

2018 Environmental Legislative Update No. 1

March 2, 2018

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.

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Once again that time of year is upon us when the muses of public service manifest themselves in diverse ways to our elected representatives in General Assembly convened. And once again your Legislative Liaison is privileged to report to you on developments touching directly or indirectly on environmental concerns.

Things being what they are, we will also no doubt be commenting on completely unrelated topics because we cannot help ourselves. This is a short session, though, so technically the focus on budget-related subjects should limit the frolics and detours. But legislators are elected for a reason: the primal urge to legislate will not be denied. At least we hope not.

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Because of the sheer volume of bills in the early going, commentary on selected bills is followed by a complete list of pending bills of potential interest, with hyperlinks. If you're not familiar with the very good General Assembly web site, click on one or two and rummage around in bill texts and, as the session progresses, committee testimony, file copies, amendments and progress toward passage. We'll comment separately on bills that strike our fancy. Note that bills in the "parks and recreation" and agriculture parts of the Environment Committee's portfolio will be noted as they are introduced but usually without comment, and not actively followed unless they make meaningful progress toward adoption. Note also that bills of interest from the environmental perspective regularly come up through committees other than Environment. On your toes.

Sustainability being a hot topic in environmental policy, HB 5046 on transportation projects sounds promising. False alarm: it's about tolls.

On the environmental kind of sustainability, SB 7 and SB 9 make an interesting pair – both are Governor's bills, and they address different aspects of the greenhouse gas dimension of climate change. Which does not exist in Florida, but presumably these bills are predicated on the hypothetical existence of something called "objective reality."

SB 7, on climate change planning and resiliency, contains four principal elements: adoption of a Connecticut-defined benchmark for sea level rise projections in lieu of a NOAA reference; linkage of the "municipal coastal boundary" to the new benchmark; making the Council on Climate Change a permanent body; and transforming the "Comprehensive Energy Strategy" into a "Comprehensive Climate and Energy Strategy." It also adds an interim greenhouse gas reduction goal: we had already targeted reductions (against a 1990 baseline) of 10% by 2020 and 80% by 2050; the proposal is to achieve a 45% reduction by 2030.

Since much of SB 7 crosses the line from environment to energy, it seems appropriate to note SB 9 on "Connecticut's Energy Future," which among other things extends the timetable for integration of renewable power into the portfolios of electric supply and distribution companies beyond the current target of 20% by 2020 in annual increments out to 40% in 2030. The bill elsewhere mandates annual reductions in energy consumption of at least 1.6 million BTUs for calendar years 2020-2025, and makes provision for demand management and promotion of passive response measures. Applying the rule about free lunches, there will be fees at the supplier and user level. On the renewable generation side, the bill also addresses credits to customers for electricity generated from Class I renewables or hydropower, and tariffs to be filed by distribution companies for customers with Class I renewables using anaerobic digestion or low- or zero-emission sources. The practical impact of all of this will be felt more on the energy side, and on the waste side if the anaerobic digester option takes off, but environmental concerns obviously provide the impetus.

Mentioning fees associated with electric supply reminds us, of course, that the current state of the budget has led to no small amount of scrounging for funds to sweep out of supposedly dedicated funds. Maybe before we implement new fees we should see what happened to the old ones? Funny you should ask. HB

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5087 would repeal “diversions” of ratepayer efficiency and clean energy program funds.

Speaking of fees: HB 5104 proposes a modest fix to an apparent indignity associated with the paint stewardship fee – it looks like people have been charging sales tax on it. If this bill passes, they won’t. HB 5129 proposes a voluntary fee on a more positive note – a new “Save Our Lakes” license plate. Presumably the graphics will depict something more uplifting than the aquatic invasives and cyanobacteria blooms the bill addresses.

HB 5128 takes another shot at the topics of beneficial end uses for used tires and licensing or permitting for tire haulers. This proposal is a veteran of at least one legislative session. Meantime these tires are not recycling themselves.

Another retread from previous sessions: HB 5130 combining sewage spill “right to know” concepts with requirements for POTW operator continuing education.

A pair of water bills: HB 5151 would implement certain Department of Public Health recommendations concerning drinking water, and HB 5154 would require the Water Planning Council to report on its review of state and local regulation of drought-related water restrictions.

SB 95 seeks to advance the commendable goal of protecting water, air and natural resources by increasing fines on polluters and people who litter. So does SB 96. And ... well, actually, SB 95 through SB 101 all say exactly the same thing. And so do SB 107 through SB 111. That makes twelve sponsoring Senators who are aboard on this idea ... meaning either that the muses of public service struck them all with the same inspiration at the same time, or for some reason they wanted to sponsor their own bills rather than co-sponsoring one. We’ll be checking the “how your laws are made” flow chart on this one.

SB 103 returns once again to the subject of hydraulic fracturing waste, reprising a proposal from prior sessions to keep it out of Connecticut.

And what better way to conclude this first Environmental Legislative Update than with our first Bonus Legislative Update. For your consideration: two bills concerning the CTN television network, beloved of political junkies and insomniacs alike. HB 5074 would eliminate CTN’s funding; HB 5075 would increase it. Thus beginneth the session. We’ll see if the muses of public service make it through in one piece.

Comments, corrections, requests and feedback of all sorts welcome.

Christopher P. McCormack

H.B. No. 5046 REP. ARESIMOWICZ, 30th DIST.; REP. RITTER, 1st DIST.; SEN. LOONEY, 11th DIST.; SEN. DUFF, 25th DIST. 'AN ACT CONCERNING THE SUSTAINABILITY OF TRANSPORTATION PROJECTS', to implement the Governor's budget recommendations. **REF. TRANSPORTATION**

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Proposed H.B. No. 5084 REP. LEMAR, 96th DIST.; REP. CANDELARIA, 95th DIST. 'AN ACT ESTABLISHING A FIVE-CENT RECYCLING DEPOSIT ON NIP BOTTLES', to encourage the recycling of nip bottles that otherwise frequently litter urban areas. REF. ENVIRONMENT

Proposed H.B. No. 5085 REP. CARNEY, 23rd DIST. 'AN ACT EXEMPTING HOLDERS OF CHARTER OAK AND DISABLED VETERANS PASSES FROM THE PASSPORT TO THE PARKS FEE', to exempt persons who already have a pass to state parks from having to pay the Passport to the Parks fee. REF. ENVIRONMENT

Proposed H.B. No. 5086 REP. RYAN, 139th DIST. 'AN ACT ESTABLISHING A TAX CREDIT FOR FOOD DONATED BY FARMERS TO CHARITABLE ORGANIZATIONS', to financially assist farmers who donate food to charitable organizations. REF. ENVIRONMENT

Proposed H.B. No. 5087 REP. HAMPTON, 16th DIST. 'AN ACT RESTORING ENERGY EFFICIENCY AND CLEAN ENERGY FUNDS', to restore moneys in the state budget of cost-effective energy efficiency and clean energy program funds. REF. ENVIRONMENT

Proposed H.B. No. 5104 REP. WOOD, 141st DIST. 'AN ACT EXEMPTING PAINT STEWARDSHIP ASSESSMENT FEES FROM THE SALES TAX', to exempt paint stewardship assessment fees from the sales tax. REF. FINANCE, REVENUE AND BONDING

H.B. No. 5128 (RAISED) ENVIRONMENT. 'AN ACT CONCERNING BENEFICIAL END USES FOR DISCARDED TIRES AND THE EFFICACY OF TIRE HAULING LICENSES OR PERMITS', to examine beneficial end uses for discarded tires in the state and the efficacy of tire hauler licenses in reducing the illegal dumping of discarded tires. REF. ENVIRONMENT

H.B. No. 5129 (RAISED) ENVIRONMENT. 'AN ACT ESTABLISHING A "SAVE OUR LAKES" NUMBER PLATE TO COMBAT AQUATIC INVASIVE SPECIES AND CYANOBACTERIA BLOOMS', to raise awareness and provide funding for efforts to fight aquatic invasive species and cyanobacteria blooms that threaten the state's lakes and ponds. REF. ENVIRONMENT

H.B. No. 5130 (RAISED) ENVIRONMENT. 'AN ACT CONCERNING THE SEWAGE SPILL RIGHT-TO-KNOW ACT AND EXPANDING CONTINUING EDUCATION PROGRAMS FOR WASTEWATER OPERATORS', to establish a time frame and additional methodology for the Department of Energy and Environmental Protection to notify the public of unanticipated sewage spills and to require continuing education requirements for wastewater treatment facility operators. REF. ENVIRONMENT

H.B. No. 5151 (RAISED) PUBLIC HEALTH. 'AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING CONNECTICUT'S SAFE DRINKING WATER', to implement the Department of Public Health's recommendations regarding Connecticut's safe drinking water. REF. PUBLIC HEALTH

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H.B. No. 5154 (RAISED) PUBLIC HEALTH. 'AN ACT CONCERNING WATER USAGE AND CONSERVATION DURING DROUGHT CONDITIONS', to require the Water Planning Council to report to the General Assembly regarding its review of state and local processes and authorities for the issuance of drought advisory, watch, warning or emergency and any attendant water use restrictions. **REF. PUBLIC HEALTH**

S.B. No. 7 SEN. LOONEY, 11th DIST.; SEN. DUFF, 25th DIST.; REP. ARESIMOWICZ, 30th DIST.; REP. RITTER, 1st DIST. 'AN ACT CONCERNING CLIMATE CHANGE PLANNING AND RESILIENCY', to implement the Governor's budget recommendations. **REF. ENVIRONMENT**

S.B. No. 9 SEN. LOONEY, 11th DIST.; SEN. DUFF, 25th DIST.; REP. ARESIMOWICZ, 30th DIST.; REP. RITTER, 1st DIST. 'AN ACT CONCERNING CONNECTICUT'S ENERGY FUTURE', to implement the Governor's budget recommendations. **REF. ENERGY AND TECHNOLOGY**

Proposed S.B. No. 95 SEN. MCCRORY, 2nd DIST. 'AN ACT CONCERNING THE PROTECTION OF CONNECTICUT'S WATER, AIR AND NATURAL RESOURCES', to preserve and protect the state's natural resources. **REF. ENVIRONMENT**

Proposed S.B. No. 96 SEN. CASSANO, 4th DIST. 'AN ACT CONCERNING THE PROTECTION OF CONNECTICUT'S WATER, AIR AND NATURAL RESOURCES', to preserve and protect the state's natural resources. **REF. ENVIRONMENT**

Proposed S.B. No. 97 SEN. LEONE, 27th DIST. 'AN ACT CONCERNING THE PROTECTION OF CONNECTICUT'S WATER, AIR AND NATURAL RESOURCES', to preserve and protect the state's natural resources. **REF. ENVIRONMENT**

Proposed S.B. No. 98 SEN. FLEXER, 29th DIST. 'AN ACT CONCERNING THE PROTECTION OF CONNECTICUT'S WATER, AIR AND NATURAL RESOURCES', to preserve and protect the state's natural resources. **REF. ENVIRONMENT**

Proposed S.B. No. 99 SEN. BYE, 5th DIST. 'AN ACT CONCERNING THE PROTECTION OF CONNECTICUT'S WATER, AIR AND NATURAL RESOURCES', to preserve and protect the state's natural resources. **REF. ENVIRONMENT**

Proposed S.B. No. 100 SEN. OSTEN, 19th DIST. 'AN ACT CONCERNING THE PROTECTION OF CONNECTICUT'S WATER, AIR AND NATURAL RESOURCES', to preserve and protect the state's natural resources. **REF. ENVIRONMENT**

Proposed S.B. No. 101 SEN. DUFF, 25th DIST. 'AN ACT CONCERNING THE PROTECTION OF CONNECTICUT'S WATER, AIR AND NATURAL RESOURCES', to preserve and protect the state's natural resources. **REF. ENVIRONMENT**

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S.B. No. 102 (RAISED) ENVIRONMENT. 'AN ACT CONCERNING MINOR REVISIONS TO ENVIRONMENTAL PROTECTION AND AGRICULTURE-RELATED STATUTES', to make various minor changes to environment and agriculture- related statutes pertaining to forestry certifications, pesticide applicator certifications, forest fire compacts, certain preserved farmland deed restrictions and the siting of certain solar facilities on agricultural and forest lands. REF. ENVIRONMENT

S.B. No. 103 (RAISED) ENVIRONMENT. 'AN ACT CONCERNING HYDRAULIC FRACTURING WASTE IN CONNECTICUT', to prohibit the receipt, collection, storage, treatment and disposal of waste from hydraulic fracturing. REF. ENVIRONMENT

S.B. No. 104 (RAISED) ENVIRONMENT. 'AN ACT PROHIBITING THE USE OF RESIDENTIAL AUTOMATIC PESTICIDE MISTING SYSTEMS', to limit exposure to pesticides by prohibiting the use of residential automatic pesticide misting systems. REF. ENVIRONMENT

S.B. No. 105 (RAISED) ENVIRONMENT. 'AN ACT ENSURING CONTINUING WATER SERVICE FOR CERTAIN MUNICIPALITIES', to ensure adequate water service to the town of Durham for purposes of the Durham Fair. REF. ENVIRONMENT

S.B. No. 106 (RAISED) ENVIRONMENT. 'AN ACT CONCERNING THE SALE OF "CONNECTICUT GROWN" PRODUCTS', to provide for the offering of proof that farm products that are sold to school districts as "Connecticut-grown" are actually grown in the state. REF. ENVIRONMENT

Proposed S.B. No. 107 SEN. LARSON, 3rd DIST. 'AN ACT CONCERNING THE PROTECTION OF CONNECTICUT'S WATER, AIR AND NATURAL RESOURCES', to preserve and protect the state's natural resources. REF. ENVIRONMENT

Proposed S.B. No. 108 SEN. GERRATANA, 6th DIST. 'AN ACT CONCERNING THE PROTECTION OF CONNECTICUT'S WATER, AIR AND NATURAL RESOURCES', to preserve and protect the state's natural resources. REF. ENVIRONMENT

Proposed S.B. No. 109 SEN. LOONEY, 11th DIST. 'AN ACT CONCERNING THE PROTECTION OF CONNECTICUT'S WATER, AIR AND NATURAL RESOURCES', to preserve and protect the state's natural resources. REF. ENVIRONMENT

Proposed S.B. No. 110 SEN. MOORE, 22nd DIST. 'AN ACT CONCERNING THE PROTECTION OF CONNECTICUT'S WATER, AIR AND NATURAL RESOURCES', to preserve and protect the state's natural resources. REF. ENVIRONMENT

Proposed S.B. No. 111 SEN. KENNEDY, 12th DIST. 'AN ACT CONCERNING THE PROTECTION OF CONNECTICUT'S WATER, AIR AND NATURAL RESOURCES', to preserve and protect the state's natural resources. REF. ENVIRONMENT

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Proposed H.B. No. 5074 REP. GODFREY, 110th DIST. 'AN ACT ELIMINATING FUNDING FOR THE CONNECTICUT TELEVISION NETWORK', to eliminate funding in the biennial budget for the Connecticut Television Network. **REF. APPROPRIATIONS**

Proposed H.B. No. 5075 REP. GODFREY, 110th DIST. 'AN ACT INCREASING THE BUDGET FOR THE CONNECTICUT TELEVISION NETWORK', to increase the budget for the Connecticut Television Network. **REF. APPROPRIATIONS**

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