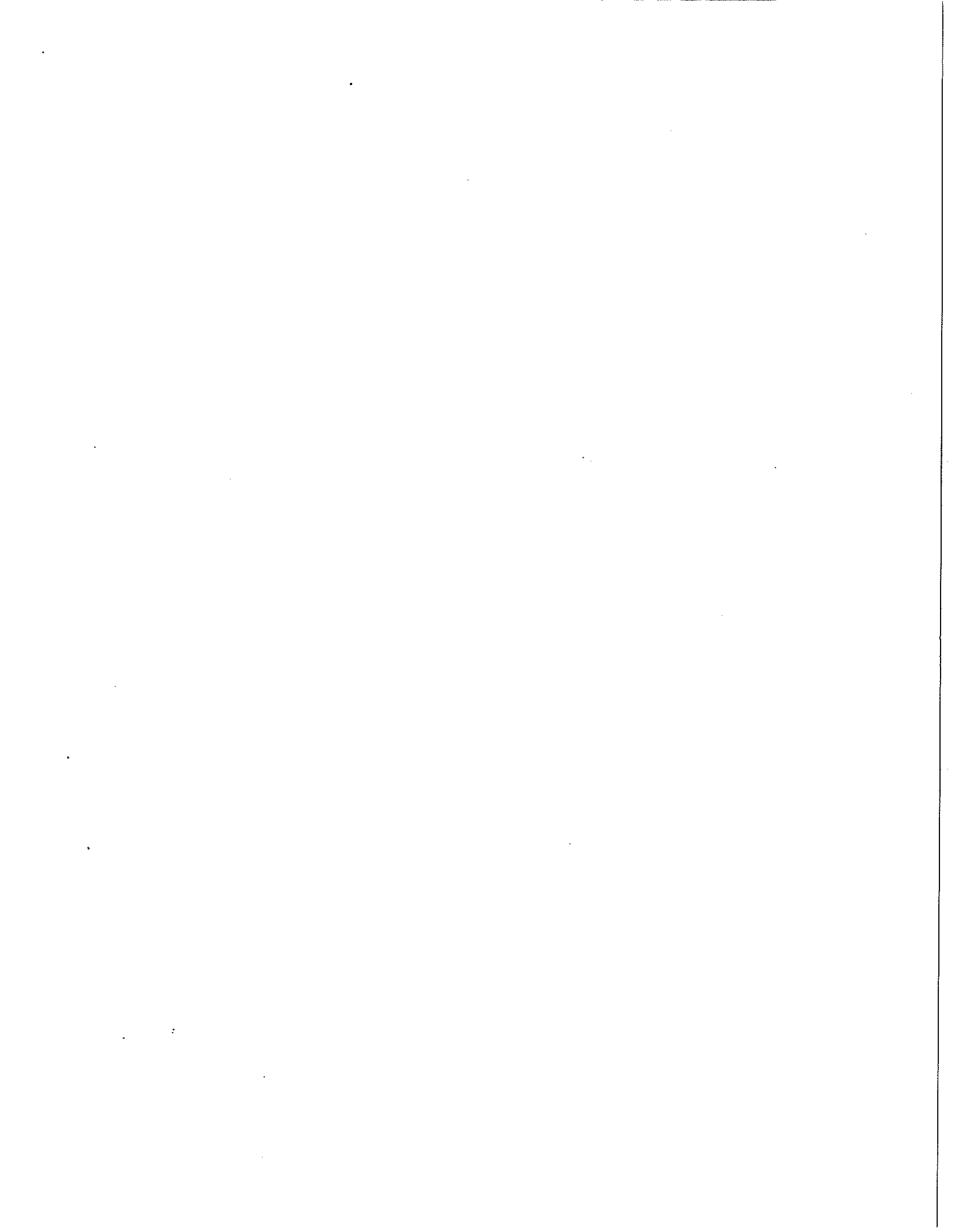


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COUNCIL ON ENVIRONMENTAL QUALITY

SUMMARY

The Council on Environmental Quality was created in 1971 by P.A. 872 which also established the Department of Environmental Protection. The council was created to provide an additional safeguard for Connecticut's natural environment and to furnish a means by which citizens could register grievances of an environmental nature.

The council consists of nine members with five appointed by the governor, two by the speaker of the House of Representatives and two by the president pro tempore of the Senate. The chairman of the council is selected by the governor and no member can serve more than 8 years during any 12 year period. When the council was created in 1971 it was viewed as advisory to the Department of Environmental Protection. However, the council was given statutory powers and duties that included submitting an annual report to the governor, which assesses the quality of the state's environment and environmental programs; reviews and comments on the environmental evaluations prepared by all state agencies; reviews and comments on applications for electric generating and transmission facilities; and investigates citizen complaints relative to the environment.

In 1981 the Council on Environmental Quality held ten meetings. A review of council minutes showed that members spent a great deal of time discussing citizen complaints about air and water quality, noise levels, sewage treatment plants, construction in designated inland wetland areas and hazardous waste siting. Other areas of discussion included the council's annual report and proposed environmental permits.

The Council on Environmental Quality is staffed by an executive director and one clerical person, and has a budget appropriation of \$41,962 for FY 1982-83.

Continuation of the Council

The Legislative Program Review and Investigations Committee found that the Council on Environmental Quality performs many important functions consistent with the provisions of the sunset law pertaining to public health and safety. These functions include acting as a public forum for citizen complaints against actions of state agencies that affect the environment and providing an outside review of environmental permits filed with the Department of Environmental Protection. Testimony at the

Legislative Program Review and Investigations Committee public hearing on the council and results of a survey of council members showed overwhelming support for continuing the council in its present role.

The committee concluded that an independent oversight mechanism was valuable. *Therefore, the Legislative Program Review and Investigations Committee recommends that the Council on Environmental Quality be continued as it is presently structured.*

Council Membership Criteria

During the program review committee's analysis, the composition of the council's membership was studied. The membership of the council presently consists of a private businessman, a non-profit administrator, a confidential secretary, a retired employee, an educator and two attorneys. The geographic representation of the council shows that Fairfield, New Haven, Hartford and New London counties each have two members while Litchfield, Middlesex, Tolland and Windham counties are not represented.

The committee concluded that if the council is to effectively carry out its mandates, it must be comprised of individuals with various professional backgrounds from different areas of the state. *Therefore, the Legislative Program Review and Investigations Committee recommends the membership of the Council on Environmental Quality be representative of geographic areas of the state and have varying professional interests.*

INTRODUCTION

Purpose and Authority

Chapter 28 of the Connecticut General Statutes provides for the periodic review of certain governmental entities and programs and for the termination or modification of those which do not significantly benefit the public health, safety, or welfare. This law was enacted in response to a legislative finding that a proliferation of governmental entities and programs had occurred without sufficient legislative oversight.

The authority for undertaking the initial review in this oversight process is vested in the Legislative Program Review and Investigations Committee. The committee is charged, under the provisions of Section 2c-3 of Chapter 28, with conducting a performance audit of each entity or program scheduled for termination. This audit must take into consideration, but is not limited to, the four criteria set forth in Section 2c-7. These criteria include: (1) whether termination of the entity or program would significantly endanger the public health, safety, or welfare; (2) whether the public could be adequately protected by another statute, entity, or program or by a less restrictive method of regulation; (3) whether the governmental entity or program produces any direct or indirect increase in the cost of goods or services and, if it does, whether the public benefits attributable to the entity or program outweigh the public burden of the increase in cost; and (4) whether the effective operation of the governmental entity or program is impeded by existing statutes, regulations or policies, including budgetary and personnel policies.

In addition to the criteria contained in Section 2c-7, the Legislative Program Review and Investigations Committee is required, when reviewing regulatory entities or programs, to consider, among other things: (1) the extent to which qualified applicants have been permitted to engage in any profession, occupation, trade, or activity regulated by the entity or program; (2) the extent to which the governmental entity involved has complied with federal and state affirmative action requirements; (3) the extent to which the governmental entity involved has recommended statutory changes which would benefit the public as opposed to the persons regulated; (4) the extent to which the governmental entity involved has encouraged public participation in the formulation of its regulations and policies; and (5) the manner in which the governmental entity involved has processed and resolved public complaints concerning persons subject to review.

Methodology

The Legislative Program Review and Investigations Committee's sunset review process is divided into three phases. The initial phase focuses on collecting quantitative and qualitative data related to each entity's background, purpose, powers, duties, costs and accomplishments. Several methods are used by committee members and staff to obtain this information. These include: (1) a review of statutes, transcripts of legislative hearings, entity records (e.g., minutes, complaint files, administrative reports, etc.), and data and statutes of other states; (2) staff observation of meetings held by each entity during the review period; (3) surveys of selected persons and groups associated with each entity; (4) formal and informal interviews of selected individuals serving on, staffing, affected by or knowledgeable about each entity; and (5) testimony received at public hearings.

During the second phase, the staff organizes the information into descriptive packages and presents it to the committee. The presentations take place in public sessions designed to prepare committee members for the hearings, identify options for exploration and alert entity officials to the issues the committee will pursue at the hearings.

The final step of the review involves committee members and staff following up on and clarifying issues raised at briefings and public hearings. During this period, the staff prepares decision papers and presents recommendations to the committee. The committee, in public sessions, then debates and votes upon recommendations for the continuation, termination or modification of each entity.

BACKGROUND

Legislative History

Public Act 71-872 created the Department of Environmental Protection (DEP) and also established a nine member Council on Environmental Quality (CEQ). The council was established for the purpose of providing an additional safeguard for Connecticut's natural environment and to furnish a means by which citizens could register grievances of an environmental nature.

The council was viewed as advisory to the Department of Environmental Protection, but was provided with statutory powers and duties that included submitting an annual report to the governor, assessing the quality of the state's environment and environmental programs; reviewing and commenting on the environmental evaluations prepared by all state agencies for projects with a significant environmental impact; reviewing and commenting on applications for electric generating and transmission facilities; and investigating citizen complaints relative to the environment. During legislative debate, supporters of P.A. 872 argued that the council would provide a forum for businesses, community representatives, environmentalists and others to discuss environmental issues.

In 1972 (Special Act 53), the General Assembly clarified the role of the Council on Environmental Quality by placing it within the Department of Environmental Protection for fiscal and budgetary purposes only. Public Act 74-271 allowed the council to employ an executive director and such additional staff and consultants as may be necessary to carry out its duties within available appropriations. Prior to 1974, the budget for the council was included within the Department of Environmental Protection's appropriation. In 1981 (P.A. 369) the council was given the power to review and comment on actions of the Connecticut Siting Council related to applications for siting hazardous waste facilities.

Structure

The Council on Environmental Quality consists of nine members with five appointed by the governor, two appointed by the speaker of the House of Representatives and two appointed by the president pro tempore of the Senate. The chairman of the council is selected by the governor and no council member may serve more than 8 years during any 12 year period. The council is within the Department of Environmental Protection for administrative purposes only.

Purpose, Powers and Duties

The Council on Environmental Quality (C.G.S. Section 22a-11) was established to provide an additional safeguard for Connecticut's natural environment. The council is empowered to do the following:

- submit an annual report to the governor that: assesses the status, trends and adequacy of the state's air, water and land environment; reviews the environmental impact of the programs and activities of governmental and private organizations; contains recommendations for remedying deficiencies in existing programs and activities;
- review and comment on construction project plans of state agencies;
- review and comment on environmental evaluations prepared by all state agencies for projects with a significant environmental impact and applications for electric generating and transmission facilities;
- review and comment on actions of the Connecticut Siting Council related to hazardous waste applications; and
- receive and investigate citizen complaints alleging violations of any statute or regulation concerning environmental quality.

Fiscal Information

The Council on Environmental Quality is staffed by an executive director and one clerical person. Table II-1 provides a budget summary for the council.

Table II-1. Council on Environmental Quality Budget.

	<u>Actual</u> <u>1980-81</u>	<u>Appropriation</u> <u>1981-82</u>	<u>Appropriation</u> <u>1982-83</u>
Personsal	\$31,781	\$36,350	\$38,062
Other expenses	<u>10,904</u>	<u>3,795</u>	<u>3,900</u>
TOTAL	\$42,685	\$40,145	\$41,962

Source: Office of Fiscal Analysis Budget FY 1982-83.

ACTIVITIES

The Council on Environmental Quality held 10 meetings in 1981 including 1 public hearing. As Figure III-1 indicates, council members who responded to a Legislative Program Review and Investigations Committee survey ranked receiving and investigating citizen complaints as the council's most important duty; holding public hearings based on citizen complaints was ranked as the second most important duty.

Figure III-1. Duties of the Council.

3. Please rank the following council duties in the order of importance you attach to each. (Examples 1 = Most Important, 2 = Second Most Important, etc.)

4 Submitting an annual report to the governor which assesses the quality of the state's environment and of environmental programs

5 Review and comment on the construction project plans of state agencies

3 Review and comment on the environmental evaluations prepared by all state agencies for projects with a significant environmental impact and applications for electric generating and transmission facilities

1 Receive and investigate citizen complaints

2 Hold public hearings based on complaints received from citizens

Other Provide information to public about DEP and other agencies

operations and about pending legislation affecting the

environment.

A review of the council's minutes showed that citizens' complaints included concerns about air and water quality, noise levels, sewage treatment plants, construction in designated inland wetland areas and hazardous waste siting. It was difficult to determine how many citizen complaints were received by the Council on Environmental Quality during 1981 because the minutes do not always specify individual complaints. The executive director of the council estimated that close to 40 complaints are received annually.

The council can refer complaints to the Division of Environmental Quality in the Department of Environmental Protection or to another state agency or request environmental protection agency staff to appear and present testimony on the issue. If the council is not satisfied with the explanation of state agency personnel or if it determines the issue is important, a public hearing can be held where all interested parties are allowed to appear and present testimony.

The Council on Environmental Quality submits an annual report to the governor that addresses the specific environmental areas outlined in statute. The information contained in the annual report is gathered from the input of state and local officials, citizens and private environmental groups. The specific issues covered in the report include the status of air and water quality, status of solid and hazardous waste, reviews of state and local environmental programs and recommendations for legislation.

The council is one of a number of entities that has the power to review and comment on the construction project plans of state agencies. In response to one of the committee's survey questions, council members ranked reviewing and commenting on the construction project plans of state agencies as their least important duty. (See Figure III-1.) A review of council minutes for 1981 showed that no construction plans were reviewed.

The Council on Environmental Quality has access to all environmental permits filed with the Department of Environmental Protection. The council has the power to review, comment and hold a public hearing on any environmental permit or evaluation filed. The Department of Environmental Protection must hold a public hearing on a specific environmental permit application if a petition with 25 names is submitted. A review of the minutes for 1981 found that the council spent considerable time reviewing several environmental impact evaluations and asked the Department of Environmental Protection staff for more information on many of the applications.

ANALYSIS AND RECOMMENDATIONS

Existence of the Council

The Legislative Program Review and Investigations Committee sunset review of the Council on Environmental Quality focused on the need to continue the council. The committee found that the council performs many important functions that are consistent with the provisions of the sunset law pertaining to public health and safety. These functions include acting as a public forum for citizen complaints concerning actions of state agencies that affect the environment, providing an outside review of environmental permits filed with the Department of Environmental Protection and questioning agency staff about potential hazards that could result from planned construction. In addition, the program review committee learned the annual report issued by the Council on Environmental Quality identifies important environmental issues and is used by the Department of Environmental Protection, other state agencies and private environmental groups.

Testimony at the Legislative Program Review and Investigations Committee public hearing on the Council on Environmental Quality and results of a survey of council members showed overwhelming support for continuing the council in its present role. In written testimony to the program review committee, the Connecticut Fund for the Environment, a private environmental organization, strongly urged that the council be retained. Their statement noted, "The Council on Environmental Quality is the only state agency which has the structural capacity to act as an independent watchdog, and, in some cases, as a citizen advocate, in relationship to serious environmental problems in the state."¹ In public hearing testimony the chairman of the Council on Environmental Quality recommended retaining the council as it is presently structured.² In further comments the chairman indicated that he did not favor adding any additional authority for the council.

Concluding that the duties exercised by the Council on Environmental Quality are important, the program review committee explored the possibility that these duties might be assumed by the Department of Environmental Protection's Division of

¹ Correspondence: June 22, 1982, letter from Fred Krupp, General Counsel, Connecticut Fund for the Environment, to LPR&IC staff.

² Public hearing testimony, Donald Mackie, chairman, Council on Sunset 1983, June 17, 1982, p. 8.

Environmental Quality. Staff from the division often testify before the council, which discusses many issues of direct concern to the division staff. The Division of Environmental Quality is responsible for the enforcement of laws and regulations relating to pollution control and resource protection. Areas monitored by the division include specific problems related to air pollution, noise pollution, hazardous materials management, radiation, solid waste management, water pollution and water resources. (See Appendix B for the budget of the Division of Environmental Quality.)

Survey responses from council members on the following question indicated that they did not feel the Department of Environmental Protection could assume the functions of the Council on Environmental Quality:

7. If the council was terminated, could the Department of Environmental Protection assume its functions?
(Circle your answer.)

(0) YES (6) NO (1) No Answer

Explain your answer.

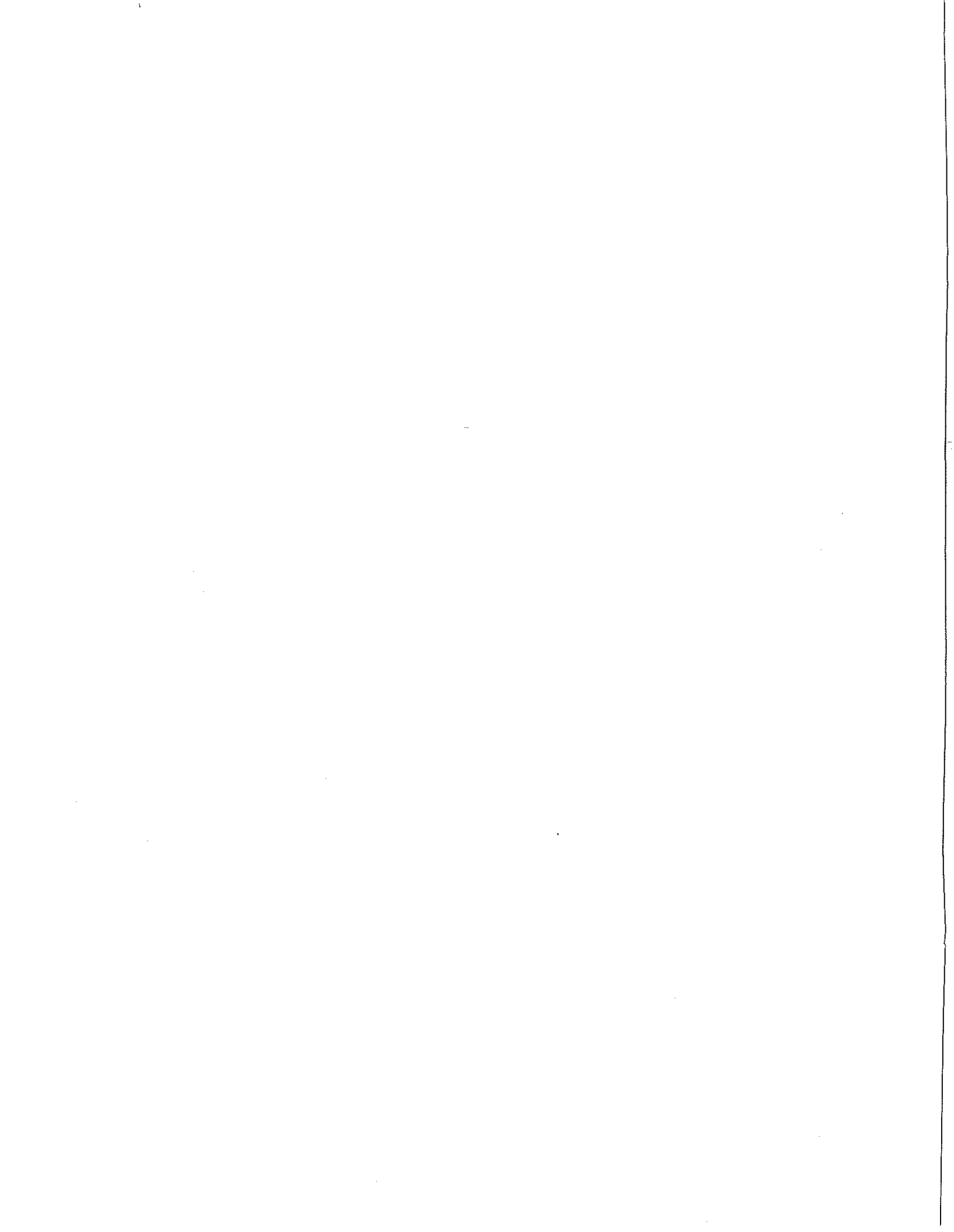
- CEQ is needed because it is a watchdog body; DEP could not be a watchdog for itself. (6)
- CEQ plays an important role as a mediator between citizens, business interests and the government. (4)
- CEQ and DEP have worked well together. (2)
- CEQ saves the state thousands of dollars in preventing potential lawsuits. (2)
- Those who suggest CEQ could be replaced by DEP are really seeking to limit public knowledge and involvement in environmental policy.
- Council members spend many unpaid hours helping to bring expertise from many sources to the solving of a problem.
- The functions of the council should be expanded and strengthened rather than terminated.

The committee concluded that an independent oversight mechanism was valuable. *Therefore, the Legislative Program Review and Investigations Committee recommends that the Council on Environmental Quality be continued as it is presently structured.*

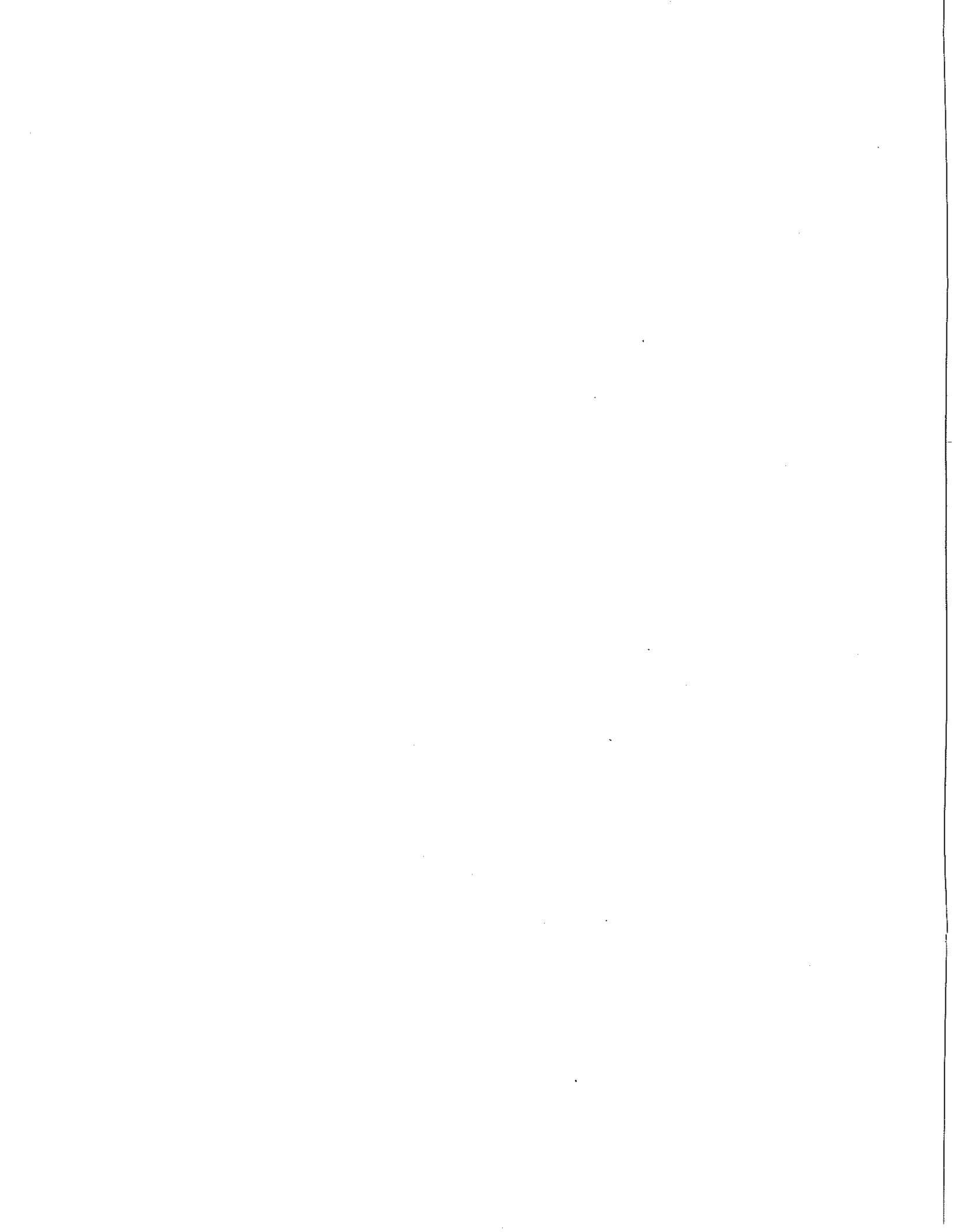
Council Membership Criteria

During the program review committee's analysis, the composition of the council's membership was studied. The membership of the council presently consists of a private businessman, a nonprofit administrator, a confidential secretary, a retired employee, an educator and two attorneys. The geographic representation of the council shows that Fairfield, New Haven, Hartford and New London counties each have two members while Litchfield, Middlesex, Tolland and Windham counties are not represented.

The committee concluded that if the council is to effectively carry out its mandates, it must be comprised of individuals with various professional backgrounds from different areas of the state. *Therefore, the Legislative Program Review and Investigations Committee recommends the membership of the Council on Environmental Quality be representative of geographic areas of the state and have varying professional interests.*



APPENDICES



APPENDIX A

COUNCIL ON ENVIRONMENTAL QUALITY

STATUTORY REF: C.G.S. Sections 22a-11 to 22a-13

ESTABLISHED: 1971 P.A. 872

ORGANIZATIONAL LOCATION: Department of Environmental Protection
(administrative purposes only)

PURPOSE: Provide an additional safeguard for Connecticut's natural environment and to furnish a means by which citizens can register grievances of an environmental nature.

POWERS AND DUTIES:

- Submit an annual report to the governor that: assesses the status, trends and adequacy of the state's air, water and land environment; reviews the environmental impact of the programs and activities of governmental and private organizations; and contains recommendations for remedying deficiencies in existing programs and activities
- May review and comment on the construction project plans of state agencies
- May review and comment on the environmental evaluations prepared by all state agencies for projects with a significant environmental impact and applications for electric generating and transmission facilities
- Receive and investigate citizen complaints alleging violation of any statute or regulation concerning environmental quality
- May review and comment on actions of the Connecticut Siting Council related to applications for siting hazardous waste facilities

COMPOSITION: Nine members

Five appointed by the governor
Two appointed by the speaker of the House of Representatives
Two appointed by the president pro tempore of the Senate

TERMS: No member shall serve more than eight years of any twelve year period

STAFF: Two

<u>BUDGET:</u>	<u>Actual</u> <u>1979-80</u>	<u>Estimated</u> <u>1980-81</u>	<u>Appropriation</u> <u>1981-82</u>	<u>Governor's</u> <u>Recommended</u> <u>1982-83</u>
Personal	\$24,974	\$30,506	\$36,350	\$38,062
Other expenses	<u>9,759</u>	<u>12,087</u>	<u>3,795</u>	<u>3,900</u>
TOTAL	\$34,733	\$42,593	\$40,145	\$41,962

Council Meetings - 1981

Number of Meetings: 10 (one of these meetings was a public hearing held in North Haven)

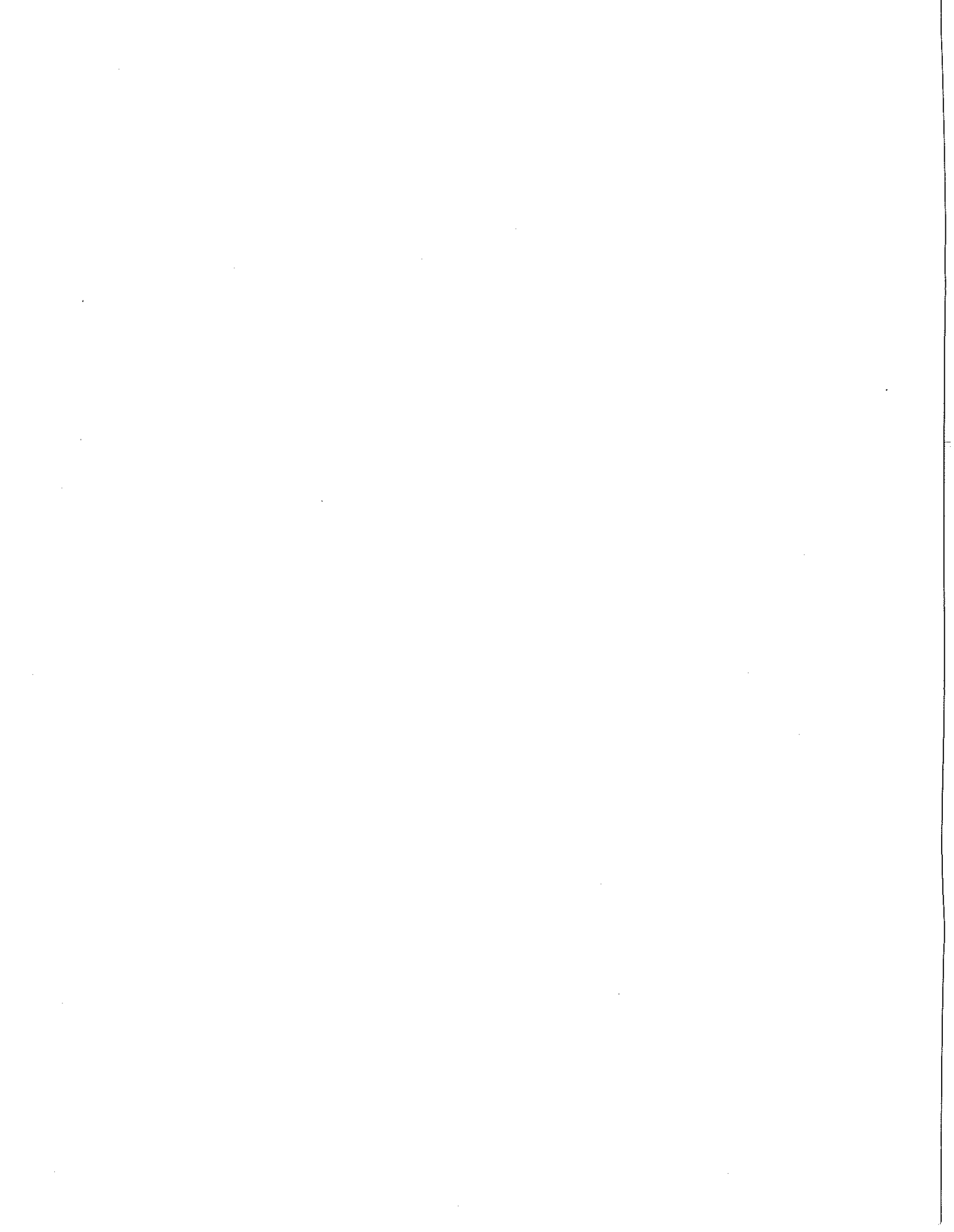
Average Attendance: 5 (the council worked with eight members in 1981 because one vacancy was not filled)

APPENDIX B

Division of Environmental Quality

	<u>Actual</u> <u>FY 1980-81</u>	<u>Appropriation</u> <u>FY 1981-82</u>	<u>Appropriation</u> <u>FY 1982-83</u>
Position summary			
General fund	96	102	100
Other funds	<u>135</u>	<u>149</u>	<u>150</u>
TOTALS	<u>231</u>	<u>251</u>	<u>250</u>
Operating Budget			
Personal services	\$1,833,658	\$1,891,119	\$2,215,389
Other expenses	540,983	574,640	602,350
Other current expenses	8,500	0	0
Grant payments to towns	39,993	0	0
Other funding acts	133,043	0	0
Federal funds	3,829,842	4,363,800	4,822,074
Private funds	<u>74,104</u>	<u>0</u>	<u>0</u>
TOTALS	<u>\$6,460,123</u>	<u>\$6,829,559</u>	<u>\$7,639,813</u>

Source: Office of Fiscal Analysis Budget, FY 1982-83, p. 165.



8 surveys were mailed out and 7 were returned for a response rate of 87.5%.

APPENDIX C

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

SUNSET 1983

Questionnaire for Council on Environmental Quality

This questionnaire has been constructed to elicit information about the Council on Environmental Quality. Please feel free to provide additional comment on either a specific question or the board's activities in general. Any such comment may be included directly on the questionnaire or in a separate attachment.

- N=7 1. Approximately how long have you been a member of the Council on Environmental Quality?
- | | | | |
|--|----------------|-------|-------------------|
| | <u>Average</u> | | <u>Range</u> |
| | 3 | Years | 10 Months |
| | | | 8 mos. to 7 years |
- N=7 2. What is your occupation? 2 attorneys own business nonprofit administrator
retired confidential secretary educator
- N=7 3. Please rank the following council duties in the order of importance you attach to each. (Examples 1 = Most Important, 2 = Second Most Important, etc.)
- | | |
|--------------|--|
| <u>4</u> | Submitting an annual report to the governor which assesses the quality of the state's environment and of environmental programs |
| <u>5</u> | Review and comment on the construction project plans of state agencies |
| <u>3</u> | Review and comment on the environmental evaluations prepared by all state agencies for projects with a significant environmental impact and applications for electric generating and transmission facilities |
| <u>1</u> | Receive and investigate citizen complaints |
| <u>2</u> | Hold public hearings based on complaints received from citizens |
| <u>Other</u> | <u>Provide information to public about DEP and other agencies operations and about pending legislation affecting the environment.</u> |

STAFF PREPARED
COMPOSITE

N=6

4. In your opinion what percentage of the council memberships' time is spent on performing duties devoted to each of the following? (The total should equal 100%)

<u>Range</u>		
10%	- 20%	Submitting an annual report to the governor which assesses the quality of the state's environment and of environmental programs
	<u>10%</u>	Review and comment on the construction project plans of state agencies
5%	- 20%	Review and comment on the environmental evaluations prepared by all state agencies for projects with a significant environmental impact and applications for electric generating and transmission facilities
25%	- 80%	Receive and investigate citizen complaints
10%	- 30%	Hold public hearings based on complaints received from citizens
		Other _____

N=7

5. On a scale from 1 = Very Effective to 4 = Not Effective, how would you rate the performance of the council in the following activities? Please rate every activity. If you feel the council is not involved in a particular activity, indicate this by choosing option number 5.

<u>Very Effective</u>		<u>Not Effective</u>		<u>Not Involved</u>	
1	2	3	4	5	
4	2	0	0	0	Submitting an annual report to the governor which assesses the quality of the state's environment and of environmental programs
1	2	2		1 = between 4 & 5	Review and comment on the construction project plans of state agencies
2	3	0	0	1	Review and comment on the environmental evaluations prepared by all state agencies for projects with a significant environmental impact and applications for electric generating and transmission facilities
7	0	0	0	0	Receive and investigate citizen complaints
7	0	0	0	0	Hold public hearings based on complaints received from citizens
1					Other <u>Provide public with agency and</u> <u>and legislative information</u>

N=7 6. Do you feel that the membership of the council should be structured so as to assure representation from business, industry, community groups and environmental organizations? (Circle your answer)

Explain your answer. (7) YES (0) NO

- *Good for the council to have a balanced approach and membership (7)*
- *Already have a good balance of interests on the council (5)*
- *People who are appointed should understand the relationship of the environment to this particular base of activity (3)*
- *The function of the council is negated if an enemy of the environment is appointed*
- *Function of the council is to safeguard the environment and to help demonstrate the economic and social advantages of so doing*
- *Members tend to work out effective compromises which satisfy both the environmentalists and the business community*
- *No statutory change concerning appointments is necessary*

N=7 7. If the council was terminated, could the Department of Environmental Protection assume its functions? (Circle your answer)

(0) YES (6) NO (1) Question Mark

Explain your answer.

- *CEQ is needed because it is a watchdog body; DEP could not be a watchdog for itself (6)*
- *CEQ plays an important role as a mediator between citizens, business interests and the government (4)*
- *CEQ and DEP have worked well together (2)*
- *CEQ saves the state thousands of dollars in preventing potential lawsuits (2)*

- *Those who suggest CEQ could be replaced by DEP are really seeking to limit public knowledge and involvement in environmental policy*
- *Council members spend many unpaid hours helping to bring expertise from many sources to the solving of a problem*
- *The functions of the council should be expanded and strengthened rather than terminated*

APPENDIX D

Legislative Change

- Amend Section 22a-11 of the Connecticut General Statutes to contain language requiring that members of the council be representative of geographic areas of the state and have varying professional interests.

