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## 2020 Environmental Legislative Update No. 1, "Stream of Consciousness" 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 email me at [cmccormack@pullcom.com](mailto:cmccormack@pullcom.com).*

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Welcome back to the Environmental Legislative Updates for the 2020 Connecticut General Assembly's "short session." Since all is well with the Rule of Law in general, let's see what new Rules and Laws our legislators have in mind.

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As regular readers of these Updates know, and new readers need to, many bills introduced early in any given legislative session are placeholders for concepts, many including little more text than appears in the titles. Some are well thought out and even relate intelligibly to proper subjects of lawmaking. Some are more enigmatic, and every now and again performance art creeps in. But each and every one reflects what our elected representatives consider worthy, and who are we to second guess them. Herewith all received thus far that strike us as colorably related to the environmental portfolio, even though many will not be seen again. Commentary below, bill blurbs below.

Pride of place goes to HJ 1, the joint resolution that will serve as a vehicle for formal approval of the Long Island Sound Blue Plan. If you're not familiar with it, put down this silly legislative update right now and go to the Blue Plan home page. You're back? Good. Now you know this is the product of an ambitious strategic initiative set in motion by PA 15-66 (Conn. Gen. Stat. §25-157t) to inventory LIS resources and uses to support policymaking and permitting decisions. It provides a comprehensive picture of a complicated system vital to the state. This resolution begins the final stages of the process: consideration by the Environment Committee to make a recommendation to the full General Assembly to approve or disapprove.

In the same vein, note a pair of Senate bills (SB 95, SB 96) on shellfish and aquaculture. Restoration needed? If you're ever in Norwalk, drop up to the third floor of City Hall for the restored WPA murals of Norwalk oystering back when mounds of shells towered over the wharves.

Two items come forward as highly detailed Governor's Bills.

SB 10 contains "Certain Recommendations Regarding Climate Change," which does not exist in Florida. Though technically more on the energy end of the spectrum, this one will be of general interest to the environmentalists as an interesting set of legislative and technical ideas about greenhouse gas reduction. Has energy storage been an explicit part of the mix before?

In the solid waste end of the spectrum, SB 11 proposes a wide range of what may be regarded as mid-course corrections to the state's solid waste management strategy. A central thesis of that strategy was that there was money to be made in materials recovery. Market developments and the practical challenges of handling single-stream recycling have put that thesis in doubt. This bill proposes a mandate that each Connecticut municipality "shall target" per-capita maximums on solid waste generation to be achieved by 2024, and would require DEEP to initiate a "Waste Reduction and Infrastructure Development Program" including new solid waste facilities ranging from recycling, waste conversion, anaerobic digestion and composting, and resource recovery. In an apparent effort to promote the development of the markets essential for a viable recycling framework, the bill would also require DEEP to make recommendations for recycled content standards. And by the end of next year, MIRA would have to submit a "five-year plan for reliable and cost-effective solid waste management service." Simple enough, right?

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Bills with some degree of environmental interest don't always go to the Environment Committee. For instance, HB 5008 on voluntary green building standards for municipalities. Or SB 56, proposing a tax credit for giving up gas-powered lawn maintenance equipment. (Would it really be autumn without the incessant whine of leaf blowers?) Some of those would actually require DEEP to do things – provide free swim lessons for kids under eighteen (SB 91), for example, or manage the Penfield Reef lighthouse off Fairfield as a columbarium (HB 5133) (seriously, that's what it says) – without bogging down in details about how DEEP would pay for them.

SB 99, the first of what will surely be many plastic and nuisance waste bills, takes aim at polystyrene products.

Faithful readers of these updates will also recognize some perennials – property owner liability for fallen limbs (HB 5055), authorization for pink blaze hunting clothing (HB 5102; could someone please just pass this so it doesn't keep coming back?), importation of "Big Six" African wildlife species (HB 5104, helpfully clarified from prior versions to specify that dead ones and parts would be barred as well as actual elephants and what not). HB 5105 on "Connecticut Grown" farm products seems ripe for a chicken-and-egg joke but we can't think of one right now.

SB 112 deals with dams, so is close enough to the environmental portfolio to be worth noting, but strikes us as a solution in search of a problem. Should buyers be aware of dams on properties they're considering? Sure, that makes sense. Do they need a mandatory residential condition disclosure? We'd frankly expect people to identify a dam on their own. Maybe it's harder than we think; someone evidently feels there oughta be a law.

Your bonus legislative update is HB 5081, which proposes to exempt "escape room venues" from the admissions tax. We suppose that has a certain logical appeal – why tax people on admission when the whole point is to get out?

### **HOUSE**

H.J. No. 1 (COMM) ENVIRONMENT. 'RESOLUTION PROPOSING THE ADOPTION OF THE LONG ISLAND SOUND BLUE PLAN', to adopt the Long Island Sound Blue Plan. REF. ENVIRONMENT

H.B. No. 5008 REP. ARESIMOWICZ, 30th DIST.; REP. RITTER, 1st DIST.; SEN. LOONEY, 11th DIST.; SEN. DUFF, 25th DIST. 'AN ACT CONCERNING THE ESTABLISHMENT OF HIGH PERFORMANCE GREEN BUILDING STANDARDS FOR VOLUNTARY ADOPTION BY MUNICIPALITIES', to implement the Governor's budget recommendations. REF. ENERGY AND TECHNOLOGY

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H.B. No. 5055 (RAISED) JUDICIARY. 'AN ACT CONCERNING A PROPERTY OWNER'S LIABILITY FOR THE EXPENSES OF REMOVING A FALLEN TREE OR LIMB', to impose liability on certain owners of real property for the expenses of removing a tree or limb that falls on an adjoining owner's private real property. REF. JUDICIARY

H.B. No. 5102 (RAISED) ENVIRONMENT. 'AN ACT AUTHORIZING THE USE OF PINK BLAZE CLOTHING FOR HUNTING', to authorize the wearing of pink fluorescent when hunting. REF. ENVIRONMENT

H.B. No. 5103 (RAISED) ENVIRONMENT. 'AN ACT REQUIRING AN EVALUATION OF THE STATE'S ENVIRONMENTAL JUSTICE LAW', to strengthen the requirements under the state's environmental justice law. REF. ENVIRONMENT

H.B. No. 5104 (RAISED) ENVIRONMENT. 'AN ACT PROHIBITING THE IMPORT, SALE AND POSSESSION OF AFRICAN ELEPHANTS, LIONS, LEOPARDS, BLACK RHINOCEROS, WHITE RHINOCEROS AND GIRAFFES', to prohibit the import and trade of any big six African species. REF. ENVIRONMENT

H.B. No. 5105 (RAISED) ENVIRONMENT. 'AN ACT CONCERNING REVISIONS TO THE CONNECTICUT-GROWN PROGRAM', to (1) include chicken eggs as part of the state-funded Connecticut Farmers' Market/WIC and Senior Nutrition programs, (2) increase fines for violating certain farm product grading and marketing requirements, and (3) provide the Commissioner of Agriculture with infraction authority for the violation of statutes under the commissioner's authority. REF. ENVIRONMENT Proposed

H.B. No. 5106 REP. KLARIDES, 114th DIST.; REP. CANDELORA, 86th DIST.; REP. O'DEA, 125th DIST.; REP. ZUPKUS, 89th DIST. 'AN ACT EXEMPTING SENIOR CITIZENS FROM PAYMENT OF THE PASSPORT TO THE PARKS MOTOR VEHICLE REGISTRATION FEE', to exempt senior citizens from the Passport to the Parks motor vehicle registration fee. REF. ENVIRONMENT

H.B. No. 5133 (RAISED) PLANNING AND DEVELOPMENT. 'AN ACT CONCERNING THE USE OF THE PENFIELD REEF LIGHTHOUSE AS A COLUMBARIUM', to authorize the use of the Penfield Reef lighthouse as a columbarium. REF. PLANNING AND DEVELOPMENT

### **SENATE**

S.B. No. 10 SEN. LOONEY, 11th DIST.; SEN. DUFF, 25th DIST.; REP. ARESIMOWICZ, 30th DIST.; REP. RITTER, 1st DIST. 'AN ACT CONCERNING CERTAIN RECOMMENDATIONS REGARDING CLIMATE CHANGE', to implement the Governor's budget recommendations. REF. ENERGY AND TECHNOLOGY

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S.B. No. 11 SEN. LOONEY, 11th DIST.; SEN. DUFF, 25th DIST.; REP. ARESIMOWICZ, 30th DIST.; REP. RITTER, 1st DIST. 'AN ACT CONCERNING THE RELIABILITY, SUSTAINABILITY AND ECONOMIC VITALITY OF THE STATE'S WASTE MANAGEMENT SYSTEM', to implement the Governor's budget recommendations. REF. ENVIRONMENT

Proposed S.B. No. 56 SEN. MARONEY, 14th DIST. 'AN ACT ESTABLISHING TAX CREDITS FOR TAXPAYERS THAT REFRAIN FROM USING GASOLINE-POWERED LAWN AND LANDSCAPING EQUIPMENT', to establish tax credits for individual and commercial taxpayers that refrain from using gasoline-powered lawn and landscaping equipment. REF. FINANCE, REVENUE AND BONDING

S.B. No. 91 (RAISED) COMMITTEE ON CHILDREN. 'AN ACT CONCERNING A PROGRAM TO PROVIDE FREE SWIMMING LESSONS TO INDIVIDUALS UNDER THE AGE OF EIGHTEEN', to require the Department of Energy and Environmental Protection to establish and administer a program to provide free swimming lessons to individuals under the age of eighteen. REF. COMMITTEE ON CHILDREN

Proposed S.B. No. 94 SEN. OSTEN, 19th DIST. 'AN ACT ESTABLISHING A FUND TO PROVIDE CERTAIN TRIBAL SERVICES AND PROGRAMS', to provide services and maintain tribal lands under the control of the state. REF. ENVIRONMENT

S.B. No. 95 (RAISED) ENVIRONMENT. 'AN ACT CONCERNING CONNECTICUT'S SHELLFISH RESTORATION PROGRAM AND THE CONNECTICUT SEAFOOD ADVISORY COUNCIL', to enhance the state's shellfish restoration program through certain contracting authority and to reconstitute the Connecticut Seafood Council. REF. ENVIRONMENT

S.B. No. 96 (RAISED) ENVIRONMENT. 'AN ACT CONCERNING THE TAX ASSESSMENT OF CERTAIN AQUACULTURE PROPERTIES', to authorize the application of the Public Act 490 tax program to aquaculture operations. REF. ENVIRONMENT

S.B. No. 97 (RAISED) ENVIRONMENT. 'AN ACT CONCERNING TRAINING STANDARDS FOR ROAD SALT APPLICATORS', to help mitigate the effects of sodium chloride contamination of private wells and public drinking water supplies. REF. ENVIRONMENT

S.B. No. 98 (RAISED) ENVIRONMENT. 'AN ACT CONCERNING THE DRAW DOWN SCHEDULE ON LAKE BESECK', to provide for a longer six foot draw down period of Lake Beseck in odd-numbered years in order to increase the likelihood of root exposure for aquatic plants to temperatures that assist in the effective management of such plants. REF. ENVIRONMENT

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S.B. No. 99 (RAISED) ENVIRONMENT. 'AN ACT CONCERNING THE USE AND DISTRIBUTION OF POLYSTYRENE PRODUCTS', to decrease the use of certain polystyrene products in the state. REF. ENVIRONMENT

S.B. No. 112 (RAISED) PLANNING AND DEVELOPMENT. 'AN ACT CONCERNING THE DISCLOSURE OF DAMS AND SIMILAR STRUCTURES BY SELLERS OF REAL PROPERTY', to require the seller of real property on which a dam or similar structure is located to disclose the existence of such dam or similar structure on a residential condition report. REF. PLANNING AND DEVELOPMENT

Proposed S.B. No. 119 SEN. SAMPSON, 16th DIST. 'AN ACT REQUIRING THE USE OF CLEAN AIR ACT FEE FUNDS FOR CERTAIN BROWNFIELD REMEDIATION PROGRAMS', to require that Clean Air Act fee funds be used to fund brownfield remediation programs administered by municipalities. REF. TRANSPORTATION

### **Bonus**

Proposed H.B. No. 5081 REP. HAMPTON, 16th DIST. 'AN ACT EXEMPTING ESCAPE ROOMS FROM THE ADMISSIONS TAX', to exempt escape room venues from the admissions tax. REF. FINANCE, REVENUE AND BONDING

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\*\*Please note that the HBs and SBs are not hyperlinked in this issue\*\*

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