

Environment Committee JOINT FAVORABLE REPORT

Bill No.: HB-6868

Title: AN ACT ENHANCING ENVIRONMENTAL PERMITTING PREDICTABILITY.

Vote Date: 3/14/2025

Vote Action: JOINT FAVORABLE

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SPONSORS OF BILL:

Governor Ned Lamont

REASONS FOR BILL:

This bill introduces changes to enhance the predictability of permits. The proposal will extend the general permit expiration to mirror the process for individual permits by allowing general permits to remain until they are renewed. It adopts an in-lieu program that will eliminate a challenging inconsistency between state and federal approaches, simplifying mitigation requirements for project sponsors. The bill promotes a study to enhance the Natural Diversity Database (NDDDB) reviews under the Endangered Species Act which will develop efficiency in the NDDDB system. It also aims to refine DEEPS hearing process while preserving the public's right to initiate hearings, this will allow DEEP to focus resources toward gathering and responding to public input efficiently.

RESPONSE FROM ADMINISTRATION/AGENCY:

Katie Dykes, Commissioner, Department of Energy & Environmental Protection (DEEP)

Testimony was submitted in support of the bill, highlighting the benefits it could have in improving the permitting process for Connecticut businesses and residents while enhancing DEEP's internal workflow. Commissioner Dykes reviews the bill by section, starting with Section 1, which streamlines general permits by allowing them to remain in effect until renewed, preventing disruptions and giving stakeholders and DEEP ample time for reissuance. Section 2 of the bill will eliminate discrepancies between the state and federal process, this will simplify mitigation regulations. The alignment will benefit permitting for important projects while reducing cost and complexity. The language reflects federal compensatory mitigation regulations and will enable DEEP to mandate watershed-level mitigation measures as part of the permitting process, serving as an alternative to on-site mitigation efforts. The study that is presented in Section 3 of the bill would continue to build

on proficiency led by technological investment in NDDB. The development of NDDB will also improve protection measures for at-risk species native to the area and additionally provide for state residents and businesses. Section 4 adjusts DEEP's hearings, but also acknowledges public right to petition for one. Hearings usually have two parts "(1) a public comment phase and (2) an evidentiary hearing phase". Statements are welcome from everyone for part one, but the second part limits who may comment. The bill addresses this problem, but the evidentiary phase would still be limited to who currently satisfies the requirements without any expansion for inclusion. Ms. Dykes makes it clear what the bill does not do by explaining how it does not limit judicial review of DEEP's permit determinations, nor does it modify hearing standard under NEPA and CEPA. These changes will make DEEP's permitting more efficient, allowing the agency to effectively manage resources while supporting public participation and protections of due process.

NATURE AND SOURCES OF SUPPORT:

Governor Ned Lamont

Governor Lamont introduced the bill with the goal of accelerating the environment permitting process. This plan aims to enhance the effectiveness of general permits, remove duplicative state and federal processes by enforcing a state-level in-lieu fee program for water resource mitigation, and to improve productivity by eliminating unnecessary DEEP permit hearings. Additionally, DEEP will review and suggest improvements to the Natural Diversity Database process. This bill will support economic growth while maintaining strong environmental protections across various permitting areas.

James Berardino, Director, Legislative Advocacy Connecticut Council of Small Towns (COST)

COST supports the bill, emphasizing the need for greater predictability in environmental permitting for municipalities. Uncertainty surrounding permits often hinders local infrastructure and development projects while straining the limited resources available to municipalities. The bill grants the DEEP Commissioner the authority to extend permits beyond their expiration until a decision is made on issuing a new permit or none at all. This provision ensures that activities can continue uninterrupted, preventing project delays and their associated negative impacts. Additionally, the bill seeks to balance the effects of regulated activities on water resources, enabling development while safeguarding the natural environment. COST believes this legislation will foster economic growth while maintaining environmental protections.

Elizabeth Gara, Executive Director, Connecticut Water Works Association

Ms. Gara testified that water utilities frequently experience permit delays, hindering progress on dam repairs and development. These delays drive up costs, jeopardizing project funding. Granting flexibility in the permit renewal process would help prevent disruptions to development. However, CWWA has concerns about the public comment process and its potential impact on stakeholder participation in proceedings.

Pete Myers, Senior Public Policy, Connecticut Business & Industry Association (CBIA)

Mr. Myers submitted testimony in support of the bill, specifically highlighting the importance of Sections 1 and 3. Section 1 ensures that businesses can continue operations without disruption while awaiting permit renewal, enabling them to plan and invest with confidence, fostering economic growth and job creation. Section 3 focuses on identifying improvements

while integrating stakeholder feedback, reducing administrative burdens on businesses, and allowing them to prioritize development while upholding environmental protections.

Paul Aresta, Executive Director, Council on Environmental Quality

Provides testimony in support of the bill, specifically favoring Section 2 and 3. He noted that the evaluation and report outlined in Section 3 highlight the need for additional staff and resources to gather data on species covered by the state's Endangered Species Act and conduct environmental reviews. Additionally, he recommended the removal of Section 4, as it could restrict the public's ability to request hearings and voice concerns regarding the licensing process.

Garret T. Eucalitto, Commissioner, Connecticut Department of Transportation

Provided testimony in support of the bill. Allowing permit extensions will relieve stress from CTDOT consultants, usually they are met with financial and administrative burden. The bill would rid any restraint given when applying for a permit. Mitigation sites often need private property acquisitions, the proposal would authorize "watershed-level compensatory mitigation" when necessary and may promote improved mitigation outcome. Requiring DEEP to assess possible advancements to the Natural Diversity Database review program, Mr. Eucalitto appreciates the steps that have been taken to provide clarity to the process, so it is transparent that the problem is being addressed properly. CTDOT approves of the efforts being taken to streamline permits, including the attempts to adjust public hearings.

Jim Perras, CEO, Home Builders & Remodelers Association of Connecticut

Mr. Perras writes in support of the bill. The passage of the bill will lead to more predictable permit extensions, faster reviews on endangered species and fewer unnecessary hearings.

Robert LaFrance, Director of Policy, Director of Policy for Connecticut - National Audubon Society

Writes in support of section 2 of the bill. Mr. Lafrance recognizes the provisions are not solely focused on nature-based solutions but incorporate nature to mitigate human impacts. He lists the goals of the In Lieu Fee program which are to an alternative to permittee-responsible mitigation that effectively replaces lost aquatic resource functions and values. The aim is to significantly enhance the restoration, creation, and preservation of natural resources beyond typical mitigation efforts, reduce cumulative impacts to aquatic resources, offer greater flexibility for Corps permit applicants, and achieve ecological success on a watershed basis by targeting appropriate resources in each geographic service area.

NATURE AND SOURCES OF OPPOSITION:

Roger Reynolds, Senior Legal Director, Save the Sound

Jessica Roberts, Staff Attorney, Save the Sound

Save the Sound strongly opposes Section 4 of the bill, stating that it exempts certain hearings from the Uniform Administrative Procedure Act (UAPA) and creates obstacles for those who contest DEEP licensing decisions, potentially limiting public participation in environmental decision making. The language in this section could have negative impacts on the public. Save the Sound focus their concerns on four key issues: (1) The section could impose a stricter intervention standard than CEPA, which currently allows anyone to intervene in licensing proceedings by filing a verified pleading. (2) Petitioners may face a higher burden of

proof before a hearing even takes place. (3) DEEP could have sole discretion in determining which cases qualify for judicial review, potentially excluding some cases from contested proceedings. (4) Restricting judicial review could violate federal law in certain permitting decisions, as UAPA guarantees the right to contest agency actions and seek judicial review. As an alternative, Save the Sound suggests requiring petitioners to specify whether they seek a contested or informational hearing, rather than altering the existing process, as DEEP's Rules of Practice already address these situations.

Lori Brown, Executive Director, CT League of Conservation Voters

Is in opposition to the bill as she states that the bill will weaken basic safety net laws. Ms. Brown referred to testimony given by Save the Sound, DEEP already has Rules of Practice that address the issues the bill aims to solve. The bill will create confusion and unnecessarily limit the public from giving perspective on DEEP's environmental decision making.

Alicea Charamut, Executive Director, Rivers Alliance of Connecticut

Submitted testimony in opposition of the bill due to concern regarding the public's ability to communicate with DEEP. The bill will negatively impact the public's ability to provide input on DEEP's decisions. The elements addressed in the bill should be handled by the Bar and DEEP Rules of Practice. Ms. Charamut refers to the testimony provided by Roger Reynolds of Save the Sound, highlighting his expertise on complicated legal matters and DEEP's process. Now is not the time to undermine approaches that promote environmental protection.

Alan Siniscalchi, President, Connecticut Association of Conservation and Inland Wetlands Commissions, Inc.

Strongly opposes the language in section 4 of the bill, which will create unreasonable burden on the ability of their member conservation commissions and concerned residents to request a public hearing by DEEP on permitting procedures. The language in this section undermines the established procedures that members commissions and others can use to intervene in the Connecticut Environmental Protection Act (CEPA).

Kathryn Braun, Attorney and Zoning Commissioner

Adopted the testimony given by Save the Sound and wrote in opposition of the bill because of the threat that section 4 poses on public opinion. The bill will limit the public's ability to request a public hearing, disempowering the public and CEPA. Allowing DEEP to have discretion in the matter of public hearings would prevent public action. Residents have a right to play a role in DEEP's permitting process as the organization works on behalf of the public. Much of what DEEP reviews has an impact on the public, so residents should not be restricted in their ability to hold public hearings.

Marc Gonzalez, Program Coordinator, Conservation Law Foundation

Provided testimony on behalf of CLF opposing the bill. They have concerns with restricting public engagement and could have unintended consequences. The bill gives DEEP authority to determine cases and issue decisions without holding a public hearing. This would place burden on communities and individuals requesting a hearing.

Amy Blaymore Paterson, Executive Director, Connecticut Land Conservation Council

Writes on behalf of CLCC in opposition but acknowledges the potential benefits of the bill. CLCC specifically opposes to section 4 of the bill as it could create problems for citizens and

municipalities when requesting a public hearing. The council is in support of sections 2 and 3. Section 2 would assist in offsetting impact to water resources. Section 3 looks to improve the Natural Diversity Database (NDDDB) reviews and suggests additional resources be provided to the agency to assist in these responsibilities to help protect at risk native species.

Kimberly Stoner, Director of Advocacy, CT NOFA

Ms. Stoner opposes the bill. She refers to the testimony given by Save the Sound and relates to their views on Section 4, which could impose a strict standard for intervention than is required under the CT Environmental Protection Act. DEEP would have unreviewable discretion in determining what permitting decisions are subject to judicial review.

Kirk Carr

Mr. Carr strongly opposes H.B. 6868 because it "takes critical wetlands permitting decisions out of the hands of local commissions and the public." Mr. Carr sites four specific concerns within the proposed legislation: the loss of local control; the reduction of public participation in the permitting process; concentration of decision-making authority with little recourse; and the compulsion of state-controlled mitigation. significantly erodes the input of local inland wetlands boards by transferring the authority to the Commissioner of DEEP. The more centralized control proposed by this bill undercuts municipal oversight, reduces transparency in permitting processes and limits public input. Mr. Carr suggests specific alterations to the proposed bill in order to: preserve local decision-making; protect the right to public hearings on permitting decisions; require an independent review process for petition requests; and grant local wetland commissions to oversee mitigation projects.

Andrea Sandor

Ms. Sandor opposes H.B. 6868 due to the lack of transparency and the ethical threats posed by the proposed centralization of power within DEEP. By granting the Commissioner sole authority, the proposed bill would undercut the rights of a great many Connecticut residents and towns themselves and expose the state and residents to unintended consequences.

Reported by: Samantha Meyer

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