

Legislative History for Connecticut Act

HB 6975	PA 525	1983
House - 2404-2405, 5847-5880, 7002-7043		(18)
Senate - 4488-4489, 4664-4665		4
Env - 813 816		1
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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1983

VOL. 26
PART 6
2017-2492

kss

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House of Representatives

Wednesday, April 20, 1983

Have all the members voted? Have all the members voted? If all the members have voted, the machine will be locked and the Clerk will take a tally.

REP. PRAGUE: (8th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Prague.

REP. PRAGUE: (8th)

Would you please change my vote from a negative to a positive, I pushed the wrong button.

SPEAKER STOLBERG:

Rep. Prague from the negative to the affirmative.

Would the Clerk please announce the tally.

CLERK:

House Bill 7170 as Amended by House "A".

Total Number Voting 142

Necessary for Passage 72

Those Voting Yea 142

Those Voting Nay 0

Those Absent and Not Voting 9

SPEAKER STOLBERG:

The bill is passed.

CLERK:

Page 15, Calendar 250, File 293, House Bill 6975,

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AN ACT CONCERNING THE COASTAL AREA MANAGEMENT ACT.

Favorable Report on the Committee on Environment.

REP. GROPPA: (63rd)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Groppo.

REP. GROPPA: (63rd)

Mr. Speaker, may this item be referred to the
Committee on Planning and Development.

SPEAKER STOLBERG:

The motion is to refer to the Committee on Planning
 and Development. Is there objection? Is there objection?
 Seeing no objection, the item is referred.

CLERK:

Page 15, Calendar 256, File 327, Substitute for
House Joint Resolution No. 69, RESOLUTION CONCERNING THE
 RECOMMENDATION OF THE COMMISSIONER OF CLAIMS WITH REGARD
 TO THE CLAIM OF ELIZABETH A. HINCKLEY, ADMINISTRATRIX OF
 THE ESTATE OF JULIA E. ANDERSON. Favorable report of
 the Committee on Judiciary.

REP. RYBAK: (66th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Rybak.

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SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

The nos clearly have it. The motion to pass temporarily fails. Will you remark further?

REP. GROPPPO: (63rd)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Groppo.

REP. GROPPPO: (63rd)

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

SPEAKER STOLBERG:

The motion is to pass retain. Is there objection?
Is there objection? Seeing no objection, the item is passed, retaining its place on the Calendar.

At this point, are there any announcements or points of personal privilege?

REP. SORENSEN: (82nd)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Robert Sorensen.

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REP. SHAYS: (147th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Shays.

REP. SHAYS: (147th)

I would like to be registered in the no. I am registered on the board as an affirmative, but I am changing my vote.

SPEAKER STOLBERG:

Rep. Shays of the 147th, from the affirmative to the negative.

Will the Clerk please announce the tally.

CLERK:

House Bill 5521.

Total number voting	134
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Necessary for passage	68
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Those voting yea	97
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Those voting nay	37
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Those absent and not voting	17
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SPEAKER STOLBERG:

The bill is passed.

CLERK:

Calendar No. 250, File No. 293 and 846, Substitute

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for House Bill No. 6975, AN ACT CONCERNING THE COASTAL AREA MANAGEMENT ACT. Favorable Report of the Committee on Planning and Development.

REP. LYONS: (146th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Laura Lyons.

REP. LYONS: (146th)

Mr. Speaker, I move for acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER STOLBERG:

Will you remark?

REP. LYONS: (146th)

Yes, Mr. Speaker. Mr. Speaker, the Clerk has an amendment, LCO 6252, would the Clerk please call and read.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 6252, which will be designated House Amendment Schedule "A". Will the Clerk please call and read.

CLERK:

LCO No. 6252, designated House Amendment Schedule "A", offered by Rep. Casey of the 118th District and Rep. Belaga of the 136th District.

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In line 75 after the comma, strike "THE APPLICANT" and insert in lieu thereof "THE COASTAL SITE PLAN SHALL BE DEEMED REJECTED."

Strike line 76, 286, inclusive, in their entirety.

SPEAKER STOLBERG:

Rep. Lyons, would you like to move adoption?

REP. LYONS: (146th)

Yes, Mr. Speaker. I would like to move adoption of this amendment.

SPEAKER STOLBERG:

Will you remark?

REP. LYONS: (146th)

The amendment mandates a decision from the Land Use Board required to review coastal site plans. If the Board of Commission fails to render this decision within the time frame provided by General Statute, the amendment states that if the Board does not act, the application will be denied.

The amendment forces a decision on the Board thus preventing an unlimited delay in the rendering of such a decision. In the event that the application is denied because the Board has not acted, the applicant can file an appeal.

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This amendment encourages local boards to make a decision like any other decision. An automatic denial is appealable to the court which will determine whether it is arbitrary or capricious.

In this particular instance, automatic approval of coastal site is not an option for consideration. Such automatic approval would (1) jeopardize federal funding, (2) permit possible violation of state and local standards for protecting and preserving our shore line, and (3) since coastal site plan review applies to special permits, special exceptions and variances, automatic approval would create a significant inconsistency with the existing procedures.

Expanding on the first point of federal funding, automatic approval would result in federal decertification of the state's coastal management program. Potential loss there is over \$1 million, half of which is currently passed on to coastal towns. Thus denial of the application is the only reasonable option available to force a decision on the Board and at the same time protect our shore line.

And I would so move.

SPEAKER STOLBERG:

Will you remark further on House Amendment Schedule "A"?

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REP. KRAWIECKI: (78th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Krawiecki.

REP. KRAWIECKI: (78th)

A question through you to the proponent of the amendment.

SPEAKER STOLBERG:

Please frame your question.

REP. KRAWIECKI: (78th)

Rep. Lyons, just so I understand what you're doing. By inserting the language in line 75, it merely is indicating that should a board or commission fail to render a decision, it shall be deemed denied?

SPEAKER STOLBERG:

Rep. Lyons, would you care to respond?

REP. LYONS: (146th)

Through you, Mr. Speaker. Yes, that is correct.

REP. KRAWIECKI: (78th)

One additional question through you, Mr. Speaker. I believe in our conversations as well on attempting to come up with some amendments, there was language that had been indicated would be needed to give an applicant if

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they were to overturn a decision based on those circumstances. They would get their costs and their legal fees. Is that now reflected anywhere in the bill? Or is that somewhere else in the statutes?

DEPUTY SPEAKER FRANKEL:

Rep. Lyons, would you care to respond?

REP. LYONS: (146th)

Through you, Mr. Speaker. No, there is no cost pass on in this particular bill. And there is no cost pass on in the statutes as they currently exist.

REP. KRAWIECKI: (78th)

Through you, Mr. Speaker, that wasn't exactly my question. Under the circumstances that are stated in section 3 of this bill and now with your new language, a board or commission may not do anything, in other words, they may sit on their hands, for whatever reason.

If they do that, the application shall be deemed automatically rejected or denied. If that applicant now goes before the Superior Court, are they allowed anywhere in our statutes to collect reasonable attorney's fees and costs in attempting to overturn that decision, since there had been no decision in fact.

DEPUTY SPEAKER FRANKEL:

Rep. Lyons.

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REP. LYONS: (146th)

Through you, Mr. Speaker. No, they are not. It would be the same procedure used in any appeal to a negative decision by a land use board.

DEPUTY SPEAKER FRANKEL:

Will you remark further? Rep. Krawiecki, you still have the floor.

REP. KRAWIECKI: (78th)

Mr. Speaker, I'm not sure I heard Rep. Lyons full answer. If you could repeat for me.

DEPUTY SPEAKER FRANKEL:

Wait just one minute, Rep. Lyons. There are a number of interrogatories and responses occurring between Rep. Krawiecki and Rep. Lyons. They are currently unable to hear each other adequately. Could I ask the members to please come to order. Rep. Lyons.

REP. LYONS: (146th)

Through you, Mr. Speaker. No, there is no language in this bill determining who should pay the court costs. The procedure would be the same currently used in any land board decision which denies an applicant.

The applicant then can take an appeal to court. That would be the same procedure which now would be used

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under this particular amendment.

DEPUTY SPEAKER FRANKEL:

Rep. Krawiecki.

REP. KRAWIECKI: (78th)

Mr. Speaker, I think that a person would then be denied the cost of their fees in trying to overturn a nondecision.

The entire reason why this bill has been delayed I guess, is because I thought it was a little unfair the way the language in the bill had been drafted that says that a board or commission didn't have to do anything. I mean it just went off into oblivion and then the poor guy who made an application had to go before the court to try to force some board or commission to do their job, which seemed unreasonable to me.

In addition now, an amendment has been drafted that the thing is denied but if the poor applicant goes forward and has to go to Superior Court and ultimately is told by a court that he was in fact proper in his decision, he doesn't have any opportunity to recoup any of his losses in that extra step.

And the extra step was caused merely because the local board or commission didn't do their job. They

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just sat there.

I still have problems with the way the bill is moving, but at least now you can have something to appeal, I suppose. I don't like it. I don't think this is the right way to do business. And I sympathize with communities that have bad boards and commissions, but I think that's the responsibility of the local community to get rid of some of these people.

Frankly, I'm not anywhere near a coastal area, and I don't think I'll ever probably be in a position to have to discuss this issue with a local board or commission.

I don't think this is a good way to write a statute and I think that an individual who makes, in good faith, an application, I think that individual who in good faith hopes to get some kind of decision and for whatever reason the commission doesn't decide to act, it's kind of being left out in the cold.

And now we're just telling him, yeah, add to your costs. Go to court and spend some more money and the statutes don't allow that individual to recoup any of those costs.

I think that's unfair and I think I probably would like to listen to some other debate on this.

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DEPUTY SPEAKER FRANKEL:

Must you debate further? Rep. Benvenuto.

REP. BENVENUTO: (151st)

Thank you, Mr. Speaker. A question to Rep. Lyons, please.

DEPUTY SPEAKER FRANKEL:

Please frame your question.

REP. BENVENUTO: (151st)

As I understand it now, Rep. Lyons, that if an application is not acted upon in 65 days, then it is automatically approved. Is that correct? And this is going to do away with that option?

DEPUTY SPEAKER FRANKEL:

Rep. Lyons.

REP. LYONS: (146)

Thank you, Mr. Speaker. No, that is not correct. And that is why we are currently dealing with the decision-making process. It has been unclear in the statutes, but it has been the understanding of individuals dealing with coastal area management, the DEP's and any of the coastal towns that is indeed currently when a decision is not rendered, this would simply mean that a decision is not rendered. It does not mean that it is

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rejected or approved. The applicant would then simply have to wait until the board decided to make a decision and that is why we are putting this amendment in, to make sure that the board does take some kind of action and not simply leave the developer in limbo, waiting for an unlimited time for the decision to be rendered.

REP. BENVENUTO: (151st)

Mr. Speaker, it seems to be a very important issue and I think there's a lot of doubt about what this does.

May I ask that it be passed temporarily?

DEPUTY SPEAKER FRANKEL:

The Chair would observe that there seems to be very little doubt but your motion is in order, the motion to pass this item temporarily. Is there objection to passing this item temporarily?

REP. LYONS: (146th)

I would like to ask the reason for passing the item temporarily.

DEPUTY SPEAKER FRANKEL:

There is a question posed to Rep. Benvenuto. Would you respond sir?

REP. BENVENUTO: (151st)

Yes, Mr. Speaker, through you.

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DEPUTY SPEAKER FRANKEL:

Will the House please come to order. Will the members please be seated. One moment, sir. Would the messengers please secure both doors. Rep. Benvenuto, will you respond, sir.

REP. BENVENUTO: (151st)

Yes. By some of the points made by Rep. Krawiecki, and I'm certainly in doubt. I would just ask that we take a little time to look into this and make sure we're clear on what we're doing, in that we can act responsibly on this. And I would ask for that reason that it be passed temporarily.

DEPUTY SPEAKER FRANKEL:

The motion is to pass temporarily. Is there objection?

REP. LYONS: (146th)

Yes, Mr. Speaker. I object to passing it.

DEPUTY SPEAKER FRANKEL:

Will you remark on the motion?

REP. LYONS: (146th)

Yes, Thank you, Mr. Speaker. I think I have explained we have three options. You either make a decision, you don't make a decision, you either deny it,

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you approve it, or you don't make a decision. Those are the only options available.

We discussed why approval is impossible. You can have either the developer live in limbo for the rest of his life, or you can deny it. In which case the individual can go through the proper channels legally. Those are the options. You can wait ten more years. Those are the options.

I don't see the necessity for passing it temporarily.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the motion to pass temporarily?

REP. BELAGA: (136th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Belaga.

REP. BELAGA: (136th)

Thank you, Mr. Speaker. I appreciate the questions that have been raised here this morning. But I think that the questions really do have answers. And rather than PT it, this item has been on our Calendar for a number of weeks now, and furthermore, there have been a series

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of amendments that have been discussed and debated. I would really hope we could move the Calendar forward and get with it, either up or down. I'd like to address the questions that were raised.

DEPUTY SPEAKER FRANKEL:

The Chair has a suggestion to the proponent of the motion. Perhaps, sir, you might withdraw your motion in order for us to get some of the questions posed more properly answered and then if you feel, sir, that indeed you still wish this matter to be passed temporarily, perhaps you could renew your motion, which would be in order at that time.

REP. BENVENUTO: (151st)

Yes, Mr. Speaker, I do withdraw the motion.

DEPUTY SPEAKER FRANKEL:

The motion to pass temporarily is withdrawn. Will you remark?

REP. CASEY: (118th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. T. J. Casey.

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REP. CASEY: (118th)

Thank you, Mr. Speaker. I rise in support of this amendment. Some of the questions that have been raised have been battered about by REP. Lyons, Rep. Belaga, the Deputy Speaker, myself, Coast Area Management, Rep. Bertinuson. That's why it's been sitting on this Calendar for such a long time.

And it finally comes down to denial gives that applicant the opportunity to directly to an appeal. He doesn't have to wait for a mandamus action. It would be delayed another three months, and time is money. And still be able to get a denial because that's normally the reaction from a board or commission that's taken under a mandamus action, the majority of time in these related matters.

That this is in the best interests of the applicant, it's in the best interest of Coast Area Management and the state's natural resources, and the protection of those natural resources.

It has been stated an automatic approval is out. Too much is in jeopardy. A denial puts the applicant in the position where it is no longer delayed and he can get on with his application. He can take it to court.

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He can take it to an appeal.

This is a good amendment. This is the way we should be going. And I urge your support of it. Thank you, Mr. Speaker.

REP. OSLER: (150th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Osler.

REP. OSLER: (150th)

Mr. Speaker, I have been very supportive of the coastal area management since it was an idea that the state was considering. But I feel that this amendment is a step backward. We live in a very litigious society where everybody has to go to court to do everything.

I think for an automatic denial and force the applicant for his coastal area plans to go to court to get a decision is asking for extra money to be spent by that individual, at perhaps great cost.

It is a perfect out for that planning and zoning commission or inland wetland commission, or whoever is working with this application for permission to do whatever the applicant is proposing, that that is a perfect out just to sit and do not one thing. That is wrong. We must

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answer the applications of our citizens in our towns and help them either up or down.

Then if they want to appeal, that's one thing. I think that we just cannot let a board deliberately not do anything.

REP. BELAGA: (136th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Belaga.

REP. BELAGA: (136th)

Thank you, Mr. Speaker. The bill that was J.F.'d out of the Environment Committee is a very simple proposal. It went to the Planning and Development Committee where they added some language about a mandamus. They added language which said that if the planning and zoning commission or the agency that is dealing with the coastal application does not act, that the applicant will be sent immediately to court for a mandamus.

In our screening and in the Democratic screening, questions were raised about the validity of that proposal. And in fact, Rep. Krawiecki addressed the question to me instead. It is an inordinate burden on applicant. The costs are unjust.

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What we must do is require the agency dealing with the application to either vote it up or down. Federal standards indicate that an automatic acceptance removes us from the coastal management program, because the feds don't want an automatic acceptance. They want us to assure that our coastline meets standards in its development. So in order to avoid cost for the applicant, we say that, darn you, you local board, you will make a decision.

And if you don't move and if you don't do something, it is unfair to the applicant. It shall be denied. He then goes to a court and in the court, and in the court, any court will say that denial is unfair.

We were very aware of Rep. Krawiecki's concern about the cost to the applicant and felt that this was the most appropriate approach to take. To force the applicant to go directly to court and to allow a community to take no action seemed unreasonable.

We see this as a very appropriate approach to the problem. It is unprecedented to simply put in statutes that the applicant shall receive court costs. And we felt that this was a very easy, relatively simple but by gum, it says to that agency, move it. Make a decision.

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Get on with it.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of House Amendment Schedule "A"?

REP. KRAWIECKI: (78th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Krawiecki.

REP. KRAWIECKI: (78th)

I don't mean to belabor the debate because I frankly favor the entire issue. What bothers me is this is an issue of equity. You know, here's a guy who goes forward with an application to a local board or commission.

The local board or commission hasn't done anything. They haven't decided to go with the proposal. They haven't decided to go against the proposal. They haven't done a darn thing.

The poor guy is sitting there. He's shelled out all his money in an attempt to do whatever it is he wants to do. And you know, the debate in this place goes on regularly about local autonomy. I think if we have a local board or commission, they ought to do something.

This amendment is at least a step in one direction,

which is fine by me. If they're going to reject the item, then at least we're moving somewhere if the thing is going to be rejected.

It seems to me that it is still unfair. That it's automatically rejected. Most of the statutes we have in this state deem things approved, not denied. But if this is such a compelling interest, all right, maybe we have to make it denied.

But take it one step further. What you're allowing in this statute for the fellow to do is then to go on to the Superior Court and ask the court to review this file. And the court may in fact turn around and say, hey, board or commission, you should have granted this application. You were wrong for not doing, you did nothing. Why did you do nothing?

And the court may turn around and say, do something. I think it is really unfair to require that individual to have to pay all that extra costs merely to find out that the board or commission because they didn't feel like moving, for whatever reason, didn't move. That's the only point I'm arguing here today.

And I was told that there was an amendment and I've just been handed it and I fully will call it in a

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moment, that will at least give that individual some costs, if the court rules in his favor. I think that's fair. If this amendment is adopted.

DEPUTY SPEAKER FRANKEL:

Will the House please come to order. Staff and guests, please come to the well of the House.

REP. LYONS: (146th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Moira Lyons.

REP. LYONS: (146th)

Thank you, Mr. Speaker. Mr. Speaker, speaking to the issue that has been raised concerning court costs. Under current statutes, the individual would incur greater court costs since there is no stipulation that a decision must be rendered. An individual would have to go to the mandamus.

From that, which would probably mean a denial, he would then have to go to the appeal process. This would be two separate court costs, and therefore would be a greater cost to the developer than going through the route of denial and then the appeal process.

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DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of House Amendment Schedule "A"?

REP. CASEY: (118th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. T. J. Casey.

REP. CASEY: (118th)

Once again in support of this amendment, Mr. Speaker, I think Rep. Lyons summed it up well. Many coastal municipal representatives took part in this state to get to this final decision, a denial. And the reason why we came to the denial is time and money for the applicant.

We, too, believe that it's wrong that the board should be able to just hold onto an application without coming to any decision. Because then the applicant did have to file a mandamus. And he had to pay for that cost.

Then the court could give up to another three months, or another 90 days in order to make its decision. Not only does he have to pay the mandamus, he has to wait, if there's a delay which more than likely in the cases that have done, would be denied. Which is going to have to be appealed on top of it. Time is money.

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AND This is the best way for the applicant to go, is the denial. He can appeal right away and take the action, take the decision from the local commission directly to court and have the court make the determination on whether the application is just or not.

DDI I urge members of this body, please, for the applicants, for the coastal municipalities involved. This is a good amendment. Support it. Let's get on with this bill.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of House Amendment Schedule "A"?

REP. BECKETT-RINKER: (102nd)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Beckett-Rinker.

REP. BECKETT-RINKER: (102nd)

Yes, Mr. Speaker, thank you. I, too, speak in support of this amendment. I think it's terrifically important that developers have the opportunity when they are being strung along to move forward with an action. And I think this is the proper way to do it. I think this will speed up the process and I support this.

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And I do live in a coastal town, and I think this is terrifically important and I hope that you will go with this amendment.

REP. PARKER: (31st)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Parker.

REP. PARKER: (31st)

I too support the amendment, but, and it's a very big but, and Mr. Speaker, I wonder if I could have it a little quieter in the House so I could hear myself. Mr. Speaker, I asked for a little quiet.

DEPUTY SPEAKER FRANKEL:

I don't blame you, madam. Would the House please come to order. The Chair would observe that this is the third time on the debate on this one amendment, that the Chair has been required to call the Chamber to order. I would ask that if there is need for private discussions that they be done in the corridors outside of the Chamber. We have a great deal of business to conduct.

Rep. Parker, you have the floor, madam.

REP. PARKER: (31st)

Thank you, Mr. Speaker. I'll repeat what I have just said, that I am in favor of the amendment, but, and

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it's a very big but, and I think that the last number of speakers, missed the whole point for the request of the PT.

If an application is deemed defeated and he has to go to court, the expense is considerable. In requesting the PT, Rep. Krawiecki said that an amendment could be prepared that would grant the applicant court costs if he won the case. Again, saving the applicant considerable money. I feel that the request for PT is very reasonable. I feel we are saving the applicant money. I feel that because the coastal management area commission knows that it could cost money if they lose the case, they will look at the case very carefully.

Having said this, Mr. Speaker, I request that this item be Ptd.

DEPUTY SPEAKER FRANKEL:

The motion is to pass temporarily House "A". The motion has been renewed. Is there objection to the motion?

REP. LYONS: (146th)

Yes, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Will you remark on the motion?

REP. LYONS: (146th)

I think we already went through this once today,

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and I think I defined fairly clearly the reasons for objection. It is also my understanding that an amendment has been prepared and it is in the Chamber, and in addition, this particular bill has been on the Calendar for a considerable amount of time. There has been an enormous amount of discussion on it, and if at this late date there is concern, I think that concern should have been raised prior to the middle of a debate. And I do object.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the motion?

REP. BELDEN: (113th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Belden.

REP. BELDEN: (113th)

Mr. Speaker, by my count, I think we have two weeks left to this session yet, and I understand the Representative's arguments, but I would hope that we would not, from today on, any time any member of this Chamber wants to PT a bill, set a precedent today, by not allowing a proper amendment to be drawn and presented late in the session day.

Mr. Speaker, I think the motion before us is reasonable, since we still have two weeks left to go.

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REP. GROPPPO: (63rd)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Groppo.

REP. GROPPPO: (63rd)

Mr. Speaker, I object to the pass temporarily. I think with the few days that we have left, that those of us who are interested in particular bills ought to be aware that the bills that are on the Calendar will be debated. This bill certainly has been around for at least four weeks. We've had problems in the leadership. That's why it was passed, retained, hoping that those problems could be resolved.

Another question has been raised today. I think that if Rep. Krawiecki is really interested in resolving this problem, we ought to proceed with it when it goes to the Senate. This is a House Bill, and the longer it lays around here, the shorter life it's going to have because if we don't get the House Bills up to the Senate, within the next couple of days, the bills will never see the light of day.

I would suggest that we move on with the bill. If there's an amendment, it be presented by anyone, that they ought to have the Senate tack it on, and then it can come

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back down, and we can act on it a lot sooner. But to PT it, and not take it up today, I think that this bill will be demised within the next couple of days. So I object to the PT, Mr. Speaker.

And I might also suggest that, I think it's going to be very hard to get that motion approved from this day forward, because certainly everyone here should be aware that there's only a few days left, and that if they have a problem, we certainly can do it the day before, but not when the bill has been debated for about a half hour, and then ask for a PT. I think that's unfair to those of us who are sitting here. Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further on the motion to pass temporarily?

REP. JAEKLE: (122nd)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. Mr. Speaker, ladies and gentlemen of the House, I support the motion to pass this item temporarily.

We're debating an amendment right now to a bill,

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and there are a few amendments on file. In fact, this amendment and another amendment are 180 degrees apart. One has to do with an automatic rejection, one with an automatic approval, if a board fails to act within the time limit.

What has happened is, the amendment, Amendment "A", that would call for automatic rejection ended up being the one called today. What the debate has brought out is that if this amendment passes, there is probably a need for a further amendment, which has not yet been prepared, not because there hasn't been the four weeks or so that the bill has been on the Calendar, but because of, within the last half hour, it's become apparent that this amendment House "A" may pass.

That being the case, if this amendment passes, there are members of this Chamber who feel that an additional amendment is then necessary. In fact, that amendment wouldn't even have to be pre-filed by 10:00 o'clock, because it would be a normal circumstance if this amendment passes.

And if the debate has, I guess, indicated to some that this amendment may well pass, there is already a request at LCO that a further amendment be drafted in response to House "A". I think it's very reasonable to

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ask for only a pass temporarily. This won't put it off until tomorrow or next week or June 9th, if that's somebody's fear.

This I think is a very reasonable request, to allow a member to have an amendment drafted in response to what has been brought out in debate within the last several minutes, and in response to House "A", that we are debating right now. I think that it is a reasonable request that is not going to hold up this Chamber's actions for days or weeks, or beyond our June 8th deadline, and I think it's a courtesy that could be afforded members when they've given a reason why, and I think in this case they have. I support pass temporarily.

SPEAKER STOLBERG:

The motion is to pass temporarily. Is there further discussion? Is there objection? Is there objection to passing temporarily?

REP. GROppo: (63rd)

Yes, Mr. Speaker, I think there is objection.

SPEAKER STOLBERG:

I'm asking, is there objection to passing the bill temporarily?

REP. GROppo: (63rd)

Yes, Mr. Speaker.

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SPEAKER STOLBERG:

You're objecting, Rep Groppo?

REP. GROPPA: (63rd)

Mr. Speaker, we've been debating the question here for the past ten minutes. We object to the motion to pass temporarily.

SPEAKER STOLBERG:

You're objecting?

REP. GROPPA: (63rd)

Yes, Mr. Speaker, I'm objecting.

SPEAKER STOLBERG:

There is objection. We'll take a vote on the motion to pass temporarily. Is there further discussion of the motion?

REP. LYONS: (146th)

Mr. Speaker, I just wanted to clarify for the record, that I'm bringing out the bill and I strongly object to pass temporarily.

SPEAKER STOLBERG:

Will you remark further on the motion to pass temporarily?

REP. VAN NORSTRAND: (141st)

Mr. Speaker.

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SPEAKER STOLBERG:

Rep. VanNorstrand.

REP. VAN NORSTRAND: (141st)

Mr. Speaker, I've listened to this at length. I have very strong feelings about this amendment, and what it does to private property rights. It's certainly significant to people in some 30 odd communities in this state, and to tell me that someone cannot pass something temporarily, which fits exactly within what our own rules, even with the attempt for pre-filing amendments, as Rep. Jaekle said, you're going to change the bill.

It wasn't drafted in committee. It's just happening now. And to not allow us to fix up a bill, and to correct and respond to an amendment, that is a very poor way for something that proports to be a parlimentary body to proceed. These courtesies have been extended both ways historically in this Chamber, and I would not like to see panic set in when there's two weeks to go in a session.

SPEAKER STOLBERG:

Will you remark further? Let me remind the members that we are on the edge of a very technical motion. I'm not going to entertain substantive debate at this time. The motion is to pass temporarily. There is also a very long Calendar today. Earlier in the day it had seemed

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possible with the first few items that we could wrap up again by our normal time, and not require an evening session. It seems almost impossible at this point, and that the evening session will be necessary almost every day from now until the end of the session, if this is going to be the characteristic debate.

Will you remark further on the technical motion of passing temporarily. Rep. Casey.

REP. CASEY: (118th)

Mr. Speaker, just briefly. In all due respect to my leadership, and that's who I'm arguing with here in debating, is that this amendment was brought up yesterday morning, and has been on file, and has been discussed by several individuals, including other members on both sides of the aisle. Why nobody didn't know that this was going to be offered, is beyond me. Because it was in the file. Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further on the motion? If not, all those in favor of the motion to pass temporarily, please indicate by saying aye.

REPRESENTATIVES:

Aye.

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SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

The nos clearly have it. The motion to pass temporarily fails. Will you remark further?

REP. GROPPA: (63rd)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Groppo.

REP. GROPPA: (63rd)

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

SPEAKER STOLBERG:

The motion is to pass retain. Is there objection? Is there objection? Seeing no objection, the item is passed, retaining its place on the Calendar.

At this point, are there any announcements or points of personal privilege?

REP. SORENSON: (82nd)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Robert Sorensen.

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GEN. ASSEMBLY
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PROCEEDINGS
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June 1, 1983, Favorable Reports. Page 8, Calendar No. 250, Files No. 293 and 846, Substitute for House Bill No. 6975, AN ACT CONCERNING THE COASTAL AREA MANAGEMENT ACT. Favorable Report of the Committee on Planning and Development.

SPEAKER STOLBERG:

Rep. Lyons.

REP. LYONS: (146th)

Thank you, Mr. Speaker. Mr. Speaker, I move for acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER STOLBERG:

Will you remark?

REP. LYONS: (146th)

Yes, Mr. Speaker. The Clerk has an amendment, LCO 6252. Would the Clerk please call and I be allowed to summarize.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO No. 6252, which has been called. Would the Clerk please call again and read.

CLERK:

LCO No. 6252, previously designated House Amendment Schedule "A", offered by Reps. Casey and Belaga.

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In line 75, after the comma, strike "the applicant" and insert in lieu there: "the coastal site plan shall be deemed rejected."

Strike lines 76 to 86, inclusive, in the entirety.

SPEAKER STOLBERG:

Rep. Lyons, what is your pleasure?

REP. LYONS: (146th)

I would move for acceptance of the amendment.

SPEAKER STOLBERG:

Will you remark on the amendment?

REP. LYONS: (146th)

Yes. Thank you, Mr. Speaker. We debated this amendment at length a few days ago, so I think all of us in this Chamber are familiar with it.

It calls for a rejection, if indeed a Land Use Board does not act within the prescribed time. We have three options in this particular situation, either acceptance, rejection or no action. No action would indeed just be that. There would be no decision rendered and the developer would have no recourse in this particular instance.

Approval is not an option because approval would permit possible violation of state and local standards for protecting and preserving our shoreline and it would

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also jeopardize federal funding in the amount of about a million dollars, half of which is passed on to our coastal towns.

Therefore, the only option we have at this point is rejection. Rejection would allow for a decision by the Land Use Board. It would allow, therefore, an avenue of appeal by the developer, and I would move for acceptance of this amendment.

SPEAKER STOLBERG:

Will you remark further on House "A"? Will you remark further? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

The amendment is adopted and ruled technical.

Will you remark further on the bill as amended?

REP. LYONS: (146th)

Yes. Thank you, Mr. Speaker. The bill as amended now does essentially three things. It requires a coastal site plan review for single family homes on islands not connected to the mainland by a bridge. This would assure adequate consideration for flood hazards and adequate water

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and waste water service. As amended, it also requires the state when sponsoring a plan or a project or issuing a permit within the coastal boundaries, to use the same standards, the same criteria, in making coastal management decisions as are used by local agencies.

Finally, the bill makes the time limit for a coastal site plan review for which a public hearing is held consistent with the time limits provided in other zoning actions. And I would move for acceptance of this bill.

SPEAKER STOLBERG:

Will you remark further on the bill? Will you remark further? Rep. Krawiecki.

REP. KRAWIECKI: (78th)

Mr. Speaker, the Clerk has an amendment, LCO 6644. Would he please call and may I be allowed to summarize.

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 6644, which will be designated House Amendment Schedule "B". Would the Clerk please call.

CLERK:

LCO No. 6644, designated House Amendment Schedule "B", offered by Rep. Krawiecki of the 78th District.

SPEAKER STOLBERG:

Rep. Krawiecki has asked leave to summarize. Is

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there objection. Seeing no objection, please proceed.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. Members of the House, what this amendment will do is basically address the issue that we discussed the other day and that's the allowance by the court of reasonable attorney fees and costs of an individual to have to go before the Superior Court in order to force a decision in these types of Coastal Area Management actions.

I move adoption of the amendment.

SPEAKER STOLBERG:

Will you remark on the amendment?

REP. KRAWIECKI: (78th)

Yes, Mr. Speaker. Members of the House, just to refresh your memories. The debate centered about whether or not this would be a fair procedure to follow by merely indicating that whenever a board or commission failed to anything. They didn't adopt a plan. They didn't reject a plan. They sat on their hands, basically speaking.

Whether it was fair to the individual who had put an application in should then be forced to go into Superior Court to attempt to get a decision through the court system and have that individual incur the extra costs because a board or commission has failed to act. In other words,

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to do their job. I thought it was very unfair. I think other members of this body thought it was very unfair, and that's the purpose for the amendment.

SPEAKER STOLBERG:

Will you remark further on House "B"? Rep. Lyons.

REP. LYONS: (146th)

Thank you, Mr. Speaker. I think all of us, obviously, would like to be as fair as possible when we deal with legislation, but I believe I would be remiss if I did not point out to this body that adoption of this particular amendment would be a cost mandate on our towns. Not all the towns in Connecticut, but on the coastal region, since we would be utilizing a very different procedure in this particular legal case. And it would be a cost mandate on our coastal towns.

And I think you should be aware of that before you act on its adoption.

SPEAKER STOLBERG:

Will you remark further on House "B".

REP. KRAWIECKI: (78th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Krawiecki.

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REP. KRAWIECKI: (78th)

To follow up on Rep. Lyons' comments, the body should also realize that this is an extremely limited group that we're talking about here, and it only would come into play when the local board or commission, the appointed body, has not done their job, basically.

What they've done, for whatever reason, not dealt with the issue, one way or the other. And, in those cases, if, and only if, the applicant is successful in looking for an application, only in those cases would they be given the right to the reasonable attorney's fees and costs and those would have to be approved by the Superior Court as well.

I think it's a very reasonable and rational amendment and ought to be adopted.

SPEAKER STOLBERG:

Will you remark further? Rep. Garavel.

REP. GARAVEL: (110th)

Mr. Speaker, a question, through you, to the proponent of the amendment.

SPEAKER STOLBERG:

Please frame your question.

REP. GARAVEL: (110th)

In lines 26 and 27, if the board fails to act on a

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proposal before the proposed commission, the application is deemed denied. In the event that there is potential conflict of interest on a zoning or planning commission where certain members absent themselves and there is not a quorum to vote on any particular approval, would the application then be denied?

SPEAKER STOLBERG:

Rep. Krawiecki.

REP. KRAWIECKI: (78th)

I think the failure, that language is merely a rewrite of what you've already approved with the prior amendment. What I've done is I've merely rewritten that whole section, including the language that we just adopted, that Rep. Lyons had brought forth by way of an amendment. I assume that if the board or commission doesn't make a decision, for whatever the reason; in other words, they don't perform one way or the other on the issue, that it is deemed denied. That's what this body just approved.

SPEAKER STOLBERG:

Will you remark further?

REP. GARAVEL: (110th)

Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further on House "B"? Rep. Emmons.

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REP. EMMONS: (101st)

Yes. Mr. Speaker, through you, a question to the lady bringing out the bill?

SPEAKER STOLBERG:

On the amendment?

REP. EMMONS: (101st)

Yes.

SPEAKER STOLBERG:

Okay, on House "B". Please frame your question for Rep. Lyons.

REP. EMMONS: (101st)

Thank you. With the new language that is being proposed, it would appear to me that it would prompt a board to make an action so that they didn't incur legal fees. And through the Speaker, my question to you is if without something to spur a board to -- penalize a board for not acting, could a commission just not ever hear somebody's coastal site plan and never have a meeting on it so that years would go on without any way to get them to address it?

SPEAKER STOLBERG:

Rep. Lyons.

REP. LYONS: (146th)

I assume this a question on the bill. My understanding

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is the reason we are asking for a rejection is that if indeed a rejection is not granted and there is no decision rendered, the only avenue the developer would have at that point is to go for a mandamus order. If he does not do this, he simply, yes, must wait for the board to so act and they may do that when they choose.

REP. EMMONS: (101st)

Mr. Speaker, I'm --

SPEAKER STOLBERG:

Rep. Lyons, have you completed your response?

REP. LYONS: (146th)

I concluded my response.

SPEAKER STOLBERG:

Rep. Emmons.

REP. EMMONS: (101st)

Thank you. Mr. Speaker, in a way, I would like to speak in favor of this amendment. I don't like the language that we have just adopted a moment ago, and I think you have to remember that not all the land along the coast is quote owned by a developer. There are lots of them that are just owned by regular people. And we tax this land very high, and it does disturb me that we have really allowed to coast site plan to be ignored by what we have done in the previous amendment.

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This one, I think, would force a community to make sure that their commission or board does behave responsibly because they won't want to pay the legal fees.

SPEAKER STOLBERG:

Will you remark further on House "B"?

REP. LYONS: (146th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Lyons.

REP. LYONS: (146th)

Yes, Mr. Speaker, through you, a question to the proponent of the amendment, Amendment "B".

SPEAKER STOLBERG:

Please frame your question.

REP. LYONS: (146th)

Thank you, Mr. Speaker. I would just like to know if the proponent knows of any other instance in which, if indeed, a decision is not rendered, is rendered, or is approved or rejected, that the municipality then would be responsible for the court costs?

REP. KRAWIECKI: (78th)

Mr. Speaker, through you. Interestingly enough, since our last discussion, we did a rundown on the statutes dealing with planning and zoning and all of the rest of it,

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and in most cases, it appears that when a board or commission doesn't act, an application is deemed approved, not denied. So, this is new turf, a new set of standards, and that's the reason why we've brought the amendment out.

SPEAKER STOLBERG:

Will you remark further on House "B"? Will you remark further?

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Frankel.

REP. FRANKEL: (121st)

There's been a great deal of discussion in the past and in this session about mandating new expenses on municipalities. And here's a perfectly good example of that.

Municipalities are now going to have to pick up the tab for attorney's fees and court costs if this amendment is passed and a set of circumstances flows that we're contemplating. Planning and zoning commissions are not required to pay attorney's fees in similar kinds of statutes when they fail to act. Other commissions in municipalities are not required to pay attorney's fees and court costs in most such instances.

Why in this particular case, should we say that

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a municipality should pay court costs and attorney's fees for the failure, for whatever reason, of its agency to take action on time. I think this is a dangerous precedent, and I think we would be well advised, particularly at this late point in the session, to avoid getting involved in this kind of a new wrinkle in the entire process of appeals from local boards and agencies.

So, while I'm mindful of some of the concerns, I think there are adequate safeguards in the bill with the amendment that has passed and I would urge rejection of the amendment proposed by Rep. Krawiecki.

SPEAKER STOLBERG:

Will you remark further on House "B"?

REP. JAEKLE: (122nd)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. Mr. Speaker, I just want to clarify something. This is not what I would normally call a typical mandate to municipalities. Usually, what I think of a mandate is this General Assembly telling a town, "You must do this and it is going to cost you X thousands of dollars." This is almost a reverse mandate.

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This is saying to a town that if you do not act in accordance with our laws, which means you have to render a decision within a certain period of time on the coastal site plan, then you are going to be liable in a court action if the plaintiff prevails.

Now, on the previous amendment, House "A", what had happened was we had made a decision on a policy. If somebody brings a coastal site plan to their local planning agency and the local planning agency just sits on its hands and never renders any decision, there are two things that can happen. Failure to render a decision could mean automatic approval of that application, or automatic rejection.

Well, House "A" decided that issue on the rejection side. If the planning agency fails to act within the time limit we establish in our laws, House "A" said that will be deemed rejection. Well, that means that the plaintiff, the applicant is going to have to go to court. He's going to have to file. He's going to pay an entry fee. He's going to hire a sheriff to serve the town. He's going to have to hire and pay a lawyer.

And that's what we're telling some individual, a citizen of the State of Connecticut because the planning agency failed to act, John Doe or John Q. Citizen is going

to have to incur maybe thousands of dollars of expenditure because the town failed to render a decision. This amendment, House "B", is saying if the town planning agency fails to render a decision and the applicant has to go to court and successfully appeals, this is only if the applicant wins that appeal, then the town is going to have to pay that private citizen's reasonable attorney's fees and court costs.

It's a balance between the two approaches that were decided in House "A", automatic approval or automatic rejection. If House "A" had say failure to render a decision would be deemed automatic approval, which is the way most of our zoning statutes read, then there'd be no need for a follow up amendment, the one we're talking about now.

This is a balanced approach between what happens, approval or rejection. We decided rejection. I think this is only fair that when a town fails to act in accordance with our statutory time periods that they have to bear the risk of losing on appeal because they failed to render a decision and, thus, at their risk, they may have to pay attorney's fees.

I think that's a fair compromise between the approaches. that could have been argued and I think it's a fair amendment.

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I think it's reasonable to the public and, if you're worried about what it's going to cost your town, all the towns have to do is comply with the laws, render decisions within the ample time limits established in our statutes, and you'll never be involved with having to pay attorney's fees on appeals.

That sounds pretty simple to me. I urge adoption of the amendment.

SPEAKER STOLBERG:

Will you remark further on House "B"?

REP. LYONS: (146th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Lyons.

REP. LYONS: (146th)

Mr. Speaker, when the vote is taken would it please be taken by a roll call vote.

SPEAKER STOLBERG:

This is a request for a roll call vote. All those in favor of a roll call, please indicate by saying aye.

REPRESENTATIVE:

Aye.

SPEAKER STOLBERG:

An adequate number has been arrived at and the vote

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will be taken by roll. Will you remark further on the amendment?

If not, would the members please be seated. Will staff and guests come to the well of the House. The machine will be opened.

The House of Representatives is now voting by roll. Would the members please return to the Chamber immediately. The House of Representatives is now voting by roll. Would the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk will take a tally.

Would the Clerk please announce the tally.

CLERK:

House Amendment Schedule "B" to House Bill No. 6975.

Total number voting	142
Necessary for adoption	72
Those voting yea	41
Those voting nay	101
Those absent and not voting	9

SPEAKER STOLBERG:

The amendment is defeated.

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Will you remark further on the bill?

REP. JAEKLE: (122nd)

Mr. Speaker.

SPEAKER STOBLEBERG:

Rep. Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker.

With the defeat of House "B", I'd like the Clerk to call LCO No. 6338, please.

SPEAKER STOLBERG:

Would the Clerk please hold off a moment until the House comes to order.

As soon as the House is prepared to do business, we will return to the Calendar.

The Clerk has an amendment, LCO 6338, which will be designated House Amendment Schedule "C". Would the Clerk please call and read.

CLERK:

LCO No. 6338, designated House Amendment Schedule "C", offered by Reps. Parker and Krawiecki only.

In line 75, after the comma, strike "the applicant" and insert in lieu thereof: "the coastal site plan shall

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be deemed approved."

SPEAKER STOLBERG:

Rep. Jaekle.

REP. JAEKLE: (122nd)

I move adoption of the amendment, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark?

REP. JAEKLE:

Yes, Mr. Speaker.

Ladies and gentlemen, with the defeat of House "B", which was going to have an unsuccessful applicant because of failure of a board to render a decision not even be able to be compensated for his reasonable expenses in bringing a successful appeal.

This amendment now says if an applicant brings a matter for a coastal site plan review and the local planning board fails to render a decision, that's not approval or denial, they just don't do a darned thing. They fail to render a decision.

This amendment would say failure to render a decision shall be deemed approval.

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I'm not going to make any secret about it, this amendment is 180 degrees apart from what House "A" did. Frankly, I didn't oppose House "A" because I thought House "B" was going to strike a balanced approach.

House "A" said if a Board failed to render a decision, this is through no fault of the individual applicant. The fault is entirely with the Board. If it fails to render a decision within our statutory time limit, the application will be deemed rejected.

Well, I think that's unfair. I think an applicant brings his application, gives it to the planning agency with all expectations that a planning agency will look at the application, discuss it, hold a hearing and render a decision.

He has no control over that Board's actions, either the Board's actions to accept to accept, adopt, reject, approve. But the one thing I think every applicant is entitled to believe is when he brings an application to a planning agency, that planning agency will review, deliberate and render a decision up or down.

What this amendment does, what it would say is to our local planning agencies, you have the statutory time period to render a decision. If through your fault, not the fault of the applicant, you fail to render a

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decision, that coastal site plan is deemed approved.

SPEAKER STOLBERG:

Rep. Jaekle, could you hold just a minute. Could I ask the young man up in the gallery to try to get back inside the railing. Thank you very much. That's a little dangerous. We don't want you falling on any member's head. Rep. Jaekle, please continue.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. It's an issue that I think should have been debated on House "A". But as I said, I thought House "B" would pass because it was a reasonable middle ground. But now we're stuck with what should our policy be in the State of Connecticut for a Board that fails to render a decision.

The file copy before it was amended left everything in limbo by saying the applicant could go to court and the court could order the Board to render a decision. House "A" said forget that.

If the Board fails to render a decision, the application is denied, rejected. House "C", the one I'm arguing now says that if the Board fails to render a decision, the application is deemed approved.

As I said, they are 180 degrees apart, but I think

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It should be debated fully by this Chamber, and we should decide how we should handle the failure of a local planning agency to render a decision on time.

I think, for the sake of the poor applicant, I mean poor in terms of wealth, an individual citizen bringing an application, he has a right to expect a decision. And if that decision isn't rendered we have two choices. Is it deemed rejected, or is it deemed approved?

I'm willing to side with the individual citizen and say, it was the Board's failure to act, their fault, it should be the Board that is stuck with an adoption and not the individual citizen that's stuck with the rejection.

I urge adoption of the amendment.

SPEAKER STOLBERG:

Will you remark further on the adoption of House "C"?

REP. LYONS: (146th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Lyons.

REP. LYONS: (146th)

Thank you Mr. Speaker. I strongly object to

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adoption of this particular amendment. Rep. Jaekle made two points. One, he said that adoption of this particular amendment would necessarily mean that a Board would review and deliberate in its decisions. I don't see how adoption of this would necessarily mean that.

A Board could simply still take no action, never deliberate, never review and the application would simply be approved.

Secondly, Rep. Jaekle said we should be determining now the policy of the land use boards. I think what we should be determining, what we are determining is the policy and where the state stands on CAM. If indeed we adopted such an amendment, you might as well not have any CAM legislation. Because if we are going to have decisions that are automatically approved, why even bother to have CAM legislation.

There's no protection for the environment, there's no protection for the citizen, there's no protection for our coastal resources. These applications are simply given to a Board. The Board simply sits on it and it's simply approved. Thereby we have simply deluded the federal statute, the state statute and what the coastal towns have been trying to do as far as protecting their

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environment. This decision to approve is not an option, as was stated before. We are deluding our federal laws, we are deluding our state laws. And by having approval, we are also losing a million dollars of state money which is utilized and is passed on to our coastal towns.

I would strongly move for rejection of this amendment.

SPEAKER STOLBERG:

Will you remark further on the amendment?

Rep. Belaga.

REP. BELAGA: (136th)

Thank you, Mr. Speaker. The amendment that many of you have in your hands has my name on it and I wanted to make clear and I thank the Clerk for announcing that in fact it does not have my endorsement in any way, shape or form.

The amendment that you have here would actually cut at the very heart of the coastal management legislation and I would urge you to reject this for a number of reasons.

The fact that it would deem any application approved would mean that our contract with the federal government would in fact be curtailed. So it really would not in any way help. And I think we ought to discuss

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a little bit the past amendment which just failed. I can understand Rep. Krawiecki's concern. And I think there are some valid concerns that he raised here.

What I would like to offer as an option is perhaps a rational way to approach from here. It is to leave it as it has passed, live with it for a year, and if in fact we do see that local municipalities are taking advantage of this provision which we have just approved by voice vote that we come back here next year and include the kind of provision that Rep. Krawiecki has proposed.

The amendment before you now would seriously impact on coastal management legislation and I urge you to reject it. Furthermore, I urge you to move forward on this legislation. I think we've debated it long enough.

But keep in mind that in fact if the municipalities take advantage of the provision which we have just by voice vote approved, that we come in here and make darned sure that it not go on any further.

SPEAKER STOLBERG:

Will all the members please be seated. Staff and guests come to the well. Rep. Holbrook.

REP. HOLBROOK: (35th)

Thank you, Mr. Speaker. A question through you

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to Rep. Lyons.

SPEAKER STOLBERG:

Please frame your question.

REP. HOLBROOK: (35th)

Thank you. Rep. Lyons, you spoke about an agreement that we had with the federal government, and that the adoption of this amendment would in some way jeopardize that agreement. I would like to know what specifically you are speaking of.

SPEAKER STOLBERG:

Rep. Lyons.

REP. LYONS: (146th)

Thank you, Mr. Speaker. I am speaking of the agreement by which the state is indeed the acts on behalf of the federal government for protecting the coastal shore lines. The federal government first implemented the idea of CAM, the Coastal Management Act. In doing that, they allowed the state and the municipal towns within the coastal boundaries to provide for programs as they best saw fit to protect those natural resources.

In doing this, they set aside a certain amount of funds to provide for this implementation. What we in Connecticut are able to take use of approximately \$1 million in those funds, half of which goes to the state

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to implement its part of the plan and half of which is then passed on to the coastal town to implement their part of the plan and that's of what I was speaking.

REP. HOLBROOK: (35th)

Through you, Mr. Speaker, I still don't see how that agreement would, how this amendment would specifically affect that agreement. Can you answer that?

SPEAKER STOLBERG:

Rep. Lyons, do you care to respond?

REP. LYONS: (146th)

Thank you, Mr. Speaker. Yes, I can because if we adopt an automatic approval, we are not allowed to apply for these federal funds. That is the federal government's ruling. Automatic approval in their viewpoint completely destroys the concept of CAM, leaves it subject to the whims of a Board. They would not necessarily know that their funds were being utilized in the correct way.

And they would not give us funds if we have automatic approval. It's just as simple as that. We can't apply for the funds.

REP. HOLBROOK: (35th)

Through you, Mr. Speaker. Is that spelled out directly in the agreement, number one.

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SPEAKER STOLBERG:

Rep. Lyons.

REP. LYONS: (146th)

Excuse me, Mr. Speaker. I did not hear that question.

SPEAKER STOLBERG:

Rep. Holbrook, could you please repeat the question. And if the members would do what they're doing now, which is being very quiet, then probably Reps. Holbrook and Lyons could have a very expeditious dialogue. Rep. Holbrook.

REP. HOLDBROOK: (35th)

Thank you, Mr. Speaker. I'll try. The question was, how does that specifically affect the agreement. First of all, I'll make the statement then ask you the question. First of all, this amendment does not call for automatic approval, for one. Number two how does the government spell it out that we will lose these funds if something like this amendment is passed. Is it spelled out in any regulations that the federal government has put upon us? Through you, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Lyons.

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REP. LYONS: (146th)

Thank you, Mr. Speaker. I'm sorry but I must disagree with you. This amendment certainly does spell out it would be approved. It says the coastal site plans shall be deemed approved. I think that's fairly explicit that if they don't act it will be deemed approved. And I will answer it, as I said before, that the federal government has told the state and I have investigated this, that we may not have an automatic approval or we will lose our funds.

REP. HOLBROOK: (35th)

Mr. Speaker, I don't see that that is automatic approval. It's not written that way. If the Committee or Commission fails to act, and you know developers have rights, too, and builders have rights. And individuals that own land within the coastal area management zones, they have rights, too.

You know we talk about the rights of other citizens that live within these areas. But these people, they have rights. They go to the Commission in good faith. They expect the Commission to act in good faith. That Commission has ample time to make a decision on their application. And all we're saying in this amendment is, if the Board does not act, that it will be automatic

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approval upon non-action of the Commission. Those are the key words.

Another point that should be made is that, well, I'll drop it there. Thank you, Mr. Speaker.

REP. BERTINUSON: (57th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Yes, Mr. Speaker. I, too, rise to strongly object to this amendment. I think you should realize that the reason this bill was before us in the first place is that there is a flaw in the process now, which does leave a developer or an applicant hanging. Since there is no finality and a Board can sit on an application. This legislation with the amendment is an attempt to meet that problem without violating either the letter or the spirit of the Coastal Area Management Act.

Which it is our belief and the federal government's belief that an automatic approval would do. Automatic denial will put the pressure on to force the Board to act and bring some finality without violating the CAM agreement. And this amendment before us, in my belief, would clearly

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destroy the intent and as well as the federal requirements of the Coastal Area Management Act and I urge you to vote against it.

SPEAKER STOLBERG:

The Chair would suggest, as it attempted to do a number of times yesterday, that the issue seems to be laid out. We have an extremely long Calendar ahead of us today. Will you remark further on House "C"? Rep. Belden.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. I will be very brief. I just can't understand, we're taking care of the air and the water, but we've kind of lost track of the individual property owner and his rights. I offered an amendment similar to this last year and we got the same kind of response concerning inland wetlands.

Let me just take you through a very brief scenario. A gentleman goes down and he owns an acre of land down in the coastal area and he puts in all of these papers and then what does he do? He waits and he waits and he waits. Under the file copy as we have it right now, if my understanding is correct he can go for a mandamus action. At his expense.

Because the municipality, the Board didn't care to

take any action. Amendment "B" would have resolved that problem very directly. And it would have put the burden where the burden belonged. But for some reason, this Chamber didn't think Amendment "B" was any good. So now we're attempting to go in the other direction and say, okay, if you can't go to court and if you win, collect the cost from the municipality which protects the individual and his rights, then let's give them automatic approval after the time limit has passed.

And there are many things the Board can do during that time period. It can reject for insufficient data. It can reject without prejudice. It can do all kinds of things.

And let's not forget that most of the people appointed to these Boards and Commissions are appointed because they have interests in these areas, specific interests, which is why they volunteer their time.

Mr. Speaker, I believe this amendment will pass and let's try another approach. Let's protect the individual and if the federal government comes back later on and says gee whiz, we don't like your denial approach, we'll take a look at it again.

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SPEAKER STOLBERG:

Will you remark further on HOUSe "C"? Rep. Lyons.

REP. LYONS: (146th)

When the vote is taken, would it please be taken
by roll call.

SPEAKER STOLBERG:

The request is for a roll call vote. All those
in favor of a roll call vote, please indicate by
saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

An adequate number is arrived at. When the vote
is taken, it will be taken by roll. Will you remark further?
Rep. Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. We have now basically the
sides are joined. Is failure to act to be deemed automatic
approval. I don't like that automatic language because
nothing is automatic. A local Board doesn't get automatic
rejection, approval, if they render a decision. So the
real thing is, what is more likely to have a Board render
a decision? Approval or rejection. I'll bring that right

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down to where we are at this point in the session. If our Constitution said, every bill that's on our Calendar come midnight June 8, was automatically passed into law, as opposed to automatically defeated, which approach do you think would be more likely to get us to finish all the bills on that Calendar? Well, I think automatic approval or approval as a result of failure to act is more likely to make somebody to act and deliberate and render a decision.

In fact, I'm very confident of that. I know it would be here in this body and I'm sure that's how it's going to be in our municipalities. That's what this amendment says. Board, do your job or your going to face approval. And for an applicant it means when you put an application in, while you have every reason to believe it's going to be given due deliberation and consideration, and an opinion is rendered, well, if the Board messes up, you get it approved. Because that's what you're seeking.

I think that's fair to the individual and I think it's going to make our Boards do the job that our statutes say they should.

SPEAKER STOLBERG:

Rep. Jaekle did you have another amendment to effect that other item? We may need it before the day is over.

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Will you remark further?

REP. VAN NORSTRAND: (141st)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Van Norstrand.

REP. VAN NORSTRAND: (141st)

Mr. Speaker, you know our land use Boards, there's no entire consistency as to how these things are approached whether it be wetlands, planning, zoning. It is common in many of them to have just the kind of language that lies in this amendment. You get 65 days and that's it. Now don't you remember what facts it is and what we're dealing with here? I don't think this is unreasonable. If you had told me you're going to tell a person, if you don't get it passed in 65 days, you can go to court.

Well you just had a chance at House "B" and you said that wasn't reasonable. Understand what going to court means.. That means two years, maybe, on the most valuable property in the state. It may also be the most environmentally most sensitive, but it also may be the most valuable.

And look at the file copy. This says that the Board can ask you to do all reasonable measures. Well there

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may be a wide disparity about what's reasonable. And certainly what all is. But if they can't in 65 days at least say, well we're running out of time, but if you do this, this and this, okay. Mind you, they can agree with the applicant if they're close to a further extension, just like in Planning and Zoning, for another 65 days.

But to tell somebody sitting on this kind of property, an individual or yes, that terrible word, developer so what. That you've got to sit and wait two years and if you just carry it and if your debt structure is tough, that's your problem.

That's ridiculous. That's unfair. I support adoption of the amendment.

SPEAKER STOLBERG:

Will all the members please be seated. Will staff and guests come to the well of the House. Will staff and guests come to the well of the House. Will you remark further on House "C"? If not, the machine will be opened.

The House of Representatives is voting by roll at this time. Will the members return to the Chamber immediately.

The House of Representatives is voting by roll at this time. Will the members return to the Chamber

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immediately.

Have all the members voted? Have all the members voted? Rep. Broulliet. Rep. Broulliet. Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally.

CLERK:

House Amendment Schedule "C" to House Bill 6975.

Total number voting	143
Necessary for adoption	72
Those voting yea	44
Those voting nay	99
Those absent and not voting	9

SPEAKER STOLBERG:

The amendment is defeated. Will you remark further on the bill?

RRP. KRAWIECKI: (78th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Krawiecki.

REP. KRAWIECKI: (78th)

Mr. Speaker, at the risk of delaying action a few more moments, I wanted this body to understand the reason

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why I'm going to vote no on this bill. Not because I don't support Coastal Area Management, and not because I don't think the environment is extremely important, But I think we have just passed something that is completely ridiculous. We have now stripped individuals of their own property rights.

We have now told them that if a Board of Commission doesn't do their job an item is going to be denied. We have already voted against that individual going into court and recouping costs in case they find that the Board or Commission had no good reason for denying or not acting on an item .

And number three, we have now just decided that the amendment that would have deemed the application approved is no good. I don't understand where we're heading on this item. But if the concept is that we can't touch a piece of legislation --

SPEAKER STOLBERG:

Could I ask the members to please give their attention to Rep. Krawiecki.

REP. KRAWIECKI: (78th)

If the concept in this body is that if a piece of legislation has passed that it's a landmark piece of legislation and because an amendment comes out that we

cannot touch that piece of legislation in the future, we are committing a terrible wrong.

There is nothing very significant about the amendments that have been debated except that an individual should be given the same rights that we give anyone else in our legal system. Anyone who goes with a normal piece of land and wants to appeal on a decision. What we have done is, we've set out a special category.

What we have done is we have set out a separate kind of appeal process, we have denied them the right of collecting fees and costs. I think we've, I don't understand where we are heading in this body. That's the reason why I'm voting no. I think it's a bad precedent and I certainly hope that this body and the committee will take a look at what they have done this year and next year maybe make a change.

SPEAKER STOLBERG:

Will you remark further on this bill? Rep.

Benvenuto.

REP. BENVENUTO: (151st)

Thank you, Mr. Speaker. I will also be voting no on this bill as amended. But I've heard it said quite a few times today that we would be losing federal funds

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unless we do accept it.

As I remember the guidelines of Coastal Management, it was crystal clear that a Board must act within 65 days or there would be automatic approval. I think what we heard said here today was that we would lose federal funds is completely false. There's no truth in that whatsoever.

I think we have only one decision to make today, and that is, do we want to serve the bureaucracy, or do we want to serve our constituents. That is the only decision, and that's why I will be voting no on this bill.

REP. CASEY: (118th)

Mr. Speaker.

SPEAKER STOLBERG:

Re-: Casey.

REP. CASEY: (118th)

Yes, Mr. Speaker. I stand in support of this legislation and I think some statements have to be clarified here. Coastal Area Management is an outstanding piece of environmental legislation for the State of Connecticut. And it has been fine tuned over the last sessions since its enactment. This is a fine tuning. There was a problem. Boards did not have to make a decision. Yes, they said

something had to be done in 65 days, but no decision had to be rendered. The applicant had to take them to court to get a decision rendered. He had to pay that mandamus action.

Now that he got a decision rendered, if they make a decision, it's at least another 90 days that the court would give the commission in order to make a decision. So the Commission says we're going to deny it. Now a guy's back in the same position. He not only has the mandamus action to pay for, he's going to have to take them to court on an appeal process and and wait for that to.

This eliminated the mandamus action. This saved the applicant money. This saved the applicant at least 90 days. Rep. Benvenuto has considered me his Brutus since the passage of this act. And then he's wrong. Sixty-five days is not an automatic approval and there are several court cases out there pending to back that up.

Mr. Speaker. this is in the best interests of the State of Connecticut. It is in the best interests of the state because we are trying to help preserve and protect a very valuable natural resource. This is a fine tuning that I think that every applicant is going to find in their best interests. And I urge passage. Thank you, Mr. Speaker.

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SPEAKER STOLBERG:

Will members please be seated. Will staff and guests come to the well of the House. Members please be seated. Staff and guests to the well of the House.

Will you remark further on the bill? If not, the machine will be opened.

The House of Representatives is now voting by roll. Would the members please return to the Chamber immediately. The House of Representatives is now voting by roll. Will the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted. If all the members have voted, the machine will be locked and the Clerk will take a tally. Will the Clerk please announce the tally.

CLERK:

House Bill No. 6975, as amended by House Amendment Schedule "A".

Total number voting	141
Necessary for passage	71
Those voting yea	126
Those voting nay	15
Those absent and not voting	10

SPEAKER STOLBERG:

The bill is passed.

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GEN. ASSEMBLY
SENATE

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safety plate fund as a separate special fund and allow the \$1.00 safety plate fee presently charged for insurance of a license plate to be disposed directly into the general fund. If there's no objection, I move it be placed on the consent calendar.

THE CHAIR:

Any objection to placing the bill as amended by House "A" on consent? Hearing no objections, it will go on consent.

THE CLERK:

Calendar 909, Files 293 and 846, Substitute for House Bill 6975. An Act Concerning The Coastal Area Management Act. (As amended by House Amendment Schedule "A").

Favorable Report of the Committee on Planning and Development.

THE CHAIR:

Senator Skelley.

SENATOR SKELLEY:

Mr. President, that bill is currently P.T.d on my calendar. I would ask the bill be passed temporarily.

THE CHAIR:

Want Calendar 909 passed temporarily? Senator Skowronski.

SENATOR SKOWRONSKI:

Mr. President, I think we ...

THE CHAIR:

(Inaudible). The Senate will stand at ease. Senator Skowronski, proceed.

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SENATOR SKOWRONSKI:

Thank you, Mr. President. Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill in concurrence with the House.

THE CHAIR:

Will you remark on the bill as amended by House "A"?

SENATOR SKOWRONSKI:

Thank you, Mr. President. The bill makes several changes to the Coastal Area Management Act which I think are essentially technical. It adds to the exemption for single family houses that are located on an island not connected to the mainland by an existing road or bridge. It also specifies that coastal site plans are not considered complete or valid unless the board or commission having jurisdiction has rendered a decision and what House "A" says is that if the local commission fails to render a decision within the specified time limit, the application is considered rejected. Further, Mr. President, it requires the Commissioner of DEP and other state agencies when taking action within the coastal boundary to take into account all reasonable measures mitigating adverse impact on the coast line. Finally, the bill would allow a local board or commission making a coastal site plan review sixty-five days following a hearing to render a decision as is the case under current planning and zoning law, so if there's no objection, Mr. President, I move the bill to the consent calendar.

THE CHAIR:

Is there any objection to placing the bill as amended by House "A" on consent? Hearing no objection, it will go on the consent list.

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Well, you're going to get another crack at it because the Clerk indicates to me that the machine didn't record it. They must have known you were on the run, Senator. Clerk, make the announcement. We're going to have to take the vote over again.

THE CLERK:

Immediate roll call has been called for in the Senate. Will all Senators please be seated. Immediate roll call has been called for in the Senate. Will all Senators please take their seats.

THE CHAIR:

The issue is Calendar No. 656 upon which we just voted. The machine is open. If all the Senators would stay in the Chamber the next item of business is the consent calendar. Senator Schneller. Have all Senators voted? Machine is closed and locked. Total voting is 36, voting yes, 24. The measure is adopted. I believe everybody's in the Chamber. Clerk will proceed with the consent calendar. Would you give your attention to the Clerk because the consent calendar again this evening is rather long.

THE CLERK:

On page 7, calendar 719. Page 9, calendar 854, 855, 856, 857, 858. Page 10, calendar 859, 860, 884. Page 11, calendar 886, 889, 890, 891. Page 12, calendar 892, 893, 894, 895. Page 13, calendar 898, 900 and 901. Page 14, calendars 902, 903, 904, 905, 906. Page 15, calendars 908, 909 and 911. Page 16, calendars 912, 913, 914, 915 and 916. Page 17, calendars 918, 919, 920, 921. Page 20, calendars 265 and 459. Page

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HB6960.

HB6975, HB7047, HB7060, HB7091, HB7236, HB7263, HB7268, HB5843,
HB7189, HB6227, HB6321, HB6713, SB972

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21, calendar 461, 487, 505. Page 22, calendar 538, 546, 594, 596, 667.
Page 23, calendar 673, 454. Page 24, calendar 531 and 846 and on page 25,
calendar 836.

SB 565, HB 6511,
SB 989, SB 1036,
SB 1144, SB 1155
SB 237, SB 355,
SB 928, SB 438,
SB 832, SB 1165,
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THE CHAIR:

Are there any corrections or omissions on the consent calendar? Senator Skowronski?

SENATOR SKOWRONSKI:

Thank you, Mr. President. Mr. President, I would move that on page 7, item 719 be removed from the consent calendar and have a separate roll call after the consent calendar. I wish to vote against that bill and make some very brief remarks.

THE CHAIR:

Is there any other notation on the consent calendar? If not, the machine is open. Senator Morano. The machine'll be closed and locked. Total voting is 36, voting yes is 36. The consent calendar is adopted. The Clerk will recall calendar 719.

THE CLERK:

Calendar No. 719, File Nos. 821, 967 and 1129, Substitute for House Bill No. 7218. An Act Protecting The First Amendment Rights Of Employees.

Favorable Report of the Committee on Labor and Public Employees.

THE CHAIR:

The bill was previously moved for adoption, Senator. Remarks were given by the Chairman of the committee. You care to speak in opposi-

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MR. BRUCKMAN: (continued)
necessary.

REP. JOYCE: To sum it up then, to put the bottom line on this, couldn't you use federal guidelines and so forth and make the standards tighter, make the regulations higher for the people to--and achieve the same result.

MR. BRUCKMAN: Well then we'd have to somehow develop new ambient air qualities for the standards that were somehow tighter. We don't have health information from that. All we are doing is insuring that the impact on air quality of a particular source won't violate the standards.

UNIDENTIFIED SPEAKER: So you treat it to chance.

MR. BRUCKMAN: No, I think that's a viable approach.

MR. MOORE: My last comment is on House Bill 6566, An Act Concerning Imposition of Civil Penalties for Violations of Environmental Regulations Related to Odors. The Department has the authority now under its existing civil penalties authority and this can be accomplished by regulation.

REP. BERTINUSON: For the benefit of all the people who are standing, we have made arrangements to move down to the hall of the House which we will do after the first--after the legislator and agency head part of the public hearing because I realize we are a little overcrowded here.

MR. GROSS: This is Glen Gross again. I'm going to try and be very quick. I have a comment on H.B. 6975, An Act Concerning an Amendment to the (inaudible) and Management Act. The Department would like to work with Representative Lyons in putting another amendment to this bill which would clarify the length of time that local planning and zoning commissions have in making a decision. There have been some problems in the town of Stamford. We believe we could forestall some needless litigation through clarifying legislative intent.

I would also like to comment on Senate Bill 921, An Act Concerning Water Shed Plan. You have had this bill before you in a couple of previous sessions. The important point here is where there are two towns involved in a flood