

2019 Connecticut Environmental Legislative Update, “Beaujolais Nouveau” Edition

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by Christopher P. McCormack

Welcome to our Environmental Legislative Updates.

Throughout Connecticut’s legislative session, these updates highlight developments concerning environmental law and policy. The author prepares updates as Legislative Liaison of the Connecticut Bar Association’s Environmental Law Section. Pullman & Comley is pleased to offer them in this format to a wider audience.

As the session proceeds, early updates will alert readers to proposals on a broad range of issues concerning the environment, narrowing focus over time on bills that continue to progress, and concluding with a post-session wrap-up of bills that pass as well as noteworthy also-rans. Along the way they’ll summarize and challenge arguments pro and con, examine the policy and science behind proposals, and occasionally cast a side glance at the vicissitudes and vagaries of the process. The views expressed will be the author’s own, not necessarily those of Pullman & Comley LLC.

Questions, comments, requests and suggestions are always welcome. Please contact one of our Environmental attorneys.

With the close of the 2019 Connecticut legislative session on June 5, we’re rushing out this highlight reel on a few significant environmental bills that made it over the finish line. Like Beaujolais Nouveau, this is not the fully-developed product. We’ll have a more extended recap later to cover these bills in more detail, look at other passed bills and significant also-rans, and contemplate signs and auguries for future developments.

Pride of place obviously goes to SB 1030, the Transfer Act amendment bill. The OLR bill analysis summarizes the version that passed. While proponents of change entered the session with an ambitious agenda, the limited initial bill focused on reducing the verification audit period from three years to sixty days. To the surprise of absolutely no one, DEEP objected. But the ensuing dialogue yielded tangible progress on audits – commence within one year, complete within three – and on expanding exceptions to the “establishment”

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definition where the 100 kg threshold is exceeded as a result of one-time generation and some comparable scenarios. Lack of consensus on broader changes actually yielded a further useful compromise: a working group will continue the discussion with the objective of recommending additional changes next session.

Fracking waste has been the subject of numerous proposals in recent sessions, with an existing provisional ban in place pending promulgation of regulations by DEEP. SB 753 make the ban permanent, except for research. A late amendment adds that municipal regulation of fracking waste is preempted. The OLR bill analysis for the bill as amended is [here](#).

HB 7194, originally focused on implementing certain DPH recommendations concerning funding and management of public drinking water systems, passed the House on June 4 and the Senate on the final day of the session. We mention it here because along the way – that is, on the penultimate day of the session – it picked up an amendment corresponding to sections 1 and 2 of HB 7408 ([File Copy 1030 here](#)) authorizing towns to create, or to designate existing municipal bodies as, municipal stormwater authorities.

This amendment includes authorization to recommend imposition of fees to be used for stormwater management. Whoa, isn't that new? Well, yes and no. The stormwater authority concept has been around as a pilot program for a while. In that form, it authorized “levy on taxable interests in real property,” and provided that resulting revenue “may” be used to carry out authority purposes. The version passed authorizes authorities to recommend a “fee on interests in real property,” and changed “may” to “shall.” The revision history here is sufficiently confused – there was no time for a new file copy or even an OLR bill analysis – that we'll reserve the right to look at this further once the dust settles. Perhaps reflecting the hastiness of the process, a second amendment says the General Statutes shall control over the state water plan if the two conflict.

Another land bank bill pushed through in the late going. HB 7277 ([OLR bill analysis here](#)) authorizes municipalities, singly or jointly with others, to create municipal land banking authorities, though with an amendment that excludes brownfields from the real property land banks can acquire. Wouldn't it be useful for municipal land banking authorities to be able to do the same kinds of things the existing corporate brownfield land banks do? Well, many who submitted written public hearing testimony touched on brownfields, but their focus was clearly on the distinct problem of blighted urban properties. So there'd still be plenty for a non-brownfield land bank to do. But brownfields probably constitute a fair proportion of blighted and abandoned properties. Does this mean the municipal authorities will be limited to the subset of blighted properties that are not brownfields? Discuss.

In the part of the environmental portfolio involving resiliency and climate change (which does not exist in Florida), SB 1062 authorizes creation of municipal climate change and coastal resiliency reserve funds. The version passed ([OLR bill analysis here](#)) covers funding and fund management, but deletes a provision that would have authorized a dedicated tax.

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The highlight reel would not be complete without a Bonus Legislative Update, so we are particularly pleased to report that SB 594, the pet installment payment sales and lease ban, will become law. The file copy can be found [here](#). We thought we were making up horror stories about repossessing Fluffy, but it turns out our imagination failed to do justice to the loathsome reality. If you've thought through the issues, however, you'll be relieved to know the bill as passed makes exceptions for breeding, shows and motion pictures, and guide and K-9 dogs. Toto and Lassie still have the right to work.

So those are some highlights. We won't pretend they're as enjoyable as when “le Beaujolais Nouveau est arrivé” but hope they're useful. Watch this space for a more extended recap. Comments, questions and corrections welcome as usual.

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