

Legislative History for Connecticut Act

HB 584D	PA 154	1978
Senate	1610, 1668	2
House	1025-1028	4
Environment	825, 864, 871-872, 892-896	9
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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
and House of Representatives Proceedings

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JOINT
STANDING
COMMITTEE
HEARINGS

ENVIRONMENT
PART 2
451-913

1978

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ENVIRONMENT

March 13, 1978

MEL SCHNEIDERMEYER (continued): 5732 - Community Discharge Treatment Systems - we support this bill. Many of the issues contained in this bill are related to Bill 5840 which is at the end of the agenda, a voluntary sewer avoidance program, and we are pleased with this bill because it takes care of what we thought was one of the basic problems in this area - the ultimate responsibility issue.

5749 - An Appropriation for Algae Control - we oppose the bill because it has an amount less than what our Department has recommended and what the Governor has recommended but we, of course, support the funding.

REP. ANDERSON: Mel, we've always had vote on this.

MEL SCHNEIDERMEYER: Yes.

REP. OSIECKI: When a bill goes in separately, this is combined with the budget.

MEL SCHNEIDERMEYER: Yes.

REP. OSIECKI: We have special...

MEL SCHNEIDERMEYER: Oh, I'm sorry. In preparing this...

REP. OSIECKI: You get stricken from the budget in here, you've got \$110,000.

MEL SCHNEIDERMEYER: Fine, I'm sorry. In reviewing this bill, I overlooked that.

REP. OSIECKI: Will you retract your opposition?

MEL SCHNEIDERMEYER: Yes, yes, we support the bill.

REP. ANDERSON: Change that one to support.

MEL SCHNEIDERMEYER: That was a misunderstanding on my part. I take that one personally and take the responsibility.

5746 - Food Control Project Along Piper Brook and Mill Brook in Newington - we strongly support this bill and we have the amount there that we suggest the bill contain a \$500,000.

5748 - Pequabuck River Flood Control - we feel this is a very necessary improvement and strongly support the bill.

GURDON BUCK (Continued): by a community association system on commonly owned land, that is, which was established on a pocket of good soil, it has adequate percolation, and substantially safe areas for sewage disposal. This can be used to permit homes to be sited on less than satisfactory soils without the need of overly large lots, roads, public improvements, and so forth. They can all be shortened, made less and more land set aside for open space. The history of management and community associations with automatic membership in the homeowners of the neighborhood, that is with lienable assessments from maintenance expenses has been excellent. The institute in 1965 in its Homes Association handbook surveyed some 400 homeowners associations commencing with Louisberg Square in 1843. Those which provide for automatic assessments of homeowners who generally well manage, showed increasing property values and were well received by the communities and for institutional bank loans. Those which pass the hat every year on the other side, that is voluntary associations, had a poor history. They went out of existence when the issue or the point that they were organized for also became old. The Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association have provided national standards for bank mortgages that describe and encourage home mortgages and what they call planned unit developments. Which are included in the definition of community associations contemplated by this bill.

The community association system ties intimately into committee bill 5840. The act concerning voluntary sewer avoidance program. This act permits the establishment of semi-independent water pollution control authorities and municipalities, instead of municipally owned sewer commission. However, two aspects of the bill tie into 5732. The Municipal Water Pollution Control Authority is to provide for a water pollution control plan for the municipality which must show the areas to be served by community sewage disposal systems, not controlled by the municipality. Under present law, there's no such thing. The commissioner under Section 16 of the act by regulation is to define and establish what are called small community sewage system. In the present law, the Department of Health does not recognize any such category. The DEP has only permitted those systems which are controlled by municipalities or the municipality has assumed financial responsibility for management. Thus, Bill 5732 would define the financial responsibility for community assistance which would then again would be permitted and promoted under Bill 5840. Bill 5732 with its lienable assessments has the adequate financial resources for

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REP. BERTINUSON: I would like to raise a question, I think Representative Osiecki made before. To your knowledge is there any direct discharge of PCB into the river now, other than what this leaching comes from landfills?

RALPH GOODNO: As of March, 1977 General Electric completely stopped the use and discharge of PCB's into the Housatonic River without question. And in the past six months, I've been told, they've spent nearly \$2,000,000 to try to clean up their grounds of remnant PCB's in pipes and in capacitors and transformers and that kind of thing.

REP. ANDERSON: Thank you. Any other questions? The next speaker is Howard Coe followed by Joan Fitch.

: Howard left.

REP. ANDERSON: Howard Coe left. Joan Fitch, is she here? Followed by Jay Kaplan.

JOAN FITCH: Chairman Anderson, Committee Members, I am here to speak on Bill 5640, the Sewer Avoidance Bill. I am the present chairman of the North Branford Planning and Zoning Commission and a member of the Regional Planning Agency for South Central Connecticut. I would like to support this Bill due to the fact that for the last four or five years North Branford has had a very controversial sewer issue and I have gained quite a bit of knowledge on the subject of sewers versus on-site septic systems. I am not officially trained in any capacity involving this but as a citizen and as a member of a planning commission I have learned quite a bit on the issue. North Branford has proposed a sewer program to which the planning and zoning commission naturally had a referral. One portion of the sewer program I voted in favor of, the other two portions I voted in opposition to.

I believe this Sewer Avoidance Bill could solve a problem that exists in many small communities in terms of sanitary sewers being forced on the community to solve pollution problems that perhaps need not be solved only by sanitary sewers. My reason for voting one way on one area and one way on another is just this. The area that I voted in favor of is a highly developed area that required sanitary sewers because the plans for the town called for expanded development, the areas of the town where I opposed sewers were areas that were undeveloped, there was extensive farmland. There were water sheds involved. The town asked for these abatement orders simply due to the fact that the only kind of funding they

JOAN FITCH (Continued): could get to relieve their problem was through sanitary sewers. Until last October the State Law required sanitary sewers as a means of pollution abatement now the Law has been amended to include onsite systems. This Bill would encourage towns to look more into onsite systems and community systems and perhaps be eligible for funding where in the past they always went for sanitary sewer programs because that was the way that they could get supported funding and it is necessary, of course, in smaller towns to have funding in terms of pollution abatement in many areas. I believe this type of a bill, this bill in particular, will encourage community plans to be followed more consistently where- by when sewers and city waters were made available community plans didn't call for downgrading of zoning but it would become the next step in developers attitudes. Please downgrade your zoning because we now have city services that no longer require one or perhaps two acre zoning.

I believe that city sewers tend to encourage suburban sprawl. Suburban sprawl, therefore creates transportation problems. People find that there are areas of towns that would not be developed if the town did not have sewer systems. Once they get sewer systems these areas of town are developed sometimes to the townspeople's own disgrunteled attitude, however, they do not realize the far reaching effects of the sanitary sewer program. With an Avoidance Program it leaves it more to the town's discretion on how they want to create means of abatement pollution and perhaps it would encourage towns to look a little bit more critically at what the outer effects will be on the community after the sewers have been installed versus perhaps community systems or even very small community systems which this Avoidance Bill allows for two or three houses as long as they are treated as part of the common property of the town.

I also would like to support the fact that this Bill would change the title of the Authority from the Sewer Authority to the Water Pollution Control Authority. It would encourage towns to look a little bit more broadly at the means that are available and are constantly being upgraded in terms of pollution. Thank you.

REP. ANDERSON: Any questions?

REP. DODES: Would you tell us if you have an opinion and what your position is on Bill 5732, The Discharge Treatment System.

FRED BENEDIKT: Mr. Chairman and Committee members, my name is Fred Benedikt. I live in New Fairfield. I'm here as spokesman for a group of individuals who live in four towns who suggested to the Committee Bill 5739 on engineering contracts. However, first I'd like to say a couple of words on my own account about 5840, your sewer avoidance bill.

I think it's a remarkable achievement what this Committee has done. You have been at least abreast and I think ahead, even of the Environment Committee of the Senate in point of time when you initiated this discussion last year and the sewer avoidance at the U. S. Senate hearings on a clean water act was one of the most pushed subjects and recognized as most necessitous and with very pointed language that all over the country there have been incidents of sewer-happy consultants and sewer-happy state boards and EPA itself. So I do think it is a remarkable achievement and therefore you'll pardon me if in the Bill itself I point to what I consider one defect.

On the last page, Section 17, of course you've got to have an enforcement measure. However, Section 17 itself is an amendment of an amendment that I think was put in the statute in 1971 in the height of exuberance and over-allusion and I believe that while we need an enforcement measure, that this may be unconstitutional. I did consult an attorney and it's unconstitutional in our opinions for the following

FRED BENEDICT (Continued): We have an enforcement measure. However, Tape Section 17 itself is an amendment of an amendment that I think #8 was put in the statutes in 1971 in the height of exuberance and over elusion. And I believe that while we need an enforcement measure that this may be unconstitutional. I did consult an attorney and it's unconstitutional in our opinions for the following reason. That the way it is written, it would cancel out any of the other provisions in the environmental law statute which allow appeal against orders to the commissioner or court recourse. And I think that if you have to have this in it should be in subject to such rights of the appeal and recourse otherwise you might have something I think that could knock out the whole environmental law.

Now coming into 5739, the Engineering Contract suggestion that the commissioner be part of any contract on waste water limited to waste water between towns and consultants. This arose out of the very, very controversial situation in New Milford regarding the sewer project. The controversies are very expensive, involve a number of towns, some of which have already been proven correct, the towns, by EPA. It brought about the first environmental impact statement concerning a waste water project in Connecticut. And people in Newtown, Brookfield, New Milford and New Fairfield got together to make a joint response to the environmental impact statement itself which brought out such facts that it resulted in a referral to the general accounting office of Congress. Following a meeting in New Milford with the general accounting office in which abuses which had arisen came up, we learned from the GAO representative that in the State of New Hampshire, the state is a party to such contracts and they consider the experience is exemplary from the viewpoint of the prevention of abuse and protection of public interest. Now, I know that Mr. Schneidermeyer has entered an objection to the bill based on something which in itself is an advance. EPA recognized that the consultants were abusing and getting excessive fees because they had contracts providing that they be paid at a percentage of the cost of the total project and they had banned that. And Mr. Schneidermeyer feels that because this is banned, that the bill is not needed.

However, we find that fees is only the tip of the iceberg. Our inquiries showed many, many other things. First of all, if you pass 5840, you are going to bring in to being a large number of new water pollution control commission in small towns where people are inexpert and where all of this will be new and where they themselves could fall into some of the difficulties quite aside from fees. Now we have to point out how sewer orders are generated. The commissioner issues an order through the town

FRED BENEDICT (Continued): alleging a condition to exist. And then firm orders are contained telling the town to have a consultant draw up a plan which proves the allegation. In other words, prove yourself guilty. Now, we find that among the very serious shortcomings are these. That the DEP water compliance division generally is fully aware, initiates, promotes, what goes on and really are defacto parts of the contracts and yet we have ample documentation from their own files that they adopt an attitude of they did it. The local people. Anything that could get into difficulty, they did it. We'd like them to be part of the they. Now, these are some of the things quite in addition to fees alone. EDP's regulation will not prevent any of these following things, Over designing of capacity. Possibly the greatest single abuse. It will not prevent it and in the New Milford sewer project, we now have practically one concession from the EPA first that 2 of 4 towns that they were trying to put in should not have been in at all and secondly, that in Brookfield, a key part of the project that the capacity proposed is vastly excessive. Incidentally, the consultant of that town did not have one of these percentage contracts. He had a quite OK contract, yes there was the over design and we citizens estimate that the provision for over capacity, if the sewer were necessary in the first place, which is dubious, would be triple. Then they go beyond preliminary design. We have a situation where we have the documents that in 1972 within 8 months of passage of the clean water act, the DEP poured \$395,000 into New Milford to let them design a plant. This is far beyond preliminary. However, we have another document which says where the DEP states that there existed a fully approved and fully reviewed design and at the same time, they, the locals and DEP said it was alright, based on advice of their consultant, then went ahead because the consultant made a trip to Europe and fell in love with a Dutch royalty process with royalty fees redesign all over again and now New Milford Board of Selectmen has really gotten alarmed as the bills have mounted up to \$1,025,000 of a project that's up in the air and probably cannot go through or be funded the way it is and the Board of Selectmen of New Milford has called for a public audit on the town basis, a audit by the state, a watch dog committee and refer to the contract finally to a council to see if it's legal.

These are the things that happen up there. The chairman of the Sewer Commission signed a contract drafted entirely by the consultant that had no date, no date of termination, no provision for the settlement of disputes, no provision what would happen if an alternative means, then that sewer project or if the federal government wouldn't fund it. No provisions like that and it was signed without showing it to the town council. A few

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FRED BENEDICT (Continued): other things which happened up there, well these are maybe incidental, the consultant hired the vice chairman of the sewer commission to be the surveyor for the project. The consultant convinced Nestle Company, one of the nationally identified polluters and among the greatest in the state, certainly the greatest of the Housatonic, he convinced Nestle that instead of building their own sewer by state order and completing it in 1970, they should become part of the municipal sewer to be built at a later date which it's now '78 and it's not very near to even starting. Now. The consultant also became the paid consultant of Nestle and proceeded to redesign the sewer to adapt itself especially for the needs of Nestle omitting phosphate treatment, producing any fluent greater in nitrogen content than an ordinary municipal sewer and with dire results to poor little Inona, poor Zor, and even poor Lake Candlewood. These are among the reasons we think we need such a bill and we think it's far beyond and we'd love to have water compliance become part of the they and not be able to stand aloof when things like this happen.

Just a final word on 5729, the PCB bill. It may be possible, I'm not sure, but that with the forthcoming licensing hearings before the federal energy regulatory commission of the CLT dams, there may be a possibility of certain alleviation not from the top down, from Canaan down to the sound, but from the sound up. Because there may be a certain form of violation of Indian treaties of 1716 that could permit a certain alleviation and I'll talk to the Zor and Lilinona people and possibly to, if he has time, Representative Anderson and Representative Osiecki, my rep at a later date. Thank you.

REP. OSIECKI: Just on quick one. The only comment that is not in support of this bill mandatory.

FRED BENEDICT: What.

REP. OSIECKI: 5739. municipalities

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communities.

FRED BENEDICT: I would have no objection if the commissioner would make a direct decision that it is not necessary that he be part of a particular contract, but at least, that there would be a statement of awareness by the commissioner.

REP. ANDERSON: Any other questions?

REP. EMMONS: I just have one. And that's on 5840. You saying it's the end of Section 17? I didn't quite understand your comment, what was wrong with it?

FRED BENEDICT: It doesn't, you see it wipes out any other statute to comply. Now I like to see a strong enforcement order, yes. But I think it should be stated in there that nothing would forestall rights of appeal of an order, a sewer order from the DEP, as provided.

REP. EMMONS: Yes, but this section, all it does is change the title.

FRED BENEDICT: Now, the last line, am I reading the right one?

REP. EMMONS: The last line says, in authorizing us to undertake complete such construction projects.
then it says any action necessary to comply with this order.

FRED BENEDICT: Yeah, but here's what it says in the beginning, here, Representative. Notwithstanding any provision of the general statutes, any special act or municipal charter provision to the contrary including but not limited to any referendum provision, the legislative body of any municipality ordered by the commissioner, etc., etc.

REP. EMMONS: Do you want to have a period after Authority on
Line at all?

FRED BENEDICT: At some point, just make subject to provided rights of appeal in court action. That's all. Because I don't think you could take away the rights of appeal provided against the commissioner.

REP. EMMONS: No but taken away
by somebody else.

FRED BENEDICT: Well, that's what I said. It was done in 1971 in the height of illusions and exuberance as to the marvels that were going to happen automatically. Any other?

REP. ANDERSON: Any other questions? Thank you very much. The next speaker is Tim -- I'm just kidding, Joyce. I wanted to see if you were still ...

JOYCE HORNBECKER: I thought you were going to say lunch break or something. I've almost forgotten my name. My name is Joyce Hornbecker, I'm the Vice Chairman of the Lake Zoar

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GEN. ASSEMBLY
SENATE

PROCEEDINGS
1978

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PART 4
1263-1671

Tuesday, April 18, 1978

96.

THE PRESIDENT:

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Without objection, it is so ordered.

THE CLERK:

Page nine of the Calendar, second item from the top, Cal. 471, File 136. FAVORABLE report of the joint standing Committee on The Environment. Substitute for House Bill 5840. AN ACT CONCERNING A VOLUNTARY SEWER AVOIDANCE PROGRAM.

THE PRESIDENT:

Senator Murphy.

SENATOR MURPHY: (19th)

Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill.

THE PRESIDENT:

Will you remark?

SENATOR MURPHY:

This bill will require the municipalities to take any action necessary to respond to water pollution orders of the commissioner of DEP; not just to construct sewers or disposal systems. It also changes the name of the sewer authority to Water Pollution Control Authority. If there is no objection, I move it to the Consent Calendar, Mr. President.

THE PRESIDENT:

Without objection, it is ordered to Consent.

THE CLERK:

Cal. 510, File 381. Favorable report of the joint

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154.

HB 5840, SB 552, SB 278 SB 165
 Page nine - Cal. 471, 510 and 511. Page ten - Cal. 527.
HB 5547, HB 5735 HB 5949
 Page eleven - Cal. 533, 534. Page twelve - Cal. 542. Page
SB 626 SB 424 HB 5775, HB 5163,
 thirteen - Cal. 557 and 558. Page fourteen - Cal. 561, 563,
HB 5612, HB 5794, HB 5306 HB 5887, HB 5497, HB 5754
 564, 565, 566. Page fifteen - Cal. 569, 570, 572. Page
HB 5157, HB 5796 HB 5595
 sixteen - Cal. 581 and 583. Page seventeen - Cal. 584.

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The rest were roll called.

THE PRESIDENT:

The Clerk please announce an immediate roll call on today's Consent Calendar.

THE CLERK:

An immediate roll call on today's Consent Calendar. Would all senators please return to the chamber to vote on today's Consent Calendar.

THE PRESIDENT:

The machine is open on today's Consent Calendar. The machine is closed and locked. Senator Lieberman.

SENATOR LIEBERMAN:

Mr. President, while the vote is being tallied, the Senate will meet tomorrow at one o'clock. There will be a Democratic and I would guess a Republican caucus at 11:30.

THE PRESIDENT:

Today's Consent Calendar:

Those Voting	34
Necessary for Passage . . .	18
Voting Yea	34
Voting Nay	0

THE CONSENT CALENDAR IS PASSED.

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1978

VOL. 21
PART 3

733-1250

House of Representatives

Friday, March 31, 1978

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CONCERNING THE AUTHORITY OF THE SECRETARY OF THE STATE TO PLACE CANDIDATES NAMES ON THE BALLOT LABEL IN A PRESIDENTIAL PREFERENCE PRIMARY.)

MR. O'NEILL (34th):

Mr. Speaker, may this item be passed, retaining its place.

THE SPEAKER:

Is there objection? Hearing none, the matter is retained.

THE CLERK:

Calendar No. 336, substitute for H.B. No. 5840, File No. 136.

AN ACT CONCERNING A VOLUNTARY SEWER AVOIDANCE PROGRAM.

Favorable report of the Committee on The Environment.

THE DEPUTY SPEAKER IN THE CHAIR

MRS. McCLUSKEY (86th):

Thank you, Mr. Speaker. I move acceptance of the Joint Committee's favorable report and passage of the bill.

THE DEPUTY SPEAKER:

The question is on acceptance of the Joint Committee's favorable report and passage of the bill. Would you remark?

MRS. McCLUSKEY (86th):

Yes, Mr. Speaker. This bill would implement recommendations made in the Sewer Avoidance Program report prepared by the Department of Environmental Protection at the request of the 1977 General Assembly. The bill would enable municipal sewer authorities to comply with pollution abatement orders from the State Department of Environmental Protection not only by constructing sewers, but also by any action necessary to comply with such order. This bill

would also change the name of a local Sewer Authority to a Water Pollution Abatement Authority and would allow the Authority to plan and revise plans in several areas: One, in municipal sewers as they can already do; secondly, for individual or community sewage systems not owned by the municipality; and thirdly, to prepare municipal programs for avoiding community pollution problems. The bill would require such Authorities to oversee any community sewage system that is not owned by the municipality. A community sewage system is defined in the bill as a separately managed system, whether or not connected to municipal sewers. This bill represents an expansion of the powers of a local Sewer Authority. It would help enable a town to qualify for a new Federal Sewer Grant Program.

Under recently passed federal legislation, the present Sewer Grant Program will soon be extended to allow individual privately owned septic systems to be eligible for seventy-five percent federal grants under certain conditions. Enacted on December 27, 1977, the amendments to the Federal Water Pollution Control Act will enable a municipality to correct existing pollution problems by the construction, the reconstruction, or the repair of individual or small community disposal systems, or other alternatives to sewers. A detailed list of alternative solutions that are acceptable to the Department of Environmental Protection is included in the Sewer Avoidance Program.

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The new Federal Grant Program offers communities the choice of encouraging urban density development where it is called for in local plans and in the State Plans of Development, yet, at the same time maintaining low density growth in other areas by enabling repairs to individual septic systems where they can be made at a lower cost.

The State Department of Health has reviewed this bill and favors it, feeling that it will accomplish its purpose of avoiding expensive sewer extension in those communities where there is a satisfactory alternative solution, which may be less expensive to the property owner and to the town. The Health Department had sent a communication to the Environment Committee members with some reservations. For the record, I would like to have these read into the record. The reservation that the State Health Department had was a possible conflict of this bill with legislation last year which delineated responsibilities of the Department of Health for large sewage disposal systems, but which transferred household and small commercial systems to the Department of Health as they have always been in the past.

I have a communication to Representative Anderson on March 30, 1978 from the Department of Health saying that on Monday the 27th, March 27th, Mr. Robert Taylor of the Department of Environmental Protection informed us there was no reason for concern regarding the State Health Department's responsibilities for subsurface sewage, and it was not intended or likely that passage of 5840 would modify the same. I urge support of this bill.

THE DEPUTY SPEAKER:

Will you remark further on the bill? If not, will the members please take their seats. The staff and guests please come to the well of the House, and the machine will be open. Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk please take a tally.

The Clerk please announce the tally.

THE CLERK:

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Total Number Voting.....135
 Necessary for Passage..... 68
 Those Voting Yea.....135
 Those Voting Nay..... 0
 Those Absent and Not Voting.... 16

THE DEPUTY SPEAKER:

The bill is PASSED.

THE CLERK:

Page 7 of the Calendar. Calendar No. 338, substitute for H.B. No. 5735, File No. 154. (AN ACT CONCERNING PERMITS FOR THE ERECTION OF STRUCTURES AND THE PLACEMENT OF FILL.)

MR. O'NEILL (34th):

Mr. Speaker, may that item -- pardon me. Would the Clerk recall it, please?

THE CLERK:

Calendar No. 338, substitute for H.B. No. 573⁵~~4~~, File No. 154.

MR. O'NEILL (34th):

Could that item be passed temporarily, please, Mr. Speaker?

THE DEPUTY SPEAKER:

Any objection to the motion to pass temporarily? So ordered.

THE CLERK:

Calendar No. 353, House Joint Resolution No. 61. RESOLUTION DIRECTING LEGISLATIVE MANAGEMENT TO ADOPT AN AFFIRMATIVE ACTION PLAN.

Favorable report of the Committee on Human Rights and Opportunities.

MR. O'NEILL (34th):

May that item be passed, retaining its place on the Calendar.

THE DEPUTY SPEAKER: