

Legislative History for Connecticut Act

HB 5988 (PA 90-286) 1990

Senate 2521-2523, 2539-2541, 2561 (7p)

House 2185-2186, 2702, 5123-5175, 5758-5790, 9574U-9574LL (107p)

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1990

VOL. 33
PART 8
2355-2674

FRIDAY
May 4, 1990

166 2521
aak

closed. Clerk please tally the vote.

The result of the vote.

34 Yea

2 Nay

The bill is adopted.

THE CLERK:

Calendar Page 25, Calendar 495, Files 275 and 736,
HB5988, AN ACT CONCERNING PROCEDURES FOR AND APPEALS
FROM LOCAL LAND USE BOARDS; VALIDATING AND PERMITTING
THE REOPENING OF CERTAIN APPEALS; AND ZONING
REGULATIONS RELATING TO FAMILY DAY CARE HOMES AND THE
USE OF FEES PAID IN LIEU OF PARKING SPACES. As amended
by House Amendment Schedules "A", "B", "C", "D", "E",
"F" and "G". Favorable Report of the Committee on
ENVIRONMENT. Clerk is in possession of one amendment.

THE CHAIR:

Senator Avallone.

SENATOR AVALLONE:

I would move the Joint Committee's Favorable Report
and urge adoption of the bill in accordance with the
action by the House.

THE CHAIR:

Clerk please call the amendment.

THE CLERK:

LCO4781 designated Senate Amendment Schedule "A"

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offered by Senator O'Leary of the 7th District.

THE CHAIR:

Senator O'Leary.

SENATOR O'LEARY:

Thank you, Mr. President. I move the adoption of the amendment.

THE CHAIR:

Do you wish to remark?

SENATOR O'LEARY:

Yes, Mr. President, this amendment validates the actions of some of the boards and commissions in the Town of Somers, Planning & Zoning Board, Tax Review. It seems they failed to submit their appointments to the Town Meeting to confirm the appointments of those committees and that goes back a number of years as something they should have done, it's in the charter. So these boards have been acting, I believe, for about 4 or 5 years and technically I'm told their appointments were not valid so we have to validate them and make the actions that they have done legal.

THE CHAIR:

Further remarks on the amendment? All those in favor of the amendment signify by saying aye.

SENATORS:

Aye.

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2523

THE CHAIR:

Opposed? The amendment is adopted. We are now on the bill as amended. Senator Avallone.

SENATOR AVALLONE:

Yes, Mr. President, the bill is the clarification of the time period for filing an appeal of the decision of a local land use board with the Superior Court, validate appeals which were served within the statutory 15 day period, but were not filed with the Clerk of the Court within that time. The House then put on a series of amendments that are outlined in the OLR which were designed, in particular, to serve out 15 days and one Superior Court ruling that said if you didn't have..if the Sheriff didn't bring it back within a 15 day appeal period, excuse me..service period that that invalidated the appeal. Rather silly, but this is designed to make sure it doesn't happen again.

THE CHAIR:

Further remarks on the bill? Senator O'Leary.

SENATOR O'LEARY:

Mr. President, may this matter be PT'd for a moment.

THE CHAIR:

Passed Temporarily. Call the next item, please.

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that were marked Go.

THE CHAIR:

We PT'd Calendar 328 on Page 5.

THE CLERK:

Calendar Page 5, Calendar 328, File 519, Substitute SB454, AN ACT CONCERNING THE REVISOR'S TECHNICAL CORRECTIONS TO THE 1989 GENERAL STATUTES AND THE 1989 PUBLIC AND SPECIAL ACTS. Favorable Report of the Committee on JUDICIARY. Clerk is in possession of two amendments.

SENATOR AVALLONE:

Mr. President, there is an amendment on its way. There are two here, there is supposed to be a third. I don't know if it's been delivered yet.

THE CHAIR:

The Senate will stand at ease.

THE CLERK:

Turning to Calendar Page 25, Calendar 495, Files 275 and 736, HB5988, AN ACT CONCERNING PROCEDURES FOR AND APPEALS FROM LOCAL LAND USE BOARDS; VALIDATING AND PERMITTING THE REOPENING OF CERTAIN APPEALS; AND ZONING REGULATIONS RELATING TO FAMILY DAY CARE HOMES AND THE USE OF FEES PAID IN LIEU OF PARKING SPACES. As amended by House Amendment Schedules "A", "B", "C", "D", "E", "F" and "G". Favorable Report of the Committee on

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185 2540
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ENVIRONMENT. LCO4781 was called designated Senate Amendment Schedule "A", was adopted, at which time the bill was Passed Temporarily.

THE CHAIR:

We are now on the bill as amended. Senator Avallone.

SENATOR AVALLONE:

I would like to move rejection of House "E".

THE CHAIR:

Motion is to reject House "E". Do you wish to remark?

SENATOR AVALLONE:

Yes, House "E" appears to try and give a local municipality power to override the state statute in regards to the time in which a decision must be made and the Legislative Commissioner's office has pointed out to us that that is not properly before us.

THE CHAIR:

Further remarks on motion to reject House "E"? All those in favor of rejection indicate by saying Aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? House "E" is rejected. Any further amendments?

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SENATOR AVALONE:

Unless there is objection, Mr. President, I would
move it to Consent.

THE CHAIR:

Without objection, it is placed on the Consent
Calendar.

THE CLERK:

Calendar Page 28, Calendar 360, File 557,
Substitute SB498, AN ACT CONCERNING THE LONG-TERM CARE
FACILITY PREADMISSION SCREENING AND COMMUNITY BASED
SERVICES PROGRAM. Favorable Report of the Committee on
HUMAN SERVICES. Clerk is in possession of two
amendments. I believe that LCO5208 was called and
designated Senate Amendment Schedule "A".

THE CHAIR:

Senator Przybysz.

SENATOR PRZYBYSZ:

Yes, Mr. President. I believe, as the Clerk said,
that LCO5208 was called. I would move adoption of the
amendment.

THE CHAIR:

Did you move for adoption of the bill when it was
called?

SENATOR PRZYBYSZ:

I believe I did.

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aak **2561**

read the items that have been referred to the Consent Calendar. Mr. Clerk.

THE CLERK:

The first item begins on Page 2, Calendar 243, Substitute SB413. Calendar Page 3, Calendar 263, HB5418. Calendar Page 21, Calendar 476, Substitute HB6100.

Calendar Page 25, Calendar 495, HB5988. Calendar Page 28, Calendar 431, Substitute SB197. Calendar Page 29, Calendar 128, Substitute SB374. Calendar 131, SB355. Calendar Page 30, Calendar 239, Substitute SB434. Mr. President, that completes the first Consent Calendar.

THE CHAIR:

Are there any changes or omissions? We are now ready to vote on Consent Calendar #1. The machine is open. Please record your vote. Has everyone voted? The machine is closed. Clerk please tally the vote.

The result of the vote.

36 Yea

0 Nay

The Consent Calendar is adopted.

THE CLERK:

Mr. President, the Clerk is in possession of Senate Agenda #3 for Friday, May 4th, 1990, copies of which

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House of Representatives

Tuesday, April 10, 1990

Planning and Development.

SPEAKER BALDUCCI:

The question is on referral. Is there objection?

Seeing none, it is so ordered.

CLERK:

Calendar 233, House Bill 5742, AN ACT CONCERNING
MANDATORY DRUG TESTING FOR INTRASTATE TRUCK DRIVERS.
Favorable Report of the Committee on Transportation.

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

I move this bill be referred to the Committee on
Labor.

SPEAKER BALDUCCI:

The question is on referral. Is there objection?

Seeing none, it is so ordered.

CLERK:

Calendar 235, Page 13, House Bill 5988, AN ACT
CONCERNING APPEALS OF LOCAL LAND USE BOARDS. Favorable
Report of the Committee on Judiciary.

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

pat

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Representative Frankel.

REP. FRANKEL: (121st)

May this item be referred to the Committee on
Planning and Development.

SPEAKER BALDUCCI:

The question is on referral. Is there objection?
Seeing none, it is so ordered.

CLERK:

Calendar 236, Substitute for House Bill 6032, AN
ACT ENCOURAGING THE USE OF MASS TRANSPORTATION BY STATE
EMPLOYEES. Favorable Report of the Committee on
Transportation.

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

I move this bill be referred to the Committee on
Appropriations.

SPEAKER BALDUCCI:

The question is on referral. Is there objection?
Seeing none, it is so ordered.

CLERK:

Calendar 237, Substitute for House Bill 6059, AN
ACT NAMING SELECTED TRANSPORTATION RESOURCES.

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House of Representatives

Tuesday, April 17, 1990

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

I move this item be referred to the Committee on Labor.

SPEAKER BALDUCCI:

The question is on referral. Is there objection? Seeing none, it's so ordered.

CLERK:

Calendar 235, House Bill 988. AN ACT CONCERNING THE APPEALS OF LOCAL LAND USE BOARDS.

Favorable Report of the Committee on PLANNING AND DEVELOPMENT.

REP. FRANKEL: (121st)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Frankel.

REP. FRANKEL: (121st)

I move this item be referred to the Committee on Environment.

SPEAKER BALDUCCI:

The question is on referral. Is there objection? Seeing none, it's so ordered. The Chamber please come

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DEPUTY SPEAKER POLINSKY:

The bill as amended is passed.

The Clerk please return to the Call of the Calendar.

CLERK:

Page 12, Calendar 235, House Bill No. 5988. AN ACT CONCERNING APPEALS OF LOCAL LAND USE BOARDS.

Favorable Report of the Committee on ENVIRONMENT.

DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

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

DEPUTY SPEAKER POLINSKY:

The question is on acceptance and passage. Will you remark, sir?

REP. TULISANO: (29th)

Yes, Madam Speaker, this was designated to make appeals consistent with other appeals of local municipalities so that there would be knowledge of what was going on and no traps for citizens.

Madam Speaker, the Clerk has an amendment, LCO3478.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO3478, which shall be designated House Amendment "A".

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CLERK:

LC03478, designated House Amendment Schedule "A",
offered by Representative Tulisano, 29th district et
al.

REP. TULISANO: (29th)

Madam Speaker, this modifies the file copy to
indicate the time periods when service of process to be
commenced and how and when it's to be returned. For
further explanation, I would like to yield to
Representative Wollenberg.

DEPUTY SPEAKER POLINSKY:

Representative Tulisano, would you move adoption.

REP. TULISANO: (29th)

And move adoption.

DEPUTY SPEAKER POLINSKY:

The motion is on adoption. Do you accept the
yield, Representative Wollenberg.

REP. WOLLENBERG: (21st)

Yes, thank you very much, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Please proceed, sir.

REP. WOLLENBERG: (21st)

Thank you. Madam Speaker, in lines 26 and 27
there's a split of authority in Connecticut. Two
judges have come down in Superior Court and have said

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that these matters must be in court within 15 days after the decision by a board rather than in the hands of the defendant within 15 days and served on the defendant. This clears that up. We simply take the word "taken" out. It's a foreign word to the service of process in any event and add the language and make it clear that by commencement of service of process it starts the action.

Also, on line 36, we give towns about 12 more days to return a record to court. Some of the towns have been having a little problem in getting the record returned to court. This will give them a little more time and they're very satisfied with that and I move adoption.

DEPUTY SPEAKER POLINSKY:

The question is on adoption. Will you remark further on House "A"? Will you remark further? If not, let us try your minds. All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed nay.

The ayes have it.

The amendment is adopted and ruled technical.

House Amendment Schedule "A":

Strike section 1 in its entirety, insert the following in lieu thereof and renumber the remaining sections accordingly:

"Section 1. Subsection (b) of section 8-8 of the general statutes, as amended by section 1 of public act 89-356, is repealed and the following is substituted in lieu thereof:

(b) Except as provided in subsection (c) and (d) of this section and sections 7-147 and 7-147i, any person aggrieved by any decision of a board may take an appeal to the superior court for the judicial district in which the municipality is located. The appeal shall be [taken] COMMENCED BY SERVICE OF PROCESS IN ACCORDANCE WITH SUBSECTIONS (e) AND (f) OF THIS SECTION within fifteen days from the date that notice of the decision was published as required by the general statutes. The appeal shall be [commenced and] returned to court in the same manner AND WITHIN THE SAME PERIOD OF TIME as prescribed for civil actions brought to that court.

Sec. 2. Subsection (i) of section 8-8 of the general statutes, as amended by section 1 of public act 89-356, is repealed and the following is substituted in lieu thereof:

(i) Within thirty days after the [appeal is served] RETURN DATE TO COURT, or within any further time the court allows, the board shall transmit the record to the court. The record shall include, without limitation, (1) the original papers acted on by the board and appealed from, or certified copies thereof, (2) a copy of the transcript of the stenographic or sound recording prepared in accordance with section 8-7a, and (3) the board's findings of fact and conclusions of law, separately stated. By stipulation of all parties to the appeal, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for additional costs. The court may require or permit subsequent corrections or additions to the record."

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DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

Madam Speaker, the Clerk has another amendment, LCO3239.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO3239, which shall be designated House Amendment "B".

CLERK:

LCO3239, designated House Amendment Schedule "B", offered by Representative Fox of the 144th District.

DEPUTY SPEAKER POLINSKY:

Representative Tulisano has asked leave of the Chamber to summarize. Is there objection? Without objection please proceed, sir.

REP. TULISANO: (29th)

Madam Speaker, this is another amendment designed to deal with a split in decisions much like you now may recall the Simko case that came down and we scurried around a few years ago trying to straighten it out. We have the same thing happening on appeals taken after October 31, 1989 for not filing within a 15-day period. Some have interpreted it had to be actually in court before fifteen days. Some courts have interpreted, we have interpreted the way the general practice was, that

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an appeal must be brought within 15 days and you had a regular return time after the appeal was taken.

This clarifies that and saves some cases much like we did in Simko.

I would move adoption.

DEPUTY SPEAKER POLINSKY:

The motion is on adoption of House "B". Will you remark further? Will you remark further?

Representative Jaekle.

REP. JAEKLE: (122nd)

Thank you, Madam Speaker. I appreciate the explanation. I guess I'm just struck a little by the style of this amendment and I would like to ask, through you to the proponent, madam, are we talking all new language? I don't see any change between lines 17 and 32. I don't see the notation of (NEW) indicating it's all new, but it sure seems to read like this is all new language and I would like just for the members looking and maybe searching for changes as I have, would like to ask, through you, Madam Speaker, to the proponent, whether this is all new language that we'd be adding as a sub b.

REP. TULISANO: (29th)

Through you, Madam Speaker. I believe it's all new language.

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DEPUTY SPEAKER POLINSKY:

Representative Jaekle.

REP. JAEKLE: (122nd)

Thank you. I know that's certainly not the work of the proponent, but -- and I know with special acts we don't necessarily get that, but certainly being attached to this file, I think it would have been very helpful to the body if the amendment had clearly indicated that this was all new language. It makes it a lot easier to follow what is happening, especially as amendments are coming fast and furious in the closing weeks of the session. Thank you.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Representative Belden.

REP. BELDEN: (113th)

Thank you, Madam Speaker. Through you, to the gentleman bringing out the bill.

DEPUTY SPEAKER POLINSKY:

Please frame your question, sir.

REP. BELDEN: (113th)

The amendment, rather. Representative Tulisano, just so I really understand this. We're only forgiving those parties who in fact did file an appeal and the appeal was dismissed because of the problem with the 15

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days, is that correct?

REP. TULISANO: (29th)

Through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

That's correct and you note that's why with the first amendment actually made it clear what that intent was.

DEPUTY SPEAKER POLINSKY:

Representative Belden.

REP. BELDEN: (113th)

Thank you. Then I can assume that we have not opened up the whole world for any case that -- any decision that has not been appealed could not be appealed, through you, Madam Speaker, is that correct?

DEPUTY SPEAKER POLINSKY:

Representative Tulisano.

REP. TULISANO: (29th)

I believe that is correct, only those that were dismissed because of that particular reason why within the 15 days.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment?

Representative Farr.

REP. FARR: (19th)

Yes, just one other question. The date of August 31, 1989, I assume that that is the date of a court decision, through you, Madam Speaker, to Representative Tulisano, or what is the significance of that day?

REP. TULISANO: (29th)

Through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Please proceed, sir.

REP. TULISANO: (29th)

May I yield to Representative Fox?

DEPUTY SPEAKER POLINSKY:

Representative Fox, do you accept the yield?

REP. TULISANO: (29th)

Yes, I do, Madam Speaker. Thank you, Representative Tulisano. I apologize for being somewhat later. I could have handled these for Representative Tulisano, not that he hasn't done a fine job on it.

To answer your question, there is no particular magic to that date. When I had spoken with the LCO, our concern was to make it as comparable to the language we used in Simko as we could. In the Simko fact pattern it was much easier because we had a

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definite date. We had a Supreme Court decision.

With this scenario, we have not had a ruling by the Supreme Court. There have been a number of lower court decisions. What was suggested and what they did was to go as far back as they could to find a date when there had been that type of ruling and that's the date that they came up with.

DEPUTY SPEAKER POLINSKY:

Representative Farr.

REP. FARR: (19th)

Through you, Madam Speaker, then to Representative Fox, is it your understanding then that this would in effect validate each of those appeals so that had -- every appeal that has been dismissed so that they now have an opportunity to go back in, through you, Madam Speaker, to Representative Fox.

DEPUTY SPEAKER POLINSKY:

Representative Fox.

REP. FOX: (144th)

Through you, Madam Speaker, it would not be validation as such, but for those that may have been dismissed from that date until the present, and I understand there are only a handful of them, it would allow them or give them the opportunity to follow the procedures set out in this bill to reopen any such

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dismissal.

REP. FARR: (19th)

But, through you, to Representative Fox, I was just concerned to make sure to your knowledge no one will be cut off if we use the August 31st date, is that correct, through you, Madam Speaker, to Representative Fox?

DEPUTY SPEAKER POLINSKY:

Representative Fox.

REP. FOX: (144th)

Based upon the research that was done by the Legislative Commissioner's Office the answer would be yes. To the best of my knowledge, this would be the first decision that dismissed a case for that reason and the amendment was drawn in such a way so as to cover all of those from that date until the passage of the bill.

REP. FARR: (19th)

Thank you very much.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment? Will you remark further? If not, let's try your minds. All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

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DEPUTY SPEAKER POLINSKY:

Those opposed nay.

The ayes have it.

The amendment is adopted and ruled technical.

House Amendment Schedule "B":

In line 18, before "Any" insert "(a)"

After line 26, add the following:

"(b) If any appeal of a decision of a zoning commission, planning commission, planning and zoning commission or zoning board of appeals taken on or after August 31, 1989, and prior to the effective date of this act, has failed to be tried on its merits because the appeal has been dismissed by the superior court for want of jurisdiction due to the failure of the party taking such appeal to file such appeal with the superior court within fifteen days of the publication of the notice of such decision, the party taking such appeal may, within ninety days after the effective date of this act, petition the court to reopen such appeal. Notwithstanding the provisions of section 52-212a of the general statutes, such party shall have the right to have such appeal reopened unless the court finds that (1) there has been a substantial infringement of property rights or (2) the judgment of the superior court has been appealed and a final judgment has been rendered on that appeal."

DEPUTY SPEAKER POLINSKY:

Will you remark further on this bill as amended?

Representative Tulisano:

REP. TULISANO: (29th)

Madam Speaker, the Clerk has another amendment,
LCO3054.

DEPUTY SPEAKER POLINSKY:

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Will the Clerk please call LCO3054, which shall be designated House Amendment "C".

CLERK:

LCO3054, designated House Amendment Schedule "C",
offered by Representative Wilber of the 133rd.

REP. TULISANO: (29th)

Madam Speaker.

DEPUTY SPEAKER POLINSKY:

The gentleman has asked leave of the Chamber to summarize. Is there objection?

REP. TULISANO: (29th)

Madam Speaker, this amendment deals with family day care zoning regulations.

I would move for its adoption and indicate my support and please yield to Representative Wilber for a further explanation.

DEPUTY SPEAKER POLINSKY:

Representative Wilber, do you accept the yield?

REP. WILBER: (133rd)

Yes, Madam Speaker. Thank you very much.

DEPUTY SPEAKER POLINSKY:

Please proceed, madam.

REP. WILBER: (133rd)

Madam Speaker, in discussions with the Attorney General's Office, it has become apparent that there is

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a problem with family day care related to the zoning boards and that many zoning boards are asking for special exceptions for family day care. Family day care is that day care which has six children or less during the day and sometimes as many as three additional children in the afternoon after school and we've reviewed the debate in the House over two different sessions and the Attorney General's Office and I both feel that there is some question about the intention of the legislature although I didn't feel there was. When you compare the debate of two sessions there is some question and so we want to make it very clear that family day care does not have to ask for a special exception to be allowed in a residential zone. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment? Will you remark further? Representative Ward.

REP. WARD: (86th)

Thank you, Madam Speaker. I guess, through you, to Representative Wilber, I want to make sure first that with the family day cares you stated that it would not exceed a total of nine children? Is that correct? If that's the definition of family, because it doesn't refer specifically to the number here. I think it does

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elsewhere?

DEPUTY SPEAKER POLINSKY:

Representative Wilber.

REP. WILBER: (133rd)

Yes, Madam Speaker, that's correct. Six children during the day and it's possible to have an additional three children in the afternoon after school.

DEPUTY SPEAKER POLINSKY:

Representative Ward.

REP. WARD: (86th)

Through you, Madam Speaker, would this -- the intent is so that they don't have to go through a special exception. Would the town be permitted to have anything related to parking and turnaround and safety in that area or would they essentially be precluded from having anything different than what's needed. If it's already a legal single family residence, is that the end of the issue as far as zoning is concerned?

DEPUTY SPEAKER POLINSKY:

Representative Wilber.

REP. WILBER: (133rd)

Madam Speaker, yes, that's correct. It would be the end of it as far as zoning is concerned, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

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Representative Ward, you still have the floor.

REP. WARD: (86th)

Thank you.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment? Will you remark further? Let's try your minds. All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed nay.

The ayes clearly have it.

The amendment is adopted and ruled technical.

House Amendment Schedule "C":

After line 26, insert section 3 as follows and renumber the remaining section accordingly:

"Sec. 3. (NEW) No zoning regulation shall treat any family day care home registered pursuant to section 17-31q of the general statutes in a manner different from single or multi-family dwellings."

DEPUTY SPEAKER POLINSKY:

Will you remark further on this bill as amended?

Representative Winkler.

REP. WINKLER: (41st)

Thank you, Madam Speaker. The Clerk has an

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amendment, LCO3702. Will he call and may I be allowed to summarize.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO3702, which shall be designated House Amendment "D".

CLERK:

LCO3702, designated House Amendment Schedule "D",
offered by Representative Winkler, 41st.

DEPUTY SPEAKER POLINSKY:

The lady has asked leave of the Chamber to summarize. Is there objection? Without objection, please proceed, madam.

REP. WINKLER: (41st)

Thank you, Madam Speaker. This amendment allows the legislative body of any municipality by ordinance to establish procedures for the holding of one public hearing on any application for a proposal that requires approval by more than one municipal agency, body, commission or committee and I move adoption.

DEPUTY SPEAKER POLINSKY:

~~The motion is on adoption of House Amendment "D".~~
Will you remark further, madam?

REP. WINKLER: (41st)

Yes, thank you, Madam Speaker. This amendment will provide for reductions in administrative costs related

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to applications for all forms of development. I urge the Chamber's approval.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment? Will you remark further on this amendment? Representative Tulisano.

REP. TULISANO: (29th)

Through you, Madam Speaker, just to get some clarification. Does this mean, through you, Madam Speaker, that for an example, an planning and zoning commission and inland-wetland board could really be sitting and hearing the same application at the same time?

DEPUTY SPEAKER POLINSKY:

Representative Winkler.

REP. WINKLER: (41st)

Yes, that's correct, Madam Speaker.

REP. TULISANO: (29th)

And through you, Madam Speaker, however, with the procedure, for legislative intent, would mean that they would still meet separately for decision making?

DEPUTY SPEAKER POLINSKY:

Representative Winkler.

REP. WINKLER: (41st)

I'm sorry, I didn't hear the question.

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REP. WINKLER: (41st)

They would meet separately, however, for decision making. It wouldn't like be a combined --.

REP. WINKLER: (41st)

That's correct.

DEPUTY SPEAKER POLINSKY:

Representative Tulisano, you still have the floor.

REP. TULISANO: (29th)

I think it will reduce costs all around, Madam Speaker, and I'm prepared to support the amendment.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment?

Representative Maddox.

REP. MADDOX: (66th)

Yes, Madam Speaker. I guess I have to rise reluctantly to oppose this amendment. Representative Tulisano characterized it properly. An inland-wetlands commission hold a public hearing and a planning and zoning commission holds a public hearing and you can say, well, it's the same application, but the purposes of the commissions are different.

If anyone's every served on a land use board and a controversial little project comes in, sometimes on these public hearings they can go for hours and hours and hours and you can, well, that's what the intent of

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this is to do, to reduce that.

The problem that I see with it, though, is the inland-wetlands is concerned with one aspect whereas the planning and zoning commission is involved with another and while I recognize the intent of that, I just fear that at this public hearing that very important vital issues could be blurred.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment?

Representative Winkler.

REP. WINKLER: (41st)

Thank you, madam --.

DEPUTY SPEAKER POLINSKY:

Did you wish to be recognized?

REP. WINKLER: (41st)

I'd like to yield to Representative Mintz.

DEPUTY SPEAKER POLINSKY:

Representative Mintz, will accept the yield?

REP. MINTZ: (140th)

Yes, Madam Speaker, thank you very much. I rise in support of this amendment. I can tell you that in a prior life I served as a chairman of an inland-wetland agency for eight years prior to coming to this and the issues before the inland-wetlands agency, while being different than before a planning and zoning agency,

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overlap on numerous levels and I think having one public hearing for both agencies will in fact aid the process so there won't be a duplicative effort before those agencies and actually the questions -- I know that the inland-wetlands agency had questions about planning and zoning and planning and zoning had questions about inland-wetlands and if you have it at one time, everybody can ask the questions at the same time and I think it will make for a more effective use of our municipal agencies.

I urge adoption.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment? Representative Bolster.

REP. BOLSTER: (137th)

Thank you, Madam Speaker. I rise in support of this amendment. I think the one thing we've got to realize is this is enabling legislation. We're not telling them they have to do it, but there are times when joint hearings are a good idea because you do get input.

One of the problems that we have in the local municipalities is sometimes it takes months to go through one board after another and it isn't always terribly productive and it isn't really always

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necessary and I think we should let the towns to do if they desire they want to do it. If they don't want to do it, they don't have to.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment? Will you remark further? Representative Meyer.

REP. MEYER: (135th)

Thank you, Madam Speaker. A question, through you, to the proponent of the amendment?

DEPUTY SPEAKER POLINSKY:

Representative Winkler, please prepare yourself.

REP. MEYER: (135th)

Through you, Madam Speaker, would this mean that conservation, for example, could have a meeting if the towns drew up an ordinance and that meeting would be the one and only one that would have to be held?

DEPUTY SPEAKER POLINSKY:

Representative Winkler.

REP. WINKLER: (41st)

Thank you, Madam Speaker, through you, public hearings only.

DEPUTY SPEAKER POLINSKY:

Representative Meyer.

REP. MEYER: (135th)

Thank you. In other words, it would be the

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Conservation Commission that would sitting at this particular public hearing and hearing the public input.

Now would that mean that the members of planning and zoning would never have the opportunity to actually hear what the public was saying?

DEPUTY SPEAKER POLINSKY:

Representative Winkler.

REP. WINKLER: (41st)

Through you, Madam Speaker, no. Planning and zoning would have every opportunity to have input from the public. This would in no way undermine the process.

REP. WINKLER: (41st)

Through you, Madam Speaker, I am confused then. You are saying that only one public hearing has to be held by one agency?

DEPUTY SPEAKER POLINSKY:

Representative Winkler.

REP. WINKLER: (41st)

No, it is one public hearing that would be held by, as an example, inland-wetlands, planning and zoning. It's a joint, multiple.

DEPUTY SPEAKER POLINSKY:

Representative Meyer.

REP. MEYER: (135th)

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Through you, Madam Speaker, for legislative intent then, the ordinance drawn up by the local municipalities would then have to clearly indicate that this one public hearing would be a joint public hearing held by everyone of the concerned agencies and not solely by one particular commission?

DEPUTY SPEAKER POLINSKY:

Representative Winkler.

REP. WINKLER: (41st)

Yes, through you, Madam Speaker, that is correct, and as this legislation state, it is up to the municipality whether they would like to go forward. This is not mandate -- it's not a mandate.

DEPUTY SPEAKER POLINSKY:

Representative Meyer.

REP. MEYER: (135th)

Thank you. Through you, Madam Speaker, this I understand and it is the only reason I might support the amendment is that it is not mandatory on the towns, but I want to make certain that when the towns are allowed to do this that it is very clear that the ordinance that the towns pass must include every one of the responsible commissions and not be done by just commission, and as I read this amendment, it does not put any limits on the ordinance that is to be drawn up

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by the municipalities.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment?

Representative Gelsi.

REP. GELSI: (58th)

Thank you, Madam Speaker. I'm going to rise to oppose the amendment and I guess, yes, it could be a little cheaper and I guess it'd be easier for administrators. Some of our staff would not have to go to two or three public hearings, but I don't know about the public.

There's a controversial project that's going to up in a new area and people just have to miss it and they missed the first public hearing that may be held by the Inland-wetland Commission or the Conservation Commission, then they always got a shot at number two. And I think rather than just making it easier for our administrators, and God's knows, them good citizens that work on our commissions and boards, but I think we ought to make them fair for everybody and I think the process has worked well in this state and I think we ought to just leave it alone if it ain't broke. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this

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amendment? Representative Loffredo of the 33rd.

REP. LOFFREDO: (33rd)

A question of the proponent, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Winkler, prepare yourself.

REP. LOFFREDO: (33rd)

For the purpose of legislative intent, the question I have in terms of the language using the phrase, holding of one public hearing. Did you not -- did you mean just one or did you mean a combined public hearing?

DEPUTY SPEAKER POLINSKY:

Representative Winkler.

REP. WINKLER: (41st)

Through you, Madam Speaker, it would be one public hearing with the combined agencies that would be required to be there.

REP. LOFFREDO: (33rd)

Madam Speaker, I think there's a serious defect with that. Having served on such bodies in the past, by statute, there can be several public hearings that these bodies may need to have. As information is being gathered and as questions are being raised, there may be a need for a series of public hearings by planning and zoning and inland-wetlands. I see this as a major

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defect and some serious problems and conflicts with our current statutes regarding public land agencies, inland-wetlands and planning and zoning agencies and therefore I would urge that this particular amendment be opposed, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further?

Representative Nania.

REP. NANIA: (63rd)

Was that me, Madam Speaker? Thank you. For the reasons that Representative Gelsi and Loffredo said they were opposed to the amendment, I think if we push a little harder on those reasons, they both might change their mind. Representative Gelsi said his concern was protecting the public and wanted to give the public an opportunity to be heard and I suggest that if that is your principal concern, then having a unified hearing does a much better job of allowing the public to hear each and every one of the aspects of the project in one place rather than saying, and tomorrow you've got to go here and next week you've got to go there.

If the ordinance is properly drawn, it will give the public an opportunity to come at one time and make sure they have heard about every aspect of the project.

Now, I'd like to turn then to Representative Loffredo's problem, which is he seemed to assume, without saying it, that we were talking about just one hearing and that is also not what's being proposed. There may be a series of combined hearings so that if an issue is raised which needs further development, then you can go back with one or two or all of the municipal bodies that have cognizance of the project.

The answer, I mean, what's being attempted here, and it may be not fully fleshed out, but I think what's being attempted here is to make the hearing process work by ensuring that if I, as a citizen, go to a public hearing, I'm going to hear everything the first time that is being proposed. That is not to preclude the necessity of several hearings, several combined hearings or if, for instance, one body was the only one that was unsatisfied, then having a successive hearing.

I think the intention here benefits the principal parties, which is the public on the one hand, the municipality on the other and the developer or developers on the third. It provides a streamlined, workable, workable vehicle in which to accomplish or not accomplish a particular project. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

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Thank you, sir. Will you remark further on this amendment? Will you remark further? Representative Savage.

REP. SAVAGE: (50th)

Thank you, Madam Speaker. I would just like to cite a case that I know of where a young couple were building their own home and bank approval took some time. It then took some time to get their initial permits in order, then they had to go to the inland-wetlands and the planning commission and zoning and by the time they got through, it was cold weather. They had started in the summertime when it was balmy and it was good building weather. Their foundation went in, in some of the coldest weather we had. They were lucky they were able to start house construction this year.

Not this amendment, it seems to me, provides the local community and in our small towns quite an advantage to better serve the citizens that are involved by a combination hearing and I urge support.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further?
Representative Godfrey of the 110th.

REP. GODFREY: (110th)

Thank you, Madam Speaker. I usually don't speak on

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many of these bills, but this particular issue is kind of one of my hot buttons. When I worked for the Chamber of Commerce in Danbury a number of years back, I was participating in an extensive study. It dealt with affordable housing, but in the course of that study we determined that to one of the major costs and one of the major difficulties in providing affordable housing was simply the cost of government regulation and the cost that a building has had to incur in order to meet that.

As much as 20 to 25 percent of the final purchase price could actually have been traced back to the requirements of many of the municipal and other governmental regulatory acts.

It's important, of course, to ensure that the public safety is dealt with in this regulations, but really we can still do that and still expedite the process. I've sponsored one-stop shopping and permitting in the past. This isn't that, but this certainly goes a long way into streamlining the process. It's going to mean that the builders will very likely have lesser costs as they have to bring out their experts only once instead of a number of times and they can cut down on a lot of that costs. If it cuts down on the time, it will cut down on the interest

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and other carrying cost for building and certainly, certainly I have to agree that it provides an often frustrated public with a real opportunity to go to one meeting and make their voices heard without having to keep track of themselves of the multiple meetings and multiple interests involved, one on one, with the variety of regulatory bodies we often throw at the problems we've seen in the past.

I think that this is a very reasonable set. It certainly, of course, is only an enabling act, not a mandate, and I think that this Chamber should be very -- it would be very helpful to municipalities to pass this. Thank you.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment?

Representative Tiffany.

REP. TIFFANY: (36th)

Thank you, Madam Speaker, a question to the chairman of the Judiciary Committee, I guess. Did this bill initiate in Judiciary or has it been in Planning and Development or to the House Clerks --.

REP. TULISANO: (29th)

It's an amendment.

REP. TIFFANY: (36th)

I understand it's an amendment. I want to know

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whether the bill, the underlying bill has ever been to Planning and Development.

DEPUTY SPEAKER POLINSKY:

Representative Mintz, would you care to field that inquiry.

REP. MINTZ: (140th)

Through you, Madam Speaker, I believe it has been to Planning and Development.

DEPUTY SPEAKER POLINSKY:

Representative Tiffany.

REP. TIFFANY: (36th)

Well, that was my underlying question, I guess, because with the passage of this amendment, we could not then send it to Planning and Development. That would be recommitment, is that correct?

DEPUTY SPEAKER POLINSKY:

Representative Mintz.

REP. MINTZ: (140th)

Through you, Madam Speaker, I believe that's correct.

DEPUTY SPEAKER POLINSKY:

Representative Tiffany, the floor is yours. No. Will you remark further on this amendment? Will you remark further? Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Madam Speaker. I rise in support of the amendment and I think many individuals in the Chamber have talked about how this is in fact a good amendment for the public. I think Representative Godfrey hits a button that's absolutely correct and let me give you a quick example in Bristol.

You know, we have four separate land use boards. We have inland-wetlands, ZBA, separate zoning, separate planning. It is not unusual for some poor individual who is interested in a sophisticated project to have to go and listen to a developer go to the first hearing which would probably be ZBA where the person is probably going to say, "Listen, I need to have this hearing postponed because all my information isn't here yet.

So they go that first meeting and then they come back again for the rescheduled meeting to speak at a public hearing. They get to speak at that hearing and then the meeting, the board will generally put things off and they may end up having to come back to a third meeting just for ZBA to find out what it actually is going to happen there and they then go through the exact same process at inland-wetlands, at planning and zoning where appropriate. These individuals go through somewhere in the vicinity of 12, 13 meetings just to

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hear what might or might not be occurring on any given project.

You have to understand, this amendment is not a mandatory requirement on any municipality. Obviously those of you that are very concerned that this is not good for your people will probably, you know, indicate that locally and you won't adopt it.

In addition, for those who have real concerns about the procedure, the methodology of the operation of this amendment will be by ordinance. Now there are a variety of different statutes dealing with timeframes and how approval processes work and the like. It would strike me that by ordinance and certainly the intention of I think the sponsor would be that those ordinance would have to coordinate and the time frames and the appeal periods and all the rest of it would work off of one public hearing.

That makes a lot of sense to me and I think especially in the small towns of the state, that would be one very good way of streamlining the process. I think it's a good amendment. I think it ought to be adopted by the Chamber, notwithstanding the fact that it hasn't been heard before the Planning and Development Commission. It's saving grace, for those who are concerned about that, might be that, you know,

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it's voluntary legislation and doesn't automatically go into place and if the committee has a problem with it next year, I'm sure they'll have hearings on it. Thank you.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further?

Representative Duffy of the 77th.

REP. DUFFY: (77th)

Thank you, Madam Speaker. I reluctantly rise in opposition to the amendment. I feel there are some problems with the way it is drafted that render it a real problem that we are putting upon municipalities. The concept of one or a unified hearing is a laudable one. The problem is, is that the legislature only two years ago made a very important policy decisions that wetlands decisions would come first in the train of land-use decisions deeming that they were very important.

The application that is ultimately filed with planning or zoning following that is often changed substantially from the application that was filed originally. What we would be foisting upon the municipality is that these commissions who have inter-related and different time sequences would now all have to be jumbled together. We are not, by this

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amendment, giving the municipality the power to alter those time schedules. What we're doing here is saying you can have one hearing and then go back and deal with your time schedules which will no longer be appropriate because the time schedules run from the conclusion of the hearing and you'd be requiring instant decisions from, let's say your Wetlands Commission, who right now has the ability to continue the matter several times so that they can get very technical expertise before then, then recess and then go to zoning.

The problem here is that they would all be functioning within those time periods and you could be causing automatic approvals if those decisions of the other boards aren't made in time. I think it's something that needs a lot more work. I know it was brought before the Planning and Development Committee this year and they didn't take it up because they felt it was a very complicated matter and I think it's something that needs a lot more work than just authorizing towns to do it because the towns that are going to be in a position where they authorize something and then they can't draft the rules to comport with what they're doing.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment? Will

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you remark further? Representative Migliaro.

REP. MIGLIARO: (80th)

Thank you, Madam Speaker. We've been debating this amendment for quite some time and what's ironic is that it doesn't do a damn thing, but it'll give you permission to do it if it fits your needs in your town. Leave it up to your town to make the decision. Why are we beating it to death here? If it fits your town and suits your purpose and may be good for your town to expedite certain zoning laws or zoning hearings, do it.

If you don't want to do it, don't do it. Why don't we just vote for the amendment and cut out the debate and leave it up to the town fathers to make the decisions.

And, Madam Speaker, when the vote is taken, I would like to request that it be taken by roll call.

DEPUTY SPEAKER POLINSKY:

The question is on a roll call vote. All those in favor of a roll call please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Just barely. When the vote is taken, it will be taken by roll. Will you remark further on this amendment? Will you remark further? Representative

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Winkler.

REP. WINKLER: (41st)

Thank you, Madam Speaker. I would just like to say that we are not forcing anything on the towns. All we're doing is giving the option to the municipalities. We've sat in this Chamber. We've discussed affordable housing. This is one way that will help lower housing costs. I agree with everything that Representative Godfrey and Nania and others have said here. It's going to go a long way in streamlining the process and it's going to provide for open communication with all agencies.

I urge the Chamber to adopt the amendment.

DEPUTY SPEAKER POLINSKY:

Will you remark further? Representative Tiffany.

REP. TIFFANY: (36th)

Thank you, Madam Speaker. I have a couple of questions and I think it's unfortunate that the bill originated in Planning and Development so that we could not refer it back to there with the passage of this amendment, but through you, Madam Speaker, I understand the voluntary part, that it's not a mandate, but let's say, for instance, the inland-wetland in the town does not wish -- that the town does adopt an ordinance allowing joint hearings, but let's assume that one of

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the three commissions does not wish to have a joint hearing. Do they then have to have the joint hearing, through you, Madam Speaker?

DEPUTY SPEAKER POLINSKY:

Representative Winkler.

REP. WINKLER: (41st)

Through you, Madam Speaker, I believe that would be up to the municipality to iron that out. I don't think that my town would implement something if all of the agencies were not supportive of it.

DEPUTY SPEAKER POLINSKY:

Representative Tiffany.

REP. TIFFANY: (36th)

Well, following along, Madam Speaker, let's say that on one project everybody agrees to have a public hearing, the single public hearing. Fine, it's held. Another project comes down the tubes another year later. Are they forced to then have a single public hearing or can the commissions decide to have individual hearings on the next application, through you, Madam Speaker?

DEPUTY SPEAKER POLINSKY:

Representative Winkler.

REP. WINKLER: (41st)

Through you, Madam Speaker, I believe that's up to

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the way the ordinance is drafted.

DEPUTY SPEAKER POLINSKY:

Representative Tiffany.

REP. TIFFANY: (36th)

I'm pointing out reasons I think why it should have gone through Planning and Development again. Again, Madam Speaker, they have a single public hearing, it goes like -- and it's a controversial issue and it goes to like our budget of last year, it runs five, six hours, can they have adjourned to a second public hearing or must it be finished at one sitting?

DEPUTY SPEAKER POLINSKY:

Representative Winkler.

REP. WINKLER: (41st)

Through you, Madam Speaker, they can adjourn and continue the meeting at another point in time.

DEPUTY SPEAKER POLINSKY:

Representative Tiffany.

REP. TIFFANY: (36th)

Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment? Will you remark further? If not, will all --.

REP. MADDOX: (66th)

Madam Speaker. Madam Speaker.

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DEPUTY SPEAKER POLINSKY:

Representative Maddox.

REP. MADDOX: (66th)

Yes, just picking up a little bit with Representative Tiffany, I want to add on. We're talking about the laudable goals and I don't have a problem and I sit on Planning and Development. We didn't look at it this year. We didn't hold a public hearing. I just present something to the Chamber. As I mentioned earlier with my initial reservations and I still share them is there are two different boards with two different functions.

Let's say you have a large developing coming into your community, something that's not too desirable or controversial. It could be a large mall or something. There's no wetlands on the property at all. Generally the Inland-wetlands Commission public hearing might only be five or six minutes. If this is adopted and then there may be some serious zoning concerns, you will have your Inland-wetlands Commission sitting for several hours at several subsequent adjourned meetings listening to something that isn't directly under the purview.

I don't have a problem with the reverse case. I actually think the zoning board, if there is

significant wetlands, ought to know what's going on, but I just, at the moment, I think the intent is laudable. I think it's something that we ought to take a look at, but I think the reservation of myself and of other members is it ought to be taken up more through the public hearing possibly done next year. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Representative Munns.

REP. MUNNS: (9th)

Thank you, Madam Speaker. Very quickly. It seems like there's been a lot of concern that we're mandating towns to do something. We're not mandating towns to do something. We are giving towns options to hold public hearings and meetings with one board or commission and I urge adoption. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment?

Representative Zajac.

REP. ZAJAC: (83rd)

Yes, Madam Speaker. Madam Speaker, I think I'm going to oppose this amendment for the reasons that I've heard on the floor. Some have questioned the wordage on line 20 in reference to "but one public hearing" and then by legislative intent someone tried

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to clarify that and say that we don't really mean one joint public hearing. We mean really, and I think the amendment is flawed, therefore, because you don't do that kind of intent by legislative intent. I think you should have said specifically "one additional" if that's what we meant, "one additional public hearing held jointly" or the words "at least one joint hearing held in addition to regular others."

I would submit to you that some of the most controversial issues that go through some of these boards, and we've had a few in my hometown and Representative Maddox brought up and referred to some, say condominium developments. We've had one with a child day care thing that was a two-year battle to receive permission on that.

I think the more public hearings that you have, the better for the public. I think if you limit it to only one, then you're circumventing the rights of the public, some of which might have missed the one hearing because they might have been ill, because of a medical reason or hospitalized or away from the state on travel or whenever when this came up.

I also think that the public gets more than one shot to appeal because that's what we're talking about, probably is in the appeals process of some of the local

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boards that make a decision and in that appeal process, if you've ever been involved in one of those, you want to develop your case before each board and you sometimes learn from one board what their idea is and then as you go from ZBA to planning and zoning or whatever, you've learned some of the arguments and one may go against you and you may then make your case in the other.

I really think that the amendment is flawed for those reasons and I think that I'm going to have to vote against it.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on this amendment. Representative Emmons.

REP. EMMONS: (101st)

Thank you, Madam Speaker. Madam Speaker, in listening to the conversation, I think it appears to me that if a municipality wants to have joint hearings, they adopt them and then all of their hearings would be joint. I don't see how you can, as an applicant, and wanting to use the land, have the town have different standards. You either always have them joint so you know you have to apply to the three different boards or two different boards you never have them, but I don't see how you would get the process going to have a

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decision made on each one, and therefore, what bothers me is I think from the people I have know who work -- are members of inland-wetlands and zoning, I think by having them all combined, you're going to have very long hearings and the inland-wetlands people are going to have to sit there while all the planning and zoning people ask their questions about boundaries and road grade and things that are of no interest to them, so I'm not so sure it's going to help us get better people or even keep the people we have because you're hearings are going to be twice as long for each particular board.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment?

Representative Holbrook.

REP. HOLBROOK: (35th)

Thank you, Madam Speaker. I think in addressing Representative Emmons concerns, we hold joint hearings here at the legislature where a specific item, any given item might deal with, say the Public Health Committee and the Substance Abuse Committee or the Public Health and the Insurance Committee and I think you can deal on it a case-by-case basis.

I don't understand quite honestly whys this has carried so much debate. I think it's one of the best

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amendments that's come before this General Assembly this year, to be honest with you. It streamlines government. It's going to be a savings. I wonder if we imagine how much money the state will save, I think Representative Godfrey brought out the fact that he had dealt with this in the City of Danbury. It's not only going to save the cities money, it's going to save the consumers money. It's a good consumer bill and it's a good bill for the commissions themselves because it does give the opportunity for one commission to find out how another commission feels on any given item.

It's very simple and I think that the underlying thing here is what Representative Migliaro says. It's only enabling legislation. Let the towns do what they want and I think Representative Zajac really didn't know what he was saying when he debated the bill.

DEPUTY SPEAKER POLINSKY:

Will you remark further on this amendment? Will you remark further? If not, will all staff and guests come to the Well of the House. Members please be seated. The machine will be opened.

CLERK:

The House of Representatives is taking a roll call vote. Members please report to the Chamber. The House is taking a roll call vote. Come on in the Chamber and

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vote.

DEPUTY SPEAKER POLINSKY:

Have all members voted? Have all members voted and is your vote properly recorded? The machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

CLERK:

House Amendment Schedule "D" to House Bill 5988.

Total Number Voting	145
Necessary for Adoption	73
Those voting Yea	89
Those voting Nay	56
Those absent and not Voting	6

DEPUTY SPEAKER POLINSKY:

The amendment is passed and ruled technical.

House Amendment Schedule "D":

After line 17, insert the following and renumber the remaining sections accordingly:
 "Sec. 2. (NEW) Notwithstanding any provision of the general statutes, any special act or any municipal ordinance, the legislative body of any municipality may, by ordinance, establish procedures for the holding of one public hearing on any application for a proposal that requires approval by more than one municipal agency, body, commission or committee."

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DEPUTY SPEAKER POLINSKY:

Will you remark further on this bill as amended?

Will you remark further? Representative Stolberg.

REP. STOLBERG: (93rd)

Madam Speaker, I may have to vote against the bill now, but I'd like to pose a question on the amendment we just passed to Representative Winkler to see if I understand it, through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Please frame your question, sir.

REP. STOLBERG: (93rd)

Madam Speaker, the bill now, as amended, does it, with the adoption of the amendment, give the local legislative body power to override any General Statutes or special acts if it chooses to?

DEPUTY SPEAKER POLINSKY:

Representative Winkler.

REP. WINKLER: (41st)

I don't believe so, sir.

DEPUTY SPEAKER POLINSKY:

Representative Stolberg.

REP. STOLBERG: (93rd)

Madam Speaker, correct me if my reading is flawed, "Notwithstanding any provision of the General Statutes, any Special Act or any Municipal ordinance, the

legislative body of a municipality may, by ordinance, establish procedures for holding of one public hearing on any application for a proposal that requires approval by more than one municipal body, one municipal agency, body, commission or committee."

This seems to me to be saying that by a municipal ordinance can override a state statute or a state Special Act. Am I incorrect, and if so, can you explain it to me? I see you have learned counsel and that may help or not.

DEPUTY SPEAKER POLINSKY:

A rather interesting discussion is going on and I think the body would do well to listen. Representative Winkler, are you prepared to respond to that question?

REP. WINKLER: (41st)

Yes, through you, Madam Speaker, I'd like to yield to Representative Nania.

DEPUTY SPEAKER POLINSKY:

Representative Nania, will you accept the yield?

REP. NANIA: (63rd)

Thank you, Madam Speaker. Would the gentleman repeat his question?

REP. STOLBERG: (93rd)

Yes, Madam Speaker, I'm going to suggest to leadership on both sides they might want to P-T this

for awhile, if my interpretation is correct. My interpretation is that with the adoption of this amendment, we are giving local municipal legislative bodies the power in complying with this act to override any provision of the state General Statutes or any state Special Acts. Is that correct?

DEPUTY SPEAKER POLINSKY:

Representative Nania.

REP. NANIA: (63rd)

Madam Speaker, thank you. The answer is no, but I admit to you at first look it looks like it might be and the reason is that is that what is preceding a state statute is another state statute so that this state statute says, and I will give an example, if there is another state statute that says inland-wetlands shall hold a hearing, zoning shall hold a hearing, so on and so forth shall hold a hearing, in reading those statutes together you would normally conclude they are there for multiple hearings.

Insofar as this statute allows those hearings called for by other statutes to be called together, then it does in fact supercede and to some extent modify prior statutes.

Insofar as it gives the town an option by ordinance to choose to operate under this statute, then in a

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sense, the town is in fact taking precedence over prior statutes, but the answer in at last to your question is no. The town ordinance does not take precedence. This statute takes precedence. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Stolberg.

REP. STOLBERG: (93rd)

Madam Speaker, through you, to anyone, this amendment seems to give local legislative bodies the right to establish whatever procedures they want in terms of notice, in terms of nature of hearing and those do not have to copy with any statutory provisions.

REP. NANIA: (63rd)

Madam Speaker.

REP. STOLBERG: (93rd)

In that Representative Nania is no his feet, to him.

DEPUTY SPEAKER POLINSKY:

Representative Nania.

REP. NANIA: (63rd)

Thank you, Madam Speaker. I think that it's possible to fall into the trap of thinking the towns are going to be reading statutes in the alternative. The statutes are going to be read together and the

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difference being the towns, as to the number of hearings only, are going to have an opportunity to choose under which statute they would like to run.

As to the fact that there should be a hearing, as to the fact that there should be notice as provided in other statutes, I don't think anyone who is a proponent of this would pretend that that's what this statute purports to do.

I think the question is a good one because there's enough ambiguity here to suggest that perhaps a town may take the statutes in the alternative, but insofar as the legislative debate may in fact establish anything, I think it should be clear as far as the proponent is concerned, that our understanding is quite simple. That this does not relieve the towns of the burdens of other statutes. It simply gives them an alternative in the number of hearings which they may choose to do by ordinance. Through you, Madam Speaker.
REP. STOLBERG: (93rd)

Thank you very much. Madam Speaker, I think there's ample precedent that legislative debate stands for very little in the courts, and that bills and amendments say what they say and legislative debate is only for the finest of nuances.

I'm told that this might be looked at a little bit

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more, maybe I respect what Representative Winkler is trying to do, but I think there is some ambiguity.

I will conclude my remarks now in anticipation of a motion that may give us a chance to look at this a little bit more.

DEPUTY SPEAKER POLINSKY:

Thank you, Sir. Will you remark further?
Representative Bertinuson of the 57th.

REP. BERTINUSON: (57th)

Madam Speaker, I do believe that Representative Stolberg has raised enough of a point that we need to take a little time to look at it, so I move that this item be passed temporarily.

DEPUTY SPEAKER POLINSKY:

The motion is to pass temporarily. Is there objection? Without objection, so ordered.

Are there any announcements or points of personal privilege? Are there any announcements?

The Clerk please return to the Call of the Calendar.

CLERK:

Page 5, Calendar 443, Substitute for Senate Bill 434, AN ACT CONCERNING RIGHT-OF-WAY OF PROPERTY OWNERS BOUNDING DISCONTINUED OR ABANDONED HIGHWAY, as amended by Senate "A". Favorable Report of the Committee on

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concern that the drafting of this amendment may not do exactly what it was intended to do and therefore I would ask that the amendment and the bill be P-T'd.

SPEAKER BALDUCCI:

Is there objection?

REP. THOMPSON: (13th)

No.

SPEAKER BALDUCCI:

Seeing none, the item is passed temporarily.

CLERK:

Calendar 235, House Bill 5988, AN ACT CONCERNING APPEALS OF LOCAL LAND USE BOARDS. (As amended by House Amendment Schedules "A", "B", "C" and "D").

Favorable Report of the Committee on ENVIRONMENT.

SPEAKER BALDUCCI:

Representative Tulisano of the 29th.

REP. TULISANO: (29th)

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

SPEAKER BALDUCCI:

The question is on passage as amended. Will you remark, sir?

REP. TULISANO: (29th)

Yes, Mr. Speaker. The Clerk has an amendment,

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LCO2066.

SPEAKER BALDUCCI:

Will the Clerk please call LCO2066, designated House Schedule "E".

CLERK:

LCO2066, House "E", offered by Representative Winkler et al.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Tulisano.

REP. TULISANO: (29th)

Yes, Mr. Speaker, this amendment sort of rewrites the number of amendments already passed. It cleans up some of the language which was that already included in the amendment originally sponsored by Representative Wilber and Representative Winkler. It is a joint amendment and I move for its adoption.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark?

The Chamber stand at ease for a moment until the copies are passed out.

The question before the Chamber is adoption of House "E". Will you remark further on the adoption of House "E"? Representative Winkler of the 41st.

REP. WINKLER: (41st)

Thank you, Mr. Speaker. I rise in support of this amendment. This amendment will clean up the language of House "D" that we passed last week. It streamlines the process and it is a way to address the affordable housing issue. It's a cost and timesaving factor and I urge the Chamber to adopt the amendment. Thank you.

SPEAKER BALDUCCI:

Will you remark further? Representative Tiffany of the 36th.

REP. TIFFANY: (36th)

Thank you, Mr. Speaker. I guess a question, through you, to Representative Tulisano. Section 5 of this new Amendment "E" is essentially the same as the amendment that was introduced several days ago which generated so much discussion and questions and, through you, Mr. Speaker, I'd like to ask whether if in his opinion, the objections and questions about the various time frames and everything have been satisfied with this amendment.

SPEAKER BALDUCCI:

Representative Tulisano.

REP. TULISANO: (29th)

Well, through you, Mr. Speaker, well, that's the intent of the amendment. I don't know if they've all been satisfied, but for a more detailed explanation, I

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would yield to Representative Winkler, who was concerned with that section.

REP. TIFFANY: (36th)

Another question, would you please explain what you mean by the tolling of time for a decision under the General Statutes as found in lines 83 and 84 of the amendment?

REP. TULISANO: (29th)

Through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Tulisano.

REP. TULISANO: (29th)

An example, for Planning and Zoning Commissions, there is a 65-day period in which a decision must be made except at the request. It may be extended for an addition 65 days. The regulations would allow for a period of time so that the 65 days would not run against the board so they could make a decision.

REP. TIFFANY: (36th)

Thank you, Mr. Speaker. Another question, as I recall, one of the problems with this section was that prior to a Planning Commission acting on an application, the application has to have affirmative action by the Inland-wetlands Board and someone made the point that if on the 61st day or something, the

Inland-wetlands approved the decision, then that would mean that the Planning Board had to approve it prior to the 65th day and I was wondering whether that problem, how that problem was addressed in this amendment.

REP. TULISANO: (29th)

Through you, Mr. Speaker, I don't know whether that's addressed in this amendment. As a practical matter, if that would occur, the board would generally ask for a 65-day extension which is allowed by other statutes and the applicant obviously would grant it or 30-day, whatever thought was necessary, the maximum would be 65 days.

REP. TIFFANY: (36th)

Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further on the adoption of the amendment? Representative Farr of the 19th.

REP. FARR: (19th)

A question to Representative Tulisano. My only question concerns, I believe on line 30, when we talk about return day. "The appeal shall commence, shall be returned to the court in the same manner within the same period of time as prescribed by civil actions."

Doesn't this allow someone to set a return date way off in the future if you wanted to stall a matter and

appeal it and set a return date four or five months away, through you, Mr. Speaker, to Representative Tulisano?

SPEAKER BALDUCCI:

Representative Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker. I suppose that could happen except that doesn't stop someone, I guess -- that is, the currently doesn't seem to have been a problem as prescribed for civil actions now and the matter is returned to court within the same period of time. I think that means within regular civil actions 12 days, 12 days, I can't remember, 12 days after the return date it must be returned to court. I think that's what that reference is to, not when the return date is established.

REP. FARR: (19th)

Thank you very much. I think that clarifies it.
Thank you.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative Maddox of the 66th.

REP. MADDOX: (66th)

Yes, Mr. Speaker. I just want to make sure for legislative intent that we have it clear on the record,

dealing with Section 5 to the proponent or whoever would like to answer it and I would like to offer my appreciate to the proponents of this legislation for having it redrafted.

I see that you have in here a line with the tolling of time. I'm to interpret that, obviously, under joint or special exception permits, that this would permit in the case of where if you had a combined meeting of the Inland-wetlands Agency and the Planning Commission, under current state statute, 65 days after their public hearing they must make a decision.

It's my understanding that for legislative intent that this would then allow for a municipality, let's suppose that the Inland-wetlands Commissions and the Planning Commission had their joint hearing, 64 days later the Inland-wetlands Commission sent it over to the Planning and Zoning Commission. The Planning and Zoning Commission would then have 65 days from the time it received the application if they held a joint public hearing, through you, Mr. Speaker, to --.

SPEAKER BALDUCCI:

Representative Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker, I wasn't paying attention. If Representative Winkler was hearing, I'd

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like to yield to her. I'm looking at the next amendment.

SPEAKER BALDUCCI:

Representative Winkler, do you accept the yield, ma'am?

REP. WINKLER: (41st)

Yes, I do. I believe this is just a way to coordinate all of the agencies that are involved with their different public hearing time frames.

REP. MADDOX: (66th)

So what I'm saying is by placing this in the statute, if a town goes and adopts this, the town, it would supercede other state statutes which would permit the -- under current state statute if you have a special permit or special exemption permit and you had joint hearings on this and you had the Wetlands Agency meet together with the Planning and Zoning Agency.

The law currently says 65 days after the public hearing may have to make a decision. Now what I'm getting at is on the 64th day if the Inland-wetlands Agency acted and sent it over to the Planning and Zoning Commission, under current state statute, the Planning and Zoning Commission would have one day to act, but by putting in this tolling of time, I am to assume then that that would allow them, they could

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create and give the Planning and Zoning Commission then another 65 days from the time of receipt of the application?

REP. WINKLER: (41st)

I believe that's correct.

REP. MADDOX: (66th)

Okay, I thought it was important to get that on the record. As I said, that was a major concern when this amendment was last offered.

Section 5 is a significant improvement, as I said, over the previous amendment, compared to, obviously, what's currently on there. Since this is repealing what was done, it is good.

I still overall do have a basic general policy on this policy disagreement in the fact that I still believe that Inland-wetlands Agencies and Planning and Zoning Commissions serve different functions and I don't necessarily know if this would or would not be that healthy. I also, which was brought up in previous debate before, which is right, on very large subdivisions, you know, think of the big, controversial projects in your district. I don't think anyone is upset if this is for a single-family house or a couple of homes, but how about a mega-mall that may come in or a very, very large condo project.

Many times, the public is kind of unfortunately not paying as much attention as they should and they may miss the first public hearing and many times would be held at an Inland-wetlands Agency. By having two public hearings, they have an opportunity to catch it at the Planning and Zoning state. Regrettably, if this were to occur, they may not have that opportunity unless it was an adjourned public hearing. You know, I understand it's a local option on whether or not to do that, but you would have that one combined hearing and I think that that is something on these very, very large projects that we have to look into, but again, that's my reservation to the overall underlying policy.

I'd actually, you know, encourage the body to probably accept this amendment since it is better than the file copy, but I still have problems with the underlying policy. Thank you, Mr. Speaker.

REP. WINKLER: (41st)

Mr. Speaker. Mr. Speaker.

SPEAKER BALDUCCI:

Representative Winkler.

REP. WINKLER: (41st)

Thank you, Mr. Speaker. Just in response to Representative Maddox's concerns. As was stated, this is an option that is being given to towns and it does

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depend on the way the ordinance is drafted. If a town so desires to draft an ordinance giving the agencies the option of joint hearings or individual hearings, there's no reason why it can't be done, depending on the application that is being proposed. Thank you, Mr. Speaker.

I urge the Chamber's adoption.

SPEAKER BALDUCCI:

Will you remark further on House "E"? Will you remark? If not, we'll try your minds. All those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay.

The ayes have it.

The amendment is adopted and ruled technical.

House Amendment Schedule "E":

Strike everything after the enacting clause and substitute the following:

"Section 1. Subsection (b) of section 8-8 of the general statutes, as amended by section 1 of public act 89-356, is repealed and the following is substituted in lieu thereof:

(b) Except as provided in subsections (c) and (d) of this section and sections 7-147 and 7-147i, any person aggrieved by any decision of a board may take an appeal to the superior court for the judicial district in which the municipality is located. The appeal shall be [taken] COMMENCED BY SERVICE OF PROCESS IN

ACCORDANCE WITH SUBSECTIONS (e) AND (f) OF THIS SECTION within fifteen days from the date that notice of the decision was published as required by the general statutes. The appeal shall be [commenced and] returned to court in the same manner AND WITHIN THE SAME PERIOD OF TIME as prescribed for civil actions brought to that court.

Sec. 2. Subsection (i) of section 8-8 of the general statutes, as amended by section 1 of public act 89-356, is repealed and the following is substituted in lieu thereof:

(i) Within thirty days after the [appeal is served] RETURN DATE TO COURT, or within any further time the court allows, the board shall transmit the record to the court. The record shall include, without limitation, (1) the original papers acted on by the board and appealed from, or certified copies thereof, (2) a copy of the transcript of the stenographic or sound recording prepared in accordance with section 8-7a, and (3) the board's findings of fact and conclusions of law, separately stated. By stipulation of all parties to the appeal, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for additional costs. The court may require or permit subsequent corrections or additions to the record.

Sec. 3 (a) Any appeal of a decision of a zoning commission, planning commission, planning and zoning commission or zoning board of appeals in which a final judgment has not been entered prior to the effective date of this act, otherwise valid except that the party taking such appeal failed to file such appeal with the superior court within fifteen days of the publication of the notice of such decision is validated.

(b) If any appeal of a decision of a zoning commission, planning commission, planning and zoning commission or zoning board of appeals taken on or after August 31, 1989, and prior to the effective date of this act, has failed to be tried on its merits because the appeal has been dismissed by the superior court for want of jurisdiction due to the failure of the party taking such appeal to file such appeal with the superior court within fifteen days of the publication of the notice of such decision, the party taking such appeal may, within ninety days after the effective date of this act, petition the court to reopen such appeal. Notwithstanding the provisions of section 52-212a of the general statutes, such party shall have the right to have such appeal reopened unless the court finds that (1) there has been a substantial infringement of

property rights or (2) the judgment of the superior court has been appealed and a final judgment has been rendered on that appeal.

Sec. 4. (NEW) No zoning regulation shall treat any family day care home registered pursuant to section 17-31q of the general statutes in a manner different from single or multi-family dwellings used as residences.

Sec. 5. (NEW) The legislative body of any municipality may, by ordinance, establish procedures for joint public hearings on applications for land use requiring approval by more than one agency, body, board, commission or committee. Any joint public hearing shall be conducted in accordance with the provisions of applicable municipal ordinances and state laws and regulations, except that the procedures established by a municipality may authorize the tolling of time for a decision under the general statutes if necessary to accomplish an orderly sequence of decisions.

Sec. 6. This act shall take effect from its passage."

SPEAKER BALDUCCI:

Will you remark further on the bill as amended?

Representative Radcliffe of the 123rd.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. The Clerk has an amendment, LCO3074. May he please call and may I be given leave of the Chamber to summarize.

SPEAKER BALDUCCI:

The Clerk please call LCO3074, designated House "F".

CLERK:

LCO3074, House "F", offered by Representative

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Radcliffe, et al.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Radcliffe.

REP. RADCLIFFE: (123rd)

I move adoption, Mr. Speaker. The amendment would add to the boards and commissions which must have stenographic or recorded meetings concerning zoning applications. The Planning Commission of a municipality or a combined Planning and Zoning Commission current, under Section 8-7a, only the Zoning Commission and the Zoning Board of Appeals are required to do this.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

REP. RADCLIFFE: (123rd)

I move adoption.

SPEAKER BALDUCCI:

Excuse me. The question was on adoption. Will you remark, sir?

REP. RADCLIFFE: (123rd)

Yes, Mr. Speaker. Under current law, only the Zoning Commission or the Zoning Board of Appeals is required to record meetings. I believe this would be an additional protection not only to a developer

seeking to present a subdivision map in which the Zoning Commission acts in an administrative as opposed to an adjudicatory or legislative capacity, but also the volunteer members of those boards and commissions. We have recently had a case in which members of a Planning Commission were held personally liable for their actions in the official capacity.

If matters are on the record, I believe that not only may developers but also members of the boards be a bit more circumspect in their comments. It will serve as a protection in this case and I believe it's an amendment that merits consideration. It has no fiscal impact and really would serve as a service both to applicants as well as to members of volunteer boards.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I concur that this is a good amendment and would add to our current statutes.

SPEAKER BALDUCCI:

Thank you, Representative Tulisano. Will you remark further? Will you remark further on the amendment? If not, we'll try your minds. All those in favor -- I'm sorry. Representative Tiffany.

REP. TIFFANY: (36th)

Thank you, Mr. Speaker. A question, through you, to the proponent of the amendment. How are the existing Planning and Zoning Boards covered? They do not have to have stenographic --?

REP. RADCLIFFE: (123rd)

Through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Radcliffe.

REP. RADCLIFFE: (123rd)

Under current law the Zoning Commission must record and the Zoning Board of Appeals must record. In municipalities that have a combined Planning and Zoning Commission, that is not required of the Planning Commission. They are still required in the Zoning Commission. The reason that the Planning Commission is not required, I would assume, is that in that situation a board serves in an administrative capacity. It merely acts on the subdivision before it.

In most municipalities with a combined commission, as a matter of routine, all of these matters are recorded at present time. This simply conforms the law to what is really existing practice in every municipality that I'm aware of with a combined Planning and Zoning Commission.

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REP. TIFFANY: (36th)

Thank you, Mr. Speaker, but I cannot let the comment pass that this has no fiscal impact because obviously it is going to cost the municipalities who do not now do this additional money to have the staff aboard.

REP. RADCLIFFE: (123rd)

Through you, Mr. Speaker, I was reading from the Office of Fiscal Analysis Report that it would have not fiscal impact since for the Zoning Commission most of these matters are recorded at the present time and therefore the recording equipment is in effect. I believe that in the analysis, although I can't speak for the Office of Fiscal Analysis, but I believe that in the analysis they determined that the equipment necessary for recording these meetings is already present in each municipality and therefore would not constitute an additional cost and in many cases, as I indicated, it is routinely done for planning matters at this time.

REP. TIFFANY: (36th)

Thank you, Mr. Speaker. That very well may be true for the medium and larger sized communities. Many of the rural communities still rely on hand subscription. Thank you.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative O'Neill of the 69th.

REP. O'NEILL: (69th)

Yes, thank you, Mr. Speaker. I think that whatever minor cost for additional recording tapes that might be incurred would certainly be a very small cost compared with the substantial savings that municipalities will be able to obtain by not having to litigate matters that end up in front of the Planning Commission, and as Representative Radcliffe alluded to, there is at least one case that we know of where Planning Commission members have been subject to considerable personal liability in the Town of Bridgewater because, I think, in large part of the failure to keep really good records about what they were doing.

So I would urge adoption of this amendment. I think it's something that future Planning Commission members throughout the State of Connecticut will thank us all for. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further on the adoption of House "F"? If not, we'll try your minds. All those in favor please signify by saying aye.

REPRESENTATIVES:

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Aye.

SPEAKER BALDUCCI:

Opposed nay.

The ayes have it.

The amendment is adopted and ruled technical.

House Amendment Schedule "F":

After line 26, insert the following and renumber the remaining section accordingly:

"Sec. 3. Section 8-7a of the general statutes is repealed and the following is substituted in lieu thereof:

The zoning commission, PLANNING COMMISSION, PLANNING AND ZONING COMMISSION and zoning board of appeals shall call in a competent stenographer to take the evidence, or shall cause the evidence to be recorded by a sound-recording device, in each hearing before such commission or board in which the right of appeal lies to the superior court."

SPEAKER BALDUCCI:

Will you remark further on the bill as amended?

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, the Clerk has another amendment, LCO4610.

SPEAKER BALDUCCI:

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The Clerk please call LCO4610, designated House "G".

CLERK:

LCO4610, House "G", offered by Representative Ireland.

REP. TULISANO: (29th)

Mr. Speaker, permission to summarize.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, this law, this amendment would authorize funds that are taken by Zoning Commission for parking spaces to be expanded to used not only for acquisition, development and expansion of municipal parking facilities, but also operating expenses of certain transit facilities, it being clearly intended that the transit facilities be the same as described in Chapter 7 of our statutes. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further on the amendment? Will you remark?

REP. TULISANO: (29th)

I move its adoption.

SPEAKER BALDUCCI:

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Representative Jaekle.

REP. JAEKLE: (122nd)

Mr. Speaker, I'll yield to Representative Belden who was also on his feet.

SPEAKER BALDUCCI:

Representative Belden of the 113th.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. If I might, an inquiry to the gentleman bringing out the amendment.

SPEAKER BALDUCCI:

Proceed, Representative Belden.

REP. BELDEN: (113th)

Representative Tulisano, could you perhaps share with the Chamber the particular towns that might be impacted by the passage of this amendment?

SPEAKER BALDUCCI:

Representative Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker, I don't know all the towns that it would be, but it would also, all the 169, I guess, potentially could be involved in this area. It just allows, I mean, anybody who would want just start operating a transit facility then would be able to and this would help offset the operating expenses, so any one town could have impact. I presume that our

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current towns that are doing this may want to take advantage of it, but I don't know which ones those are.

REP. BELDEN: (113th)

Through you, Mr. Speaker, another question if I might, to Representative Tulisano.

SPEAKER BALDUCCI:

Representative Belden.

REP. BELDEN: (113th)

Was there some specific reason while the complete and total prohibition against using this fund for operating expenses of any kind are now being opened up to just allow the fund money to be used for operating expenses of transit facilities?

SPEAKER BALDUCCI:

Representative Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker, as I understand there was one area for handicapped transportation where someone did not want to expand, it would cost operating money that did not exist for a nonprofit and this is a way to get mass transportation for some handicapped individuals, particularly with regard to, I guess, getting matching funds.

REP. BELDEN: (113th)

Thank you.

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SPEAKER BALDUCCI:

Will you remark further on adoption of House "G"?
Representative Jaekle.

REP. JAEKLE: (122nd)

Thank you, Mr. Speaker. I probably will not be supporting the amendment. It's certainly a change from the statutory provision that's pretty much, well pretty well spelled in our current law under 8-2c that indicates that the proceeds of this fund shall not be used for operating expenses of any kind. The amendment would clearly allow some of the fund proceeds to be used for expenses of transit facilities.

So, I guess in principle, I certainly am opposed to that as a rather marked change from our current state of law here in the State of Connecticut, but I couldn't help but notice the sponsor of the amendment and I recall that in the budget document from the Appropriations Committee is \$82,270 for the operation of Ridgefield's bus operations.

I would like to ask, through you, Mr. Speaker, of the proponent as to whether something might have been changed in the budget as reported out of the Appropriations Committee to take that money out and that this is some way of making up for that change in the budget document, through you, Mr. Speaker, to the

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proponent?

REP. TULISANO: (29th)

Through you, Mr. Speaker, as prefatory remarks, I don't know nothing about the budget (laughter), but I would yield to Representative Ireland.

SPEAKER BALDUCCI:

Representative Ireland of the 111th.

REP. JAEKLE: (122nd)

Ah, a member of the Find Caucus.

REP. IRELAND: (111th)

Thank you, Mr. Speaker. To the distinguished Minority Leader, I would say this has absolutely nothing to do with the budget. The funds which you refer to in the budget that deal with the Town of Ridgefield are to be absorbed within the agency budget. It was not additional money. This issue has nothing to do with the budget.

This issue strictly allows one exception where operating expenses may be used instead of capital expenses to leverage federal money because we know in many of our communities in the state that have set up these parking fee funds, they can get the money for the capital expenditures, but there is federal money available for operating expenses and so in a very narrowly defined definition exception, they could use

part of that money to help leverage the federal money to help provide additional transportation, in this case, for disabled children.

SPEAKER BALDUCCI:

Representative Jaekle, you still have the floor, sir.

REP. JAEKLE: (122nd)

Thank you. I appreciate that. I don't see the language on any travelers with disabilities in here. Mr. Speaker, frankly, I appreciate hearing that this does not relate to the budget, although I was aware of the operating subsidy for Ridgefield and, thus, I put two and two together. We'll see what the budget includes, good luck. Maybe it is in there.

Mr. Speaker, in opposition to the amendment generally and back to the reasons for our current law. Many people are aware that if somebody is proposing to construct a commercial building, the zoning code requires "x" number of parking spaces by square footage or number of units or what have you. We recently have passed legislation that indicated that if the proposed development really can show some alternatives, actually I'll read some of the criteria, that by requiring those parking spaces, construction of parking spaces, a capital item, clearly, if the developer could show that

requiring the number of parking spaces to be built in accordance with zoning laws would result in excess parking spaces for the use of the land or in a particular area or almost an impossibility of physically locating parking spaces on that parcel, there is an opportunity to be assessed a fee in accordance with the formula, the fee to go into this fund for the construction of parking spaces or other capital items in the community.

In fact, again, on lines 50 through 53, the fund shall be used solely for the acquisition, development, expansion or capital repair of municipal parking facilities or traffic or transportation-related capital projects, so in essence, we are saying to a developer, rather than spending your money for the construction, the actual construction of parking spaces required by zoning, you could pay a fee and that fee would be used by the municipality for the construction or at least capital-related costs of parking or transportation facilities in that town so, in essence, rather than the developer making capital outlays, construction, acquisition, what have you, to satisfy zoning, we will allow money to go into a fund in the town to use that money for capital purposes and we're changing the nature of the capital from the individual developer's

providing of it to the municipality providing for those capital expenditures.

The amendment, if passed, would allow a developer, in essence, to not provide the capital, the capital development of parking or transportation facilities and indeed not even transfer that obligation to the municipality by the payment of a fee, but what would have been under zoning rules, the requirement for the construction of parking or transportation facilities could now become operating subsidies or what have you. It may be a very noble purpose, but a change in the nature of what the developer has to provide that our current law allows transfer to the town, now the town could use those monies for operating expenses of transportation facilities.

Mr. Speaker, I think that's contrary to certainly the letter of the law and I believe the spirit of the law and the reason why that law was changed to allow this kind of transference of the capital expenditures required by developers into a fund that the municipalities must provide for capital purposes only. It could indeed provide a very large exception so that most all the monies in the funds could go for operating expenses of transit facilities and thus you could end up with a lot of development going on, no parking

spaces being required by the developers and the municipality not having the fund to provide for those parking facilities and thus the whole purpose behind requiring parking for the development of commercial or industrial facilities not only being waived by the developer, but the town not replacing those lost required parking spaces as well, that is not good planning, in my opinion, and as certain municipal budgets get pressed as well, there might be a great temptation to use this capital fund for operating subsidies and the whole purpose behind the legislation lost.

I would urge rejection of the amendment.

SPEAKER BALDUCCI:

Will you remark further on the amendment? Will you remark? Representative Belden.

REP. BELDEN: (113th)

Yes, Mr. Speaker, just on the remotest possibility that this amendment might pass, let me ask a question. Would the funds that we're talking about here that now could be used for operating expenses, assuming the municipalities had the correct ordinances in place, could those funds go to regional transit districts rather than just the local municipality?

REP. IRELAND: (111th)

Through you, Mr. Speaker, they could be leveraged to use federal funds which would be funneled through the regional transit district, yes, if the municipality choose to do that. It is still their decision.

REP. BELDEN: (113th)

Thank you. I just wanted to get that on the record because the amendment before us talks in the singular municipality. Thank you.

SPEAKER BALDUCCI:

Will you remark further? Representative Wilber of the 133rd.

REP. WILBER: (133rd)

Thank you, Mr. Speaker. Mr. Speaker, I'm going to speak against the amendment, not because I don't think it's an interesting idea. I do think it's an interesting idea, but I think it's something that really needs very careful review by the Transportation Committee.

It's a change in philosophy that I think that the committee should deal with and it's not going to obviously have time to deal with it in this week, so, Mr. Speaker, I would say that let's put this off until next year and take a better look at it then. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

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Will you remark further? Will you remark further on the amendment? If not, we'll try your minds. All those in favor of the amendment please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay.

REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

The ayes clearly have it.

The amendment is adopted and ruled technical.

House Amendment Schedule "G":

After line 26, insert the following and renumber the remaining section accordingly:

"Sec. 3. Section 8-2c of the general statutes is repealed and the following is substituted in lieu thereof:

Notwithstanding the provisions of any special act, any town, city or borough having zoning authority pursuant to this chapter or any special act or planning authority pursuant to chapter 126 or any special act may, by regulation of the authority exercising zoning or planning power, provide that an applicant may be allowed to pay a fee to the town, city or borough in lieu of any requirement to provide parking spaces in connection with any use of land pursuant to any zoning or planning regulations adopted by such zoning or planning authority. Such regulation shall provide that no such fee shall be accepted by the town, city or borough unless the authority exercising zoning or planning power has found and declared that the number of parking spaces which would be required in connection

with such use of land pursuant to any existing planning or zoning regulation: (1) Would result in an excess of parking spaces for such use of land or in the area surrounding such use of land; or (2) could not be physically located on the parcel of land for which such use is proposed and such regulation shall further provide that the amount of such fee shall be determined in accordance with a formula or schedule of fees set forth in such regulations and that no such fee shall be imposed or paid without the consent of the applicant and the zoning or planning authority, as the case may be. In any case in which a fee is proposed to be accepted in lieu of a parking requirement because the number of parking spaces required could not be physically located on the parcel of land for which such use is proposed, a two-thirds vote of the zoning or planning authority shall be necessary to consent to such a payment. Such regulations may also limit the areas of such town, city or borough in which such payments shall be accepted by the town, city or borough. Any such payment to the town, city or borough shall be deposited in a fund established by the town, city or borough pursuant to this section. Such fund shall be used solely for the acquisition, development, expansion or capital repair of municipal parking facilities, traffic or transportation related capital projects, the provision OR OPERATING EXPENSES of transit facilities designed to reduce reliance on private automobiles and capital programs to facilitate car-pooling or van-pooling. The proceeds of such fund shall not be used for operating expenses of any kind, EXCEPT OPERATING EXPENSES OF TRANSIT FACILITIES, or be considered a part of the municipal general fund. Expenditures from such fund shall be authorized in the same manner as any other capital expenditure of the town, city or borough. Any income earned by any monies on deposit in such fund shall accrue to the fund."

SPEAKER BALDUCCI:

Will you remark further? Will you remark? If not, staff and guests to the Well. Members please be seated. The machine will be opened.

CLERK:

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The House of Representatives is voting by roll
call. Members please get in the Chamber. The House of
Representatives is voting by roll. Members please
report to the Chamber immediately.

SPEAKER BALDUCCI:

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

Representative Levin of the 40th.

REP. LEVIN: (40th)

Mr. Speaker, in the affirmative please.

SPEAKER BALDUCCI:

Representative Levin in the affirmative.

REP. LEVIN: (40th)

Thank you.

SPEAKER BALDUCCI:

The Clerk please announce the tally.

CLERK:

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House Bill 5988, as amended by House Amendment Schedules "A", "B", "C", "D" (adopted on April 26, 1990), "E", "F" and "G".

Total Number Voting	144
Necessary for Passage	73
Those voting Yea	132
Those voting Nay	12
Those absent and not Voting	7

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Page 9, Calendar 504, Substitute for Senate Bill 30, AN ACT CONCERNING THE PROSECUTION OF ENVIRONMENTAL MATTERS. (As amended by Senate Amendment Schedule "A").

Favorable Report of the Committee on JUDICIARY.

REP. MINTZ: (140th)

Through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Mintz of the 140th.

REP. MINTZ: (140th)

I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

SPEAKER BALDUCCI:

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HOUSE

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Seeing none, the item is placed on the Consent
Calendar.

CLERK:

Page 21, Calendar 235, House Bill 5988, AN ACT
CONCERNING PROCEDURES FOR AND APPEALS FROM LOCAL LAND
USED BOARDS; VALIDATING AND PERMITTING THE REOPENING OF
CERTAIN APPEALS; AND ZONING REGULATIONS RELATING TO
FAMILY DAY CARE HOMES AND THE USE OF FEES PAID IN LIEU
OF PARKING SPACES. (As amended by House Amendments
Schedules "A", "B", "C", "D", "E", "F" and "G" and
Senate Amendment Schedule "A").

Favorable Report of the Committee on ENVIRONMENT.

Senate rejected House "E".

SPEAKER BALDUCCI:

Representative Tulisano of the 29th.

REP. TULISANO: (29th)

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

SPEAKER BALDUCCI:

The question is on passage in concurrence. Will
you remark, Representative Tulisano?

REP. TULISANO: (29th)

Yes, Mr. Speaker. Mr. Speaker, the Senate rejected
House Amendment Schedule "E", in which we tried to

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redraft some of the earlier amendments. At this point in time, I would move for rejection of House Amendment Schedule "E".

SPEAKER BALDUCCI:

The question is on rejection of House "E". Will you remark, sir?

REP. TULISANO: (29th)

Mr. Speaker, this is LCO2066. Part of the Senate action was the rejection of House "E". The Senate in its wisdom believed that Houses "A", "B" and "C" were sufficient, and "D", I guess, and "D". And at this point in time, I would believe it is appropriate to concur with that decision. I would move its rejection.

SPEAKER BALDUCCI:

The question is on rejection. Will you remark?

REP. JAEKLE: (122nd)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Jaekle.

REP. JAEKLE: (122nd)

I know they are just a couple of days late, but I think there is a formality of possibly calling the amendment and summarizing it and then moving its rejection before we take action on it? And it might be helpful for the flow of business if-- I don't mean to

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be technical, but I think it is rather important that we follow that procedure.

If it could be called and summarized, possibly, before the motion is made?

SPEAKER BALDUCCI:

Representative Tulisano, will you kindly call House "E"?

REP. TULISANO: (29th)

Clerk, please call LCO2066.

SPEAKER BALDUCCI:

Clerk, please call LCO2066, previously designated House Schedule "E".

CLERK:

LCO2066, House "E", offered by Representative Winkler et al.

SPEAKER BALDUCCI:

Representative Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker, this is the amendment that the House rejected. I will concur-- I mean the Senate rejected. I would concur in its rejection. This was an attempt to rewrite "A", "B", "C" and "D", as I recall. They adopted "A", "B", "C" and "D" and felt this was unnecessary at this point in time. At this point in time, I would rather concur with them, so

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we can move about our business.

SPEAKER BALDUCCI:

The question is on rejection of House "E". Will you remark? Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. A question to Representative Tulisano please.

SPEAKER BALDUCCI:

Proceed.

REP. KRAWIECKI: (78th)

Representative Tulisano, I thought part of the reason you had done House "E" was to correct some vagueries, let's use that word, in the earlier amendments, "A" through "D". So through you, Mr. Speaker, if we reject House "E", have we now in fact left amendments on the books that are less than acceptable? Through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker, I don't-- I think they are clear. We tried to rearrange it, and I am certainly going to be trying upstairs to be rearrange cleaning it up again on the Technical Revisors bill, because they are technical in nature.

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SPEAKER BALDUCCI:

Representative Krawiecki.

REP. KRAWIECKI: (78th)

Mr. Speaker, I guess I will give the Representative Jaekle speech. I don't see any reason why we shouldn't readopt House "E", send the bill back up to the Senate and say to them that we just think that that is a better way to do business and that it certainly was a better drafted amendment. It took care of some of the vagueries that were in the earlier amendments. It makes no sense to me to allow that kind of a rejection to occur. And in the absence of any specifics as to why they found House "E" to be unacceptable, I would suggest that the Chamber ought to readopt it. It makes no sense.

It was a better amendment. It took care of problems that were in the other amendments, and we are going to leave garbage statutes on the book if we don't adopt House "E", and the public back home is going to look at us and say here is another example of where these idiots don't know what they are up to.

SPEAKER BALDUCCI:

Will you remark further on the rejection of House "E"? Representative Winkler of the 41st.

REP. WINKLER: (41st)

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Thank you, Mr. Speaker. I too agree with Representative Krawiecki. We redrafted House-- well, we drafted House "E" to address the concerns that existed in basically House "D", which did please the majority of the people in the Chamber that did voice concern. And I would urge the Chamber to readopt House "E".

SPEAKER BALDUCCI:

Will you remark further on the rejection of House Schedule "E"? Will you remark? If not, we will try your minds. All those in favor of rejection of House "E", please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed, nay.

REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

I will try your minds once more. All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed, nay.

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REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

Roll call will be ordered. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members, to the Chamber please. Members, to the Chamber please. The House is voting by roll.

SPEAKER BALDUCCI:

Have all the members voted, and is their vote properly recorded? If so, the machine will be locked. Clerk, take a tally.

Representative Rapoport of the 18th.

REP. RAPOPORT: (18th)

In the affirmative.

SPEAKER BALDUCCI:

Representative Rapoport, in the affirmative. Clerk, please announce the tally.

CLERK:

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House Amendment "E" to House Bill 5988.

Total Number Voting 148

Necessary for Adoption 75

Those Voting Yea 77

Those Voting Nay 71

Those absent and not voting 3

SPEAKER BALDUCCI:

House "E" is rejected. (Gavel) Will you remark further on the bill as amended? Representative Mintz of the 140th.

REP. MINTZ: (140th)

Thank you, Mr. Speaker. Clerk has an amendment, LCO4781. I ask that he call and that I be allowed to summarize.

SPEAKER BALDUCCI:

Clerk, please call LCO4781, previously designated Senate "A".

CLERK:

LCO4781, Senate "A", offered by Senator O'Leary.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Mintz.

REP. MINTZ: (140th)

May I summarize?

SPEAKER BALDUCCI:

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The question is on summarization. Is there objection? Representative Mintz.

REP. MINTZ: (140th)

Thank you, Mr. Speaker. What this amendment does is validates the acts of the Town of Somers in regards to the appointment to the Board, by the Board of Selectmen of the Town of Somers to the Planning Commission, Zoning Commission, Zoning Board of Appeals, a Board of Tax Review on or after January 1, 1985 and prior to the effective date of this act, unless otherwise valid except for the failure of the Board of Selectmen to submit those appointments to a Town Meeting for a confirmation. I move adoption.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark? Representative Wollenberg of the 21st.

REP. WOLLENBERG: (21st)

Thank you, Mr. Speaker. Mr. Speaker, a question to Representative Mintz, through you, sir.

SPEAKER BALDUCCI:

Proceed.

REP. WOLLENBERG: (21st)

Yes, Representative Mintz, do you know if there are any cases and actions that have been brought with regard to this that might be invalidated because of the

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action we are doing?

REP. MINTZ: (140th)

We are not aware of any pending litigation in regards to this.

REP. WOLLENBERG: (21st)

Through you, Mr. Speaker, the question was is there or isn't there? I mean, I think it's important whether there is or not.

REP. MINTZ: (140th)

It is my understanding there is not.

REP. WOLLENBERG: (21st)

There is not? Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further? Representative Stolberg of the 93rd.

REP. STOLBERG: (93rd)

Mr. Speaker, through you, a question to the gentleman bringing out the amendment. I don't have any problem with the validation if it was a non-deliberate action certainly. But in terms-- I will hold my question until the bill on the next point, because it really doesn't relate to this amendment, sir.

SPEAKER BALDUCCI:

Will you remark further on the amendment? If not, we will try your minds. All those in favor, signify by

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saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed, nay.

REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

The ayes have it. (Gavel) The amendment is adopted. Will you remark further on the bill as amended? Representative Stolberg.

REP. STOLBERG: (93rd)

Mr. Speaker, through you, a question to the gentleman bringing out the bill. In terms of voting on the final bill, I am still not certain of the Senate reasoning in rejecting the prior amendment, and so that I could vote on the bill, I would ask through you, Mr. Speaker, for the gentleman to enlighten us on the reasons why the Senate rejected the prior amendment. Through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Mintz.

REP. STOLBERG: (93rd)

Mr. Speaker, I think perhaps Representative Tulisano, if he could descend from the heights is able

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to answer the question? And perhaps not.

REP. MINTZ: (140th)

Mr. Speaker. Mr. Speaker, I might try and answer that.

REP. STOLBERG: (93rd)

To Representative Mintz, through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Mintz.

REP. MINTZ: (140th)

Mr. Speaker, I don't believe the Senate informed us in their vote as to why they rejected the amendment. As Representative Tulisano said when he moved to reject the amendment, that his feeling was that the Senate felt that these were-- that there were some technical problems with that amendment that could be taken care of in the Technical Revisors bill. And in terms of just trying to move this business along and move the business of the Chamber along, that is why he urged rejection.

REP. STOLBERG: (93rd)

Mr. Speaker, I am not sure what we can do about it at this point. As I recall the amendment, it was an authorizing amendment for multi town meetings, and after PTing it, it allowed such meetings to be called, if they were in conformity with local ordinance and

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state statute and regulation, as opposed to a prior version of the amendment.

That seemed to be reasonable, and I am still curious as to the reasoning of the Senate. I am not sure what we can do about it at this point.

SPEAKER BALDUCCI:

Will you remark further on the bill as amended? Will you remark? Representative Maddox of the 66th.

REP. MADDOX: (66th)

Yes, Mr. Speaker. Ladies and gentlemen, I share severe concern about this bill now that we have removed Amendment "E" from it. Just to back up a little bit, Amendment "D" originally allowed joint boards to come together, and I raised some severe concern that it was going to mess up the timeline. House "E" corrected that. I still had a problem with the underlying concept, but at least it corrected the timeline. Let me give you an example.

On a special use permit, which many towns operate under now, you come into the Inland Wetlands Agency and the Planning and Zoning Board, and they decide to hold a joint hearing. State law says that 65 days after a public hearing, the Inland Wetlands Commission must make a decision. Also the Planning and Zoning Commission must make a decision. Now I say to you if

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on the 64th day, the Inland Wetlands Agency makes a decision and shifts it on over to Planning and Zoning, that leaves them one day to make a decision. Now there may be very good reasons why Inland Wetlands needs 64 days. If we are dealing with a very large project, a mega-mall, a gigantic condo project that could impact on your districts with wetlands that need to be protected, it may require that full 64 days to ensure that they are properly protected before they go along with approval.

Under this current bill, with these amendments, I cannot believe what we would be doing. We would be sending over to Planning and Zoning and asking them to do one of two things. Either (a) automatic approval, just approve it, rubber stamp it, in which case with these very large projects, we have only allowed one land use board say over that. Or (2) we are saying automatic rejection: as soon as it hits Planning and Zoning, it's dead. We don't have time to consider it.

Either way, I think we made a terrible decision in rejecting House Amendment "E". This bill is not a good bill as amended now. My strong suggestion to leadership is to either PT the bill, find out what the Senate's problem is, work it out, or I will be very honest with this late date, kill the bill. We could do

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much, much more damage now with this bill as amended than if we didn't have it at all.

SPEAKER BALDUCCI:

Will you remark further? Representative Rogg of the 67th.

REP. ROGG: (67th)

Mr. Speaker, I must disagree or certainly dispute the timeline which was outlined to you before. It is my understanding that the wetlands law, as I read it, says that the Planning and Zoning, the Planning Commission has 30 days after the Wetlands Commission has made a decision. So, the 65 days as the previous speaker mentioned is correct. However, the time for the Planning Commission to make a decision tolls on until Wetlands has made a decision and the Planning Commission has 30 days after Wetlands has made this decision.

It's a tight timetable, I admit. There are other complications to it. But I just wanted to make sure that this is clear.

REP. WOLLENBERG: (21st)

Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further? Representative Wollenberg.

abs

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REP. WOLLENBERG: (21st)

Thank you, Mr. Speaker. Yes, Mr. Speaker, following along on what Representative Rogg says, the timeline can be worked out. I think Amendment "E" made a better bill out of this bill, but by the removal of "E" does not make it fatal, but to lose all the other parts we put on this bill, would be rather crucial. But it certainly isn't fatal, and the timeline still works. We have Commissions that are in the Wetlands, Planning and Zoning Commissions all together, and it works with that. So, I see no problem with this working. It would have been better with it, but it's not bad without it. And I think we should pass this bill.

SPEAKER BALDUCCI:

Will you remark further on the bill as--
Representative Maddox.

REP. MADDOX: (66th)

Yes, Mr. Speaker, for a second time. Just to share with the Chamber my information, when this amendment was originally brought up by contact at our Office of Legislative Research and spoke with the person who handles the planning and development. Where the problem runs in is special permit uses. That is where it gets into under statute.

abs

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Representative Rogg is absolutely correct on a normal application. It is special permit uses and special permit uses are these mega-malls, large condo projects, etc. I wish I still had the flow chart that OLR has put together. If you would like to PT the bill, I would be happy to go over to my office, send staff over and have 151 copies made for every member to review.

I believe that without House Amendment "E" or some clone like House Amendment "E" that it severely impacts the timelines. I am not willing to take that chance, ladies and gentlemen. I think we could be making a very fatal mistake here.

SPEAKER BALDUCCI:

Representative Winkler of the 41st.

REP. WINKLER: (41st)

Thank you, Mr. Speaker. Through you-- Well, just to respond to Representative Maddox's comments. I don't believe the major projects would use this particular method if this option were to be adopted by the municipalities. We gave this as an option to the municipalities, and depending on the way the ordinance was drafted, I don't foresee this as a problem. And I would urge the Chamber to adopt the bill as amended.

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SPEAKER BALDUCCI:

Will you remark further? If not, staff and guests, to the Well. Members, please be seated. The machine will be opened.

CLERK:

The House of Representatives is voting by roll.
Members, to the Chamber. Members, to the Chamber please. The House is voting by roll.

SPEAKER BALDUCCI:

Have all the members voted, and is the vote properly recorded? If so, the machine will be locked.

Clerk, please announce the tally.

CLERK:

House Bill 5988, as amended by House Amendment "A", "B", "C", "D", "F", "G" and Senate Amendment "A" in concurrence with the Senate

Total Number Voting	147
Necessary for Passage	74
Those Voting Yea	126
Those Voting Nay	21
Those Absent and Not Voting	4

SPEAKER BALDUCCI:

The bill, as amended, is passed.

CLERK:

Calendar 254, Substitute for House Bill 5732, AN