

# Environment Committee JOINT FAVORABLE REPORT

**Bill No.:** HB-6914

**Title:** AN ACT CONCERNING REVISIONS TO THE HARBOR MANAGEMENT ACT.

**Vote Date:** 3/14/2025

**Vote Action:** Joint Favorable Substitute

**PH Date:** 2/19/2025

**File No.:** 398

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## SPONSORS OF BILL:

Environment Committee

## Co-Sponsors:

Rep. Aundre Bumgardner, 41st Dist.  
Sen. Ceci Maher, 26th Dist.  
Rep. Devin R. Carney, 23rd Dist.  
Rep. Matt Blumenthal, 147th Dist.  
Rep. Tom O'Dea, 125th Dist.

Sen. Tony Hwang, 28th Dist.  
Rep. Hector Arzeno, 151st Dist.  
Sen. Patricia Billie Miller, 27th Dist.  
Rep. Eilish Collins Main, 146th Dist.  
Rep. Jonathan Jacobson, 148th Dist.

## REASONS FOR BILL:

The Harbor Management Act, passed in 1984, allowed for the creation of Harbor Management Commissions (HMCs) and required the creation of Harbor Management Plans (HMPs) thereof, with the need for approval and oversight by CTDEEP. With HMCs possessing limited authority and operating in the public sphere, all HMPs are required to be vetted and approved by DEEP before they are implemented. In the statute, state regulators, such as DEEP, are bound by the recommendations of an approved Harbor Management Plan when making decisions.

The question of whether the recommendations of Harbor Management Commissions' recommendations are binding upon DEEP was brought before at a court. In *Cohen v. DEEP*, the trial court ruled that recommendations made by an HMC that are not contained in a Harbor Management Plan are not binding on DEEP.

The underlying statute and the subsequent court ruling have clouded the nature and mechanics of the relationship between HMCs and DEEP. The proposed legislation seeks to clarify that relationship.

## **Substitute Language LCO 6220**

The substitute language replaced the underlying bill, which would have made certain recommendations by a harbor management commission on applications for state permits, licenses, or registrations affecting the harbor, binding on state agencies.

## **RESPONSE FROM ADMINISTRATION/AGENCY:**

### **Commissioner Garrett T. Eucalitto, Department of Transportation (CTDOT)**

CTDOT opposes the bill due to complications that would increase project costs and delays. CTDOT believes that allowing binding recommendations would be an overreach of authority for the harbor management commission and that the current permitting process does not require adjustment.

### **Katie S. Dykes, Commissioner, Connecticut Department of Energy and Environmental Protection**

DEEP strongly opposes H.B. 6914 because it feels that the proposed legislation will undermine its own authority and give too much authority to municipal Harbor Management Commissions (HMCs). This degradation of DEEP's authority could diminish the State's ability to manage coastal resources consistently and fairly and "could erode the State's public trust sovereignty."

DEEP cites three specific reasons why the proposed legislation is problematic:

1. The proposed legislation could allow individual HMCs to veto state decisions on projects of broader state interest, infringing on the sovereign authority of the state and "severely undermin(ing) the state's comprehensive coastal management authority."
2. HMCs are not regulatory bodies yet, provided with apparent regulatory authority, the legislation could make "consistent and defensible implementation of the statewide coastal regulatory framework unmanageable."
3. The proposed legislation lacks due process protections and a procedural framework for applicants.

Furthermore, the language used with regard to licenses implies that Certificates of Permission (COPS) and other permits would be contingent on review and approval by HMCs. Lastly, and crucially, DEEP seeks to work with the Committee to consider and establish alternate means of addressing the issue.

## **NATURE AND SOURCES OF SUPPORT:**

### **James A. Kading, Chair, Pawcatuck River Harbor Management Commission;**

### **Robert M. Brennan, Chairman, Milford Harbor Management Commission;**

### **Joseph Gilbert, Vice-Chair, Milford Harbor Management Commission**

The Chairs of their respective Harbor Management Commissions submitted essentially identical testimony in support of H.B. 6914 as it is vital to sustaining the intent of the 1984 Connecticut Harbor Management Act, while maintaining and formalizing the extant relationship between municipal authorities and DEEP. In their view, the passage of H.B. 6914 would preserve the continuity of existing local harbor management programs and guarantee that local entities are able to participate in and maintain a window into harbor management decisions. The submitters all noted that the proposed legislation maintains the intent of the original harbor management act and does not seek to interfere with the regulatory authority of

DEEP, yet it would merely give municipal authorities more input via the consideration of Harbor Management Commissions' recommendations with the stipulation that, if an application is refused, DEEP would provide an explanation as to why. All stressed that the language of the proposed legislation does not give local municipalities veto power; the legislation would only ensure the continuation of the collaborative relationship that has long existed between local Harbor Management Commissions and DEEP.

**Kim Taylor, Former Chair, Fairfield Harbor Management Commission (FHMC)**

Fairfield Harbor Management Commission (FHMC) supports H.B. 6914 because, as stipulated in the language of the original Harbor Management Act, the relationship between Harbor Management Commissions (HMCs) and DEEP was terminated by recent court cases ("the Cohen cases"), which subsequently created uncertainty on the historic practice and authority of HMCs to make recommendations to DEEP. FHMC believes H.B. 6914 is critical because it clarifies that HMCs recommendations to DEEP must be followed unless DEEP provides written explanation as to why the recommendations were not followed. FHMC stresses that, while it might appear as if HMCs have veto power over DEEP, the proposed language simply requires DEEP to explain why it might disagree with and not adopt HMCs recommendations. FHMC is concerned that, because a Harbor Management Plan (HMP) cannot accurately anticipate all future eventualities (since court rulings stipulate that only those recommendations in HMPs must be followed by DEEP), FHMC and others will have difficulty in meeting that standard in the continued "safe and beneficial use of (their) harbor."

**Robert Murphy, Chairman, Old Saybrook Harbor Management Commission**

**NATURE AND SOURCES OF OPPOSITION:**

**Cindy Karlson, Co-Chair, Environment Committee, Connecticut Marine Trades Association (CMTA)**

Th CMTA is confused by the necessity of H.B. 6914 and opposes it as is currently drafted. CMTA argues that much of the language is already in effect and additional language proposed "is overbroad and problematic in the regulatory scheme" because a recommendation of a commission would be binding to any state regulatory authority provided that it is "consistent with and supported by" the harbor management plan unless the regulator provides just cause, in writing, for rejection of a recommendation.

In CMTA's estimation, the proposed bill would therefore elevate Harbor Management Commissions (HMCs) above DEEP, the established regulatory authority, and the current "well-developed" licensing process that is already in place. Under the proposed language, HMCs' recommendations, required only to be consistent with their own subjective plan and which were never subject to review and approval by DEEP, could have substantial impacts that are. This mechanism whereby HMCs can make binding recommendations would allow for potentially subjective interpretations and on policies that were not approved through traditional regulatory channels. As a result, applications could be subject to inconsistent and arbitrary recommendations.

CMTA respectfully requested that the language of the proposed bill be altered so that DEEP must consult with HMCs and take their recommendations into consideration in a final license decision.

**Reported by: Elizabeth Aheart, Casey Larkin**

**Date: 3/26/2025**