

**PA12-101**

SB0376

Environment	2058, 2070-2072, 2076, 2078-2079, 2083-2084, 2091-2092, 2094-2095, 2097-2099, 2156, 2157- 2158, 2280, 2281-2287, 2392, 2430, 2440-2451, 2454-2456	44
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**H – 1145**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS**

**2012**

**VOL.55**

**PART 23**

**7514 – 7863**

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Number 376, AN ACT CONCERNING THE COASTAL MANAGEMENT  
ACT AND SHORELINE FLOOD AND EROSION CONTROL  
STRUCTURES.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On page 27, Calendar 221, Senate Bill Number 376, AN  
ACT CONCERNING THE COASTAL MANAGEMENT ACT AND  
SHORELINE FLOOD AND EROSION CONTROL STRUCTURES;  
favorable report of the Committees on Environment, and  
Planning and Development.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Madam President, I do move acceptance of the  
committees' joint and favorable report and move  
passage of this bill.

THE CHAIR:

On acceptance and passage, will you remark, sir?

SENATOR MEYER:

I will.

Mr. President, the Clerk -- Madam President, the Clerk  
has an amendment; it's LCO 4920, and I ask, please, if  
the Clerk will call that amendment.

THE CHAIR:

Mr. Clerk, will you call LCO 4920, please?

THE CLERK:

LCO Number 4920, Senate "A." It's offered by Senator  
Meyer, et al.

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THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Madam President, I move adoption of -- of this amendment and seek leave to summarize.

THE CHAIR:

The motion is on adoption. Will you remark, sir?

SENATOR MEYER:

Colleagues, this -- this amendment is really a product of the work of Senator Fasano, myself, members of the Environment Committee, Dave Sutherland of the Nature Conservancy, and what we're seeking to do here is to respond to extreme weather conditions on the shoreline of Connecticut.

Tropical Storm Irene paid a heavy price, as you, many of you know. Senator Fasano and I, in our district, Senator Maynard, in his district, Senator Stillman really felt it. Our shoreline got banged up, our buildings, our seawalls, our homes, some small businesses, and so we decided to try to tailor a bill that would help us understand how to overcome extreme weather conditions such as -- as Tropical Storm Irene.

And what we did in this bill was we amended the Coast Management Act of Connecticut. And let me just tell you in brief form -- I'm happy to answer any questions -- what we did is we tried to get a -- a better coast management plan and a better coast management law. The coast management, remember now -- those of you who don't represent the shoreline -- the coast management plan really is enforced by a combination of the Department of Energy and Environmental Protection and by our municipalities. In general, DEEP has jurisdiction over any structures that are waterward of the high-tide line and the -- our municipalities have jurisdiction of any structures that are landward of the high-tide line.

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So we were very cognizant of the right to private property owners, and in the beginning of the bill, in the very first section, we recognize that in the event of these extreme weather conditions, we should recognize the rights of private property owners; and, you'll see that on line -- on line 9 of the bill.

We also, under the urging of the Nature Conservancy, recognize that we are looking at rises in sea level in Connecticut. I heard Senator Frantz in a prior bill, several weeks ago, say that he -- he lives on the shore and has not seen any rise. Actually, we looked -- the Environment Committee looked at some documentation that shows small rises for a long time in -- in Long Island Sound sea level. The rise is about one-tenth-of-one-inch per year; small. But it add -- it does add up. And so in this bill, in the beginning of line 23, we recognize that our municipalities and -- and the department should be able to take into consideration rises in sea level and what -- what that will mean to our -- to our structures.

Further -- I'm now turning to line 315 and following -- we decided that our coastal site plans must reflect some of these extreme weather conditions. A coastal site plan is a plan that has to be filed with local zoning boards as part of any application for a building structure. And so we -- we wrote into -- into that coastal site plan a requirement that a coastal site plan shall be approved by the local zoning commission by making specific written findings that the structure is necessary and unavoidable for the protection of infrastructure. And that is a -- that is an important -- important component. We also wrote into that coastline, coastal site plan that the -- that the new structure should be feasible and as -- as less environmentally damaging as possible.

Further, we decided that there could be a lot of new initiatives on the coastline of Connecticut. We recognized that vegetation could be a form of protection against wave erosion, building vegetation on dunes. This is a concept that's fairly new and is often called "living shores." And so what we did toward the end, in Section 10 of this bill, is we set up a pilot project for the Department of -- of Energy

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and Environmental Protection to look at some new initiatives, such as living shores. We also empowered the University of Connecticut and the Connecticut State University to also look at new initiatives to counter wave erosion in a responsible manner.

So, colleagues, that is the -- that is the first amendment. There's a second amendment, very small, that I'll refer to in a moment; be happy to answer any -- any questions --

THE CHAIR:

Will you --

SENATOR MEYER:

-- that you might have.

THE CHAIR:

-- remark? Will you remark?

If you'll wait one second, Senator.

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

Madam President, I want to thank many people in the Capitol, including Senator Meyer, Senator Looney, Senator Stillman, Senator Maynard, there's just -- Senator McKinney, and in the House, a number of people. As we all know, Tropical Storm Irene was the most devastating storm to hit Connecticut, I would argue, since Hurricane of '38 and the second, even though it wasn't a hurricane, but second major powerful tropical storm to hit Connecticut since Gloria, in 1985.

Madam President, Senator Meyer's understanding of the bill is -- is accurate. The one thing I do want to say, and I cannot say this enough, this bill came out of this Legislature, is going to come out of this Legislature in response not so much to the management

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or Commissioner's Office at DEEP but in response to staff at DEEP. It has been the experience for those who live along the shoreline that a no is a lot easier to get than a yes and that due consideration to applications sometimes are not given in the manner that I think our constituency would respect. And we're not asking anybody to do something that's wrong, but we're asking for a response so they could do it right.

Our statute, within it, gives an absolute, unfettered right to protect the house and home for which you live in. And you have that absolute right to do that -- apologize -- you have an absolutely right to do that. And what has been happening is the ability to get a permit has become financially the inability to get that permit because of the number of revisions and hide the peanut that you go through. And what we did in this bill is to say if you're going to deny us, you're going to tell us why you're denying us and give us a reason to make the permit better; that's the point of this, so that there is a dialogue, so that people who want to comply with the law can comply with the law and are not frustrated by the purpose. So that's the point of this.

And as I said to the DEEP staff that met -- I should say Commissioner's Office and the liaison -- who have been terrific, Rob LaFrance and his team have come to every meeting. Deputy commissioners walk the beach. They have been terrific; outstanding. Commissioner Esty, outstanding, and the intent of this, for which they put to this bill, outstanding.

And it's not at that level we're having the problem, it's the level below, and that's what needs to change. And we're doing this first, baby step to send the message, but if, in fact, this still meets with hide the peanut and this still meets with the inability to get applications which are rightfully -- should rightfully be approved, being frustrated and resulting in years and still not getting approval, I don't think this Legislature's afraid to take the next step, and we will. But I'm thinking that the message is going to come across, staff is going to understand the purpose, and we can move to helping people who live along the shore get better treatment.

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With that, Madam President, may I just add a few more comments? Madam President, the reason why we have sea-level rise in this bill is important. And we've looked to NOAA because they're a third, disinterested party, purely scientifically oriented to help us look at those issues, because whatever the reason that there's sea-level rise, I think universally it's accepted there is some sort of sea-level rise, the measure of which -- of which may be debatable. But we need to at least think about that, and this bill gives us that opportunity to at least put in a planning process the thought process.

And as the task force that's been created by the Speaker of the House goes on, and many of us are involved in that, perhaps the science can be looked at and examined, and we can come back next year with something that perhaps addresses that particular issue. But in the interim, we should not ignore that issue as it does exist.

So I think, Madam President, with the folks that have come to the table, with the meeting of the minds that that produced, this bill, I'm hoping to see that this bill passes this house and the House downstairs and the Governor signs it.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

Senator Looney.

SENATOR LOONEY:

Thank you. Thank you, Madam President.

Speaking in support of the amendment, first I certainly wanted to commend Senator Meyer as Chair of the committee, working closely with Senator Fasano and others and, in fact, all of the members of the bipartisan shoreline caucus who have had a high level

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of interest in this bill and the subject matter of it made more urgent because of the damage caused last August by the Storm Irene but long-standing problems and -- and issues that have been grappled with even -- even prior to that. But certainly the bipartisan sponsorship of the -- of the bill generate -- of the amendment generates the -- the broad, bipartisan concern, with Senator Fasano and Senator McKinney and Senator Boucher and Senator Frantz and Senator Kelly and Senator Kissel and Senator Suzio on the amendment, together with Senator Meyer and -- and I, and Senator Duff and Senator Leone and Senator Stillman, Senator Maynard. So you see that there is a very broad coalition here.

And this, I believe, is a -- is a balanced approach to a very, very difficult and challenging problem. The -- the amendment provides a specific assertion that -- that the plans will ensure that development preservation and use of land and water resources will be consistent with the rights of private property owners and the capability of the land and water resources to support development.

Another key section that relates to something that Senator Fasano said earlier about the -- the -- the struggles of homeowners and owners of structures along the shoreline to -- to have a straightforward and understandable and reasonable process of gaining approvals for needed acts of amelioration when there has been -- been damage. And I think that's addressed, particularly in lines 293 to 303 of the amendment that points out wherein the case of an application for shoreline flood and erosion control -- control structure that's denied on the basis of a finding, that there may be feasible less environmentally damaging alternatives to such structure or that reasonable mitigation measures and techniques have not been provided, the commissioner or the municipal commission, as applicable, shall propose on the record, in writing, the types of feasible alternatives or mitigation measures and techniques that the applicant may investigate, provided the section shall not be construed to shift the burden from the applicant to prove that such applicant is entitled to approval of the shoreline -- of the

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proposed shoreline flood and erosion control structure or to present alternatives.

And what this gets at is the frustration that many have experienced about being told that a proposal is inadequate or objectionable and not being able to get a clear response about how it could be improved and how it could be structured in a way that would gain the necessary approval. So I think that this is a very important provision of the -- of amendment for clarity and enlightenment and effective communication, both on the -- the side of the property owner and the side of the -- of the regulator.

So it is balanced, as Senator Meyer and Senator Fasano mentioned. It does make reference to the fact that -- that rising -- rising flood levels have to be -- be factored into -- into planning, as we know that the condition along the shoreline is not a static one, that any revision toward the latter part of the amendment, lines 661 to 6 -- 668, any revision may after October 1, 2012, shall take into consideration risks associated with increased coastal erosion, depending on site topography caused by a rise in sea level, as defined in the -- in the statutes and identify the impacts of such increased erosion on infrastructure and natural resources and make recommendations for the siting of future infrastructure and property development to minimize the use of areas prone to such erosion.

So, again, this is a -- a balanced effort to -- to give due consideration to the interests of property owners along the shoreline, the interest, the broad, societal interest in protecting the shoreline, itself, and also to recognize that the future environmental status of the shoreline may change as conditions related to -- to weather changes and climate changes and rises in sea level may impact a situation that is in no way static but is, in effect, contemplated and anticipated in this amendment. So, Madam President, would urge support for the amendment.

THE CHAIR:

Thank you.

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Will you remark further? Will you remark further?

Senator Stillman.

SENATOR STILLMAN:

Yes; thank you, Madam President. I -- I appreciate the opportunity to remark on -- on this amendment, as well, which becomes the bill.

I want to thank Senator Meyer and Senator Fasano for their leadership on this and -- and everyone else that has been mentioned previously by Senator Looney, including Senator Looney.

You know, this isn't just a concern that's been -- that everyone has, as you might be able to ascertain from the list of -- of supporters and co-sponsors on this amendment. I mean, this is also an issue as you go up the rivers -- and we have so many of them here in Connecticut -- to make sure that not only are the homeowners given an opportunity to rebuild if they have to in case of -- of an extraordinary emergency but that they're also given the respect so that they can make their case to the -- whatever authorities are necessary and rebuild their homes. But it's also with the understanding that the house or the business or whatever it is they need to rebuild might not quite be in the same place but pretty close, because we do have to be mindful of some of the environmental changes. But it does give property owners an opportunity to rebuild and a less stressful manner than if this law -- this bill does not become law.

But for those folks who are concerned that the -- the needs and the concerns of the environment will not be, you know, will be sort of run over, that's not the case. This is a very balanced amendment. It actually states in there to ensure that development proceeds in a manner which does not irreparably reduce the capability of the system to support a healthy intertidal, biological community; in other words, we still want to protect the -- the water life, whether it's on the river or -- or the -- or the ocean, so -- or our shorelines.

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You know, I represent shoreline communities. I am well aware, in all the years that I've lived there of the damage that can be done due to horrific storms that so many of us have lived through. And this will go a long way towards, as I said, helping people rebuild.

And as we think of the fact that our hurricane season is not far behind -- not far ahead of us, the one last year did -- did a -- a terrible damage here, late in the season. But hurricane season begins again shortly, and hopefully we will not have a, you know, a -- a hurricane season that will impact Connecticut the way many others have. Hopefully, it will be a quiet year. But I believe that this legislation will give those folks who, if we do have a hurricane season that can do some damage here in Connecticut, it will give those folks an opportunity to rebuild without too much anxiety. It's hard enough to live through these storms, but when it's time to rebuild, it -- you constantly relive that experience.

So thank you, again, to all the proponents and cosponsors of this bill. And -- and I appreciate the opportunity to be part of that coalition.

Thank you.

THE CHAIR:

Thank you, Senator Stillman.

Senator Maynard.

SENATOR MAYNARD:

Yes; thank you, Madam President.

And I want to join in thanks to Senator Meyer and to Senator Fasano and all those who helped on this. I think the -- the amendment makes this, and the changes that were agreed upon by the commissioner and his department, make this a much better bill. I'm delighted that we're going to be focusing attention on the issue of sea-level rise and drawing our shoreline property owners and municipalities' attention over the long run to what adjustments may need to happen as we

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deal with the intensity and frequency of storms and sea-level rise.

However, this bill, I think was arrived -- we arrived at a good compromise on the rate at which we agree to that and -- and the intensity with which we agree to address that issue along the shoreline, protecting private property interests, protecting those folks along the shoreline who we're very concerned about, whether we were going too far too fast. So I'm -- I'm delighted this has worked out and urge support of the bill and thank all those involved in the -- in bringing it forward.

Thank you.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you, Madam President.

This is a terrific effort here in front of us in the form of this amendment which will become part of the bill for any of us who represent coastal towns in our districts. I can tell you that when the bill was first written, it sent shock waves; you may have seen it on the Richter scale when people started to read the language of the original bill, which I don't think was necessarily intended to sound as it did. But Senator Fasano has worked so hard on this and Senator Looney and Senator Meyer and -- and others, and Senator Maynard and Stillman brought this to the Environment Committee's attention.

And in an area that in the past has been so polarized by the different interests who are involved with coastal issues, particularly with erosion and storm protection, it seemed as though this team of people got on the same page fairly quickly and agreed upon language that makes a lot of sense. There's some teeth in it; it protects everybody's rights, as far as I can tell, having just read it again here today. It's -- that's a very, very tall hill and long hill to climb; I know I -- I know it must have been difficult

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behind those closed doors, but you -- you got to where you needed to be. So my hat is off to everybody who was able to do that. I'm proud to sit on the coalition as well and to make whatever contributions we were able to make to that, minimal, perhaps at best, but the powers that be and the Senators that were involved in it. And DEEP, which has traditionally been a little more difficult to deal with, I think came to the table wholeheartedly and did a super job here, so I commend them as -- as well.

I've received a ton of e-mails about the evolving language here. It appears that most of the constituency, on the waterfront in particular, those involved with the maritime trades, with marina business, those who live on the water are -- are good with this. So it's unusual that we go from pretty horrendous language to a compromise that brings about a pretty decent smile on most people involved with shorefront issues, so thank you for your efforts.

And I -- I could swear that the water has gone down by a tenth of an inch over the last 50 years, but science is science. So I hope everybody supports this.

Thank you, very much, Madam President.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

Senator Cassano.

SENATOR CASSANO:

Yes; thank you, Madam President.

I will be brief, but I, first of all, I really applaud all of the -- the efforts that were made here. I particularly like all of the compliments given to Senator Fasano because a lot of people confuse those with me, and when my people at home hear those, it's terrific.

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Let me say, first of all, it's a great bill; I don't live on the shoreline here. I'm surprised it hasn't been passed before. My grandfather, my father were fishermen. I grew in Provincetown and Nantucket. I've woken up mornings where new islands were formed simply because of wind and because of rain and because of tides, and so I've seen the kinds of changes that you can anticipate through my entire life, and my family is still there. This is a good move and -- and I think it's a comforting move for the people who live along with shore, and it should be supported.

Thank you.

THE CHAIR:

Thank you, Senator.

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

I, too, want to rise in support of the measure before us, thank all those who've worked on it, don't want to repeat what's been said.

I do want to -- I do want to highlight and point out the last section of the bill, which will allow the department within available funds to establish -- and we have two, two Senate Presidents today -- which will allow the department to -- to look at pilot programs for low impact and new innovative solutions for shoreline erosion.

And I want to especially, Madam President, thank Commissioner Dan Esty and the top officials at DEEP. We, in Fairfield, like many other shoreline communities -- and that -- that is what makes this issue I -- I think special to work on. When you go from Stonington all the way to Greenwich, there are a whole host of shoreline communities, that some look the same and some look different, but they're represented by many of us in that Circle with a -- a common understanding and a common desire to help out our constituents and to protect and preserve what is

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arguably the best natural asset we have as citizens in the State of Connecticut, and that is our shoreline and the Sound.

I had asked Commissioner Esty, after meeting with constituents in Fairfield who -- who have put together their own shoreline, Fairfield Beach erosion group, and he was more than willing to come down to Fairfield. He did come down with a busy schedule and places to go. And, Madam President, we walked about a mile and a half to two miles of the shoreline in Fairfield, and the -- the idea for that last section in the bill which has been kicked around in various ways but was -- was, I think, formulated and finalized during that walk. And Commissioner Esty said, Well, what about these types of things? And years ago, we looked in Fairfield about some low-impact measures that you can put into the water to try to help prevent shoreline erosion, having the University of Connecticut, which has people looking at this issue continue to examine. So I think this is a very good start.

Shoreline erosion is a critical issue to many homeowners and constituents in my town. Looking at pictures and growing up along the beach in Fairfield, there has been a dramatic change. And -- and the storm brought that home, perhaps, more so than anything. But even absent storms, shoreline erosion is something that is happening every minute of every hour of every day along the shoreline, and it is something that we need to try to address in ways that are environmentally friendly, in ways that have low impact, and in ways that can preserve and protect the shoreline and at the same time the homeowners and property owners along that shoreline.

So I was probably a little bit longer than I wanted to be, but this is an extremely important issue. I'm proud of the fact that it's being worked on in a bipartisan way and by Legislators from up and down the coast. And I'm especially happy with the direction of Commissioner Esty and his hard work on this as well.

Thank you, Madam President.

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Thank you.

Will you remark? Will you remark?

Senator Meyer.

SENATOR MEYER:

Madam President, before we take a voice vote, I do want to say you could notice the passion of those Senators who represent the shoreline. We, after Irene, we walked into people's homes where there was three-to-five feet of sand and seaweed, just unbelievable devastation. We walked into homes where the sea wall in front of the home was wiped out; you didn't even know it existing anymore. So this -- this bill in some ways tries to address that -- those severe disasters.

And we do have another very small amendment, Madam President. Before we do, I'd ask that we, if no one wants to speak further we -- we have a voice --

THE CHAIR:

Okay.

SENATOR MEYER:

-- vote on this.

THE CHAIR:

I'll ask.

Will you remark further? Will you remark further? If not, all in favor of Senate "A," please say aye.

SENATORS:

Aye.

THE CHAIR:

Opposed?

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Senate "A" is passed.

Senator Meyer.

SENATOR MEYER:

Madam President, the Clerk has another small amendment. Would he please call LCO 4592?

THE CHAIR:

Senator -- Mr. Clerk.

THE CLERK:

LCO Number 4592, Senate "B," offered by Senators Meyer and Fasano.

SENATOR MEYER:

I --

THE CHAIR:

Senator --

SENATOR MEYER:

I move --

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

I move adoption and -- and --

THE CHAIR:

The motion is on --

SENATOR MEYER:

-- permission --

THE CHAIR:

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-- adoption.

SENATOR MEYER:

-- to summarize.

THE CHAIR:

Please; please proceed, sir.

SENATOR MEYER:

Thank you, Madam President.

Colleagues, you remember I talked to you about the fact that under current law a coastal site plan has to be filed with our local zoning boards when you want to build something on the coastline. The amendment in this -- in this small LCO says that a coastal site plan for a shoreline flood and erosion structure shall be approved -- that's approved by the local zoning board -- if the record demonstrates -- those are the new words -- if a record demonstrates that the structure is necessary and unavoidable for the protection of -- of a structure, of an infrastructure. So that is -- that is the amendment. It makes good sense.

There are often claims relating to these kinds of -- of structures, and this makes it clear that there's got to be a record, and the record demonstrates that the structure is necessary for a protection against our natural resources.

THE CHAIR:

Will you remark? Will you remark?

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

I'll keep my remarks very short. I just want to thank Save the Sound for making the recommendations on this

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amendment. Senator Meyer and I have been working with them as well. As we said, we had a lot of people at the table, and I support the amendment.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

If all in favor, please say aye -- of Senate -- Senate Bill "B" adoption.

SENATORS:

Aye.

THE CHAIR:

Opposed?

Senate "B" is adopted.

Senator Meyer.

SENATOR MEYER:

Madam President, that is the bill, with those two amendments, and if there are no further questions, may it kindly be added to the Consent Calendar.

THE CHAIR:

If there's no objection, so ordered, sir.

SENATOR MEYER:

Thank you, Madam President.

THE CHAIR:

Thank you.

Senator Looney.

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SENATOR LOONEY:

Madam President, if we might have the Clerk now list the items on the Consent Calendar and then proceed to a vote on the Consent Calendar.

THE CHAIR:

Mr. Clerk, could you please -- we can stand at ease for a second, sir.

(Chamber at ease.)

THE CHAIR:

The Senate will come back to order.

Mr. Clerk.

THE CLERK:

Page 2, Calendar 179, Senate Bill Number 84; on page 4, Calendar 261, Senate Bill 394; page 25, Calendar 118, Senate Bill 78; on page 26, Calendar 163, Senate Bill 80; page 27, Calendar 210, Senate Bill Number 360. Also on page 27, Calendar 221, Senate Bill 376. On page 30, Calendar 320, Senate Bill 368, and on page 31, Calendar 339, Senate Bill 286.

THE CHAIR:

Mr. Clerk, will you call for a roll call vote? And the machines will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate; will Senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

Have all members voted? If all members voted, the machine will be closed, and I'd ask the Clerk to please call a tally.

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THE CLERK:

On today's Consent Calendar.

Total number Voting	35
Necessary for Passage	18
Those voting Yea	35
Those voting Nay	0
Absent, not voting	1

THE CHAIR:

The Consent Calendar passed.

I'm going to stand for a point of personal privilege, sir. Senator Guglielmo, who is that beautiful young lady you have with --

SENATOR GUGLIELMO:

Yeah. Well --

THE CHAIR:

-- you today?

SENATOR GUGLIELMO:

-- that's who I'm going -- that's who I'm going to introduce, Madam President. Thank you, very much.

Oh, you got to sit right here with me; okay, come on. This is Kate McAvoy, from Willington, and Kate won the poster contest for the Department of Transportation for safety, and we had a nice reception down at the DOT, about two weeks ago. And we didn't get a chance to give Kate her citation, so we wanted to do it here today. So she was kind enough to come up to visit with us. And this is Kate McAvoy. Kate won the prize for the contest for grades K through 2nd grade, and I wish that we would all give her a nice welcome here to the State Senate.

THE CHAIR:

Kate, thank you. Kate, it's always good to see you. Come back and visit us again; okay, Kate?

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Senate Amendment Schedule "A."

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

If not, let me try your minds.

All those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ARESIMOWICZ:

Those opposed, nay.

The ayes have it.

The amendment is adopted.

Will you remark further on the bill as amended?

Representative Dargan.

REP. DARGAN (115th):

Mr. Speaker, I move the resolution to consent.

DEPUTY SPEAKER ARESIMOWICZ:

The motion before us is to place this item on  
consent.

Is there objection? Is there objection?

Hearing none, this item is placed on consent.

Will the Clerk please call Calendar 525?

THE CLERK:

On page 34, Calendar 525, Senate Bill Number 376,

AN ACT CONCERNING THE COASTAL MANAGEMENT ACT AND

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SHORELINE FLOOD AND EROSION STRUCTURES, favorable  
report by the Committee on Planning and Development.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis of the 99th, you have the  
floor, sir.

REP. ALBIS (99th):

Thank you, Mr. Speaker.

Mr. Speaker, I move for the joint committees'  
favorable report and passage of the bill in  
concurrence with Senate.

DEPUTY SPEAKER ARESIMOWICZ:

The question is on acceptance of the joint  
committees' favorable report and passage of the bill  
in concurrence with the Senate.

Will you remark, sir?

REP. ALBIS (99th):

Thank you, Mr. Speaker.

Mr. Speaker, the Clerk has strike-all amendment  
LCO Number 4920. I would ask that the Clerk to please  
call the amendment, and I be granted leave of the  
Chamber to summarize.

DEPUTY SPEAKER ARESIMOWICZ:

Will the Clerk please call LCO Number 4920, which  
will be designated Senate Amendment Schedule "A."

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THE CLERK:

LCO 4920, Senate "A" offered by Senator Meyer, et al.

DEPUTY SPEAKER ARESIMOWICZ:

Representative seeks leave of the Chamber summarize the amendment.

Will you -- is there objection? Is there objection?

Hearing none, Representative Albis, please proceed, sir.

REP. ALBIS (99th):

Thank you, Mr. Speaker.

Mr. Speaker, this amendment as a result of a bipartisan effort to amend the Coastal Management Act. It defines sea level rise in statute. It also asks DEEP to, in their goals and policies, to account for the effects of sea level rise while protecting the rights of private property owners and promoting living shoreline projects. This will be a great springboard for the task force on climate change in shoreline preservation.

I move adoption.

DEPUTY SPEAKER ARESIMOWICZ:

The question before the Chamber is on adoption of

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Senate Amendment Schedule "A."

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

If not, I will try your minds.

All those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ARESIMOWICZ:

Those opposed, nay.

The ayes have it.

The amendment adopted.

Will you remark? Will you remark?

Representative Albis, you have the floor.

REP. ALBIS (99th):

Thank you, Mr. Speaker.

Mr. Speaker, the Clerk has an amendment, LCO  
Number 4592. I would ask that the Clerk to please  
call the amendment, and I be granted leave of the  
Chamber summarize.

DEPUTY SPEAKER ARESIMOWICZ:

Will the Clerk please call LCO Number 4592, which  
will be designated Senate Amendment Schedule "B" ?

THE CLERK:

LCO 4592, Senate "B" offered by Representative --

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Senator Meyer.

DEPUTY SPEAKER ARESIMOWICZ:

Representative seeks leave of the Chamber to summarize amendment.

Is there objection to summarization? Is there objection to summarization?

Hearing none, Representative Albis, you have the floor.

REP. ALBIS (99th):

Thank you, Mr. Speaker.

Mr. Speaker, Senate Amendment "B" requires that the municipal zoning commissions must demonstrate on the record why they accepted or denied a coastal site plan application.

I move adoption.

DEPUTY SPEAKER ARESIMOWICZ:

The question before the Chamber is on adoption of Senate Amendment Schedule "B."

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

If not, I'll try your minds.

All those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

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DEPUTY SPEAKER ARESIMOWICZ:

Those opposed, nay.

The ayes have it.

The amendment is adopted.

Will you remark further on the bill as amended?

Representative Albis, you have the floor.

REP. ALBIS (99th):

Thank you, Mr. Speaker.

Mr. Speaker, I move that this resolution be placed on the consent calendar.

DEPUTY SPEAKER ARESIMOWICZ:

The motion before us is to place the item on the consent calendar.

Is there objection? Is there objection?

Hearing none, this item is placed on the consent calendar.

Will the Clerk please call Calendar 531?

THE CLERK:

On page 35, Calendar 531, Substitute for Senate Bill Number 85, AN ACT CONCERNING CAMPGROUND RESERVATIONS THAT CERTAIN STATE PARKS, favorable report by the Committee on Finance.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Roy of the 119th, you have the

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On page 7, Calendar 219, House Bill Number 5148,  
AN ACT CONCERNING AN ACT CONCERNING COMMUNICATIONS TO  
VICTIMS OF THE CURRENT OPERATION OF A MOTOR VEHICLE  
THAT RESULTS IN DEATH OR SERIOUS PHYSICAL INJURY.  
DEPUTY SPEAKER ARESIMOWICZ:

The distinguished Majority Leader, Representative  
Sharkey.

REP. SHARKEY (88th):

Thank you, Mr. Speaker.

Good to see you up there.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you, sir.

REP. SHARKEY (88th):

Mr. Speaker, this represents the consent calendar  
and for everyone's edification, I will be listing off  
the calendar numbers in numerical order so that  
everyone can follow. I'll try keep it -- and make  
sure that I do it in numerical order. Thank you.

These will be: Calendar Number 90, Number 155,  
Number 219, Number 223, Number 290, Number 320, Number  
338, Number 345, Number 389, Number 430, Number 444,  
Number 455, Number 467, Number 470, Number 475, Number  
481, Number 485, Number 488, Number 489, Number 494,

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Number 496, Number 497, Number 505, Number 510, Number  
513, Number 525, and Number 531.

I move adoption, I move adoption.

And with that, Mr. Speaker, I move adoption of  
the consent calendar. I move the consent calendar.

(Speaker Donovan in the Chair.)

SPEAKER DONOVAN:

The question before us is on passage of the bills  
on today's consent calendar.

Will you remark?

If not, staff and guests please come to the well  
the House. Members take their seats. The machine  
will be open.

THE CLERK:

The House of Representatives is voting by roll  
call. Members to the chamber. The House is voting  
today's consent calendar by roll call. Members to the  
chamber please.

SPEAKER DONOVAN:

Have all members voted? Have all members voted?

Please check the roll call board to make sure  
your vote has been properly cast.

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

The Clerk please announce the tally.

THE CLERK:

On today's consent calendar

Total number voting	144
Necessary for passage	73
Those voting Yea	144
Those voting Nay	0
Those absent and not voting	7

SPEAKER DONOVAN:

The consent calendar passes.

Any announcements or introductions? Any announcements or introductions?

Is there any business on the Clerk's desk?

THE CLERK:

A list of Senate bills, Mr. Speaker.

SPEAKER DONOVAN:

Representative Brendan Sharkey.

REP. SHARKEY (88th):

Thank you, Mr. Speaker.

I move that we waive -- waive the reading of the bills and have these items placed immediately on the House calendar.

we're going to have as a first or second witness the Department Committee of the Department of Energy and Environmental Protection discussing the underground storage tank proposal of the Department. And I -- we note that there are many gas station operators here, small gas station operators here today and I'm just going to urge you to listen carefully to the deputy commissioner because he's going to take us through the bill, the proposal of the Department in -- in a detailed way. And when you get a chance to testify, you'll be able to respond to what he has said. So please, give careful attention to his testimony. Thanks.

REP. ROY: Thank you.

With that, Deputy Commissioner Macky McCleary, DEEP.

DEPUTY COMMISSIONER MACKY McCLEARY: Thank you, Representative Roy and Senator Meyer and Committee. Appreciate the opportunity to testify about S.B. 375 and I'm also happy to take questions about other bills that are up regarding environmental quality.

So in the interest of doing exactly what Senator Meyer suggested, I think rather than read the testimony that I've submitted I think what I'll -- what I'd like to do is give a narrative of both the starting conditions that we had in designing the current bill and the goals of that bill and then exactly how the bill is going to work this year and then going forward. Because I think there has been some confusion about how it works, I know it's complicated and it's a difficult situation. So I appreciate that.

might cost me 70 grand, the likelihood that I'm going to get that out on that kind of (inaudible) profitability isn't -- isn't high. So the question is how can we make it possible for them to still get in queue and break, again, make that breakpoint between historical releases and future releases in 2013. This is still part of problem solving for us, but we definitely are aware of that issue and are trying to address it.

REP. P. J. MILLER: Okay, thank you.

And thank you, Mr. Chairman.

REP. ROY: Thank you.

Any other questions or comments from members of the committee?

Senator Meyer.

SENATOR MEYER: Commissioner, just on one other bill that's in front of us.

DEPUTY COMMISSIONER MACKY McCLEARY: Yes.

SENATOR MEYER: Senate Bill 376 is a bill that would address extreme weather conditions by relaxing restrictive restrictions on hardening the coast of Connecticut. It probably -- I would interpret it to be trying to protect private property by building bigger, perhaps, sea walls.

DEPUTY COMMISSIONER MACKY McCLEARY: Bigger walls, yes.

SENATOR MEYER: With -- with a relaxation of regulation on that. Do you -- have you had a chance to review that and -- and do you have -- does the Department have a position,

generally, on the whole subject of -- of the  
-- how we're going to protect our property?

DEPUTY COMMISSIONER MACKY McCLEARY: Yes. Thank you for bringing this up. This is actually an important issue. So we have a chance -- had a chance to review the bill and simply we -- we don't agree with the bill, but we agree with the idea. So I think the way that we've tried to set this up, and we've has a couple of meeting with Senator Fasano in a few years to get to the situation of -- what we try to do is rather than just say no we don't agree this but no but, so what is the world that we actually do believe in. And I think the Commissioner laid this out a few meetings ago where we talked about there really four different things that can occur in terms of ways to defend the coastline and private property against the exigencies of increasing frequency and severity of extreme weather events.

And the first is -- which is probably least possible for most people is if you've got a lot of land and you've got a piece of private property that's very close to the edge you could theoretically just move it back. That is almost impossible for almost everyone. We as a state agency were actually able to do that at Hammonasset, but most people can't do that and we understand that.

Number two is, this is what FEMA suggests is that you elevate the residence and that, again, is high cost and many people are not going to be able to afford to do that. Then three, and this is one that we've seen effective in a lot of places but sometimes has varying degrees of -- of what I would call ROI which is to do beach nourishment so essentially build up the natural defenses.

And then fourth is to construct armor on the shoreline. And so rather than just be completely against armoring the shoreline, I think what we tried to do with Senator Fasano is to -- to develop a set of conditions where we think environmentally there wouldn't be negative impact, nor would there be a negative impact for public -- for public safety.

So we haven't had a follow-up conversation after our first conversation with Senator Fasano so I won't go into the details of the world we've described, but I do think we've got a good starting point in terms of what we believe could work in terms of a set of conditions on what -- what you could do to -- to create a world in which people can armor their -- their property if they need to but only to make sure it doesn't have a negative impact on public safety or the environment.

SENATOR MEYER: One other last question, Mr. Chairman, if I might.

I want to just ask you quickly about House Bill 5121. The important part of that bill allows our towns and cities to regulate pesticides. It takes away the -- right now I think the Department of Energy and Environmental Protection has sole authority here and this -- this allows some home rule with respect to municipalities. Do you have a position on that bill?

DEPUTY COMMISSIONER MACKY McCLEARY: We do. So we do also oppose this one and the reason is for exactly what you've stated, Senator Meyer, which is that we have a concern about creating a patchwork of a different regulations which I think if there's one thing that we've been trying to do is to try to simplify the world for our regulated entities and the idea of

think it's too early to do anything like removing the ban. I think -- but also the ban right now in my opinion is not a sufficient piece of policy and so what I would like to do is try to develop over the next months a kind of data-driven way to start to think about this going forward. And then maybe think about ways to adjust the current policy using that as opposed to -- to fear.

REP. ROY: Thank you, Commissioner.

Any other questions or comments from members of the Committee?

Thank you very much.

DEPUTY COMMISSIONER MACKY McCLEARY: Thanks.

REP. ROY: Our next speaker will be Representative Brenda Kupchick.

REP. KUPCHICK: Good morning. I wanted to thank the cochairs, Senator Meyer and Representative Roy and the ranking members, Senator Roraback and Chapin. I came to speak on two bills today if that's okay. The first actually being H.B. 5409, AN ACT CONCERNING PET SHOPS AND CONSUMER REIMBURSEMENTS. I gave my testimony so I'll -- I -- just going to touch off on part -- parts of it.

SB.376

When someone purchases a dog or cat they are looking to make worthwhile additions to their family home and life. Too often we hear the horror stories of an animal becoming ill from a genetic defect which can lead to costly medical bills.

The first part of this bill will allow the consumer to be reimbursed up to \$500 and allows the pet owner the option of keeping the

things that I think that we should be able to provide for not only animals but for people who purchase them. And if -- I'll entertain any questions on that bill.

REP. ROY: Comments from members of the Committee?

Seeing none, Brenda, you did a great job.

REP. KUPCHICK: Thank you. And my second is S.B. 376 which you were just talking to the Commissioner about.

Last year, Tropical Storm Irene too Connecticut's coastline and communities like Fairfield and caused enough damage to destroy homes while leaving others severely damaged. Fairfield's shoreline saw so much destruction, even Governor Malloy chose Fairfield as a priority to come and witness the -- firsthand the severity of the damage soon after the storm. Trees down, many days without power, flooding that brought standing water for over a mile inland and these are the things that Fairfield residents think of when you ask them about storm Irene.

The Legislature has had a number of meetings to bring government utility companies and -- general public together to -- to discuss ways to handle extreme weather conditions. Senate Bill 376 is an attempt to clarify the policies and rules covering erosion control and methods on the coast. This mechanism will clarify, streamline and a preventative construction process using the best environmental methods. There are means to address potential flooding that can offer enough protection to homeowners and the shoreline while having a minimum impact on the environment.

And I'll just jump to the part that --

currently these issues are dealt with via an unwritten regulatory policy of no seawall construction which provides no options for property owners, protect their land and structures. It is my understanding that in 2006, funds were appropriated through this Legislature to allow communities to implement measures to protect the coastline and prevent erosion. That appropriation could have mitigated the -- devastation of the shoreline caused by Irene, however, waiting for studies, the legislation expired and those funds weren't utilized. Now shoreline towns are forced to react and try to legislate new policies to help deal with the effects of the storm damage.

I hope that -- I realize that the Commissioner said that he thought that the bill needed some work. I hope that both sides can come together to try to figure out some way. I have a large shoreline constituency and I've been meeting with them along with Senator McKinney, and they are talking about very simple things that wouldn't hurt the environment at all but just would mitigate, not only their -- their homes, it would protect their homes, but also the shoreline, the public areas where people from all over, not just in my own town, but people who come from other towns to enjoy that shoreline.

So I'm hoping we can figure some way to work together with these communities because at this point there is some serious erosion going on in -- in my town especially.

REP. ROY: Thank you, Brenda.

Representative Chapin.

REP. CHAPIN: Thank you, Mr. Chairman.

HB 5409

REP. KUPCHICK: I would hope so, and where they get their animals from.

REP. CHAPIN: Okay. And I have a question on the second bill.

SB 376

Do you acknowledge that there's a lot of differing opinions on armoring our coastline? And do you also acknowledge that our coastline is not ledge, it's typically loose glacial soils, poorly sorted materials of all sizes, and that coastlines are things that change with time? I'm just -- I'm not saying this to be flippant, but I think there's a lot of -- I guess my point is that there's a lot of differences of opinion on the merit of armoring our coastline that it may potentially cause problems in areas that are then not armored. So that this is something we perhaps still need to learn more on and there is a task force that's bipartisan right now that is seeking to get a lot of information.

So whatever you would like to comment on that. Thank you.

REP. KUPCHICK: Are you -- thank you, are you talking about the shoreline legislator group that's -- actually I'm a member of that and we are very -- we're in the -- infancy stage. And obviously there are a lot of differing opinions. Some people feel that the sea walls cause more erosion possibly around them.

Senator McKinney and I have met with our beach erosion group in town which is comprised mostly of people who live on the shoreline. And over the years I've heard -- they tell stories about all sorts of things that were done, things that were very minimally -- putting sea grass in, that was bringing some

of this sand back. Some of the people in the group spoke about 20 or some years ago where they all chipped in a certain amount of money and sand was brought in for restoration and then they paid that back themselves.

So, I mean, I think there's a lot of ideas, some even really interesting, innovative ideas about putting some sort of mechanisms, and I'm not very familiar with the tech terms, out in -- into the water that actually help the sand stay so it doesn't rush back out so quickly. And I think that some people might look at this like well it's just the people who live on a shoreline, but I think it's everybody who uses these. Because we just spent in our tow millions of dollars to restore out pavilion which is used by people from all around in the summers at the beach and that water came rushing underneath and caused some -- some structural issues that we had to work on.

So this is an issue. And I'm not saying we need to put a, you know, a wall around the entire shoreline, but there are some innovative ways to protect the shoreline for everybody I think.

REP. CHAPIN: My last question is do you feel that among these grassroots citizen groups that they really are searching far and wide for potential solutions and to -- to give us to consider perhaps?

REP. KUPCHICK: Oh, absolutely. Our group actually just had -- they paid for a consultant to come out yesterday in fact to walk the beach and they have been researching things that are happening along the country to mitigate that are very environmentally friendly proposals.

REP. ROY: Thank you.

SENATOR MCKINNEY: Good morning. Thank you very much. For the record, my name is John McKinney, State Senator and I feel like I've come home to the Environment Committee and appreciate you allowing me to testify.

HB 5409  
SB 375

I'm going to speak very briefly on three bills. The first -- and I've submitted testimony on my behalf on behalf of Senator Len Fasano, is Senate Bill 376, AN ACT CONCERNING THE COASTAL MANAGEMENT ACT AND SHORELINE FLOOD AND EROSION CONTROL STRUCTURES.

Senate Bill 376 is an attempt to clarify the policies and rules covering erosion control methods on the coast. It does not seek to add any further rights to protect -- ones property but clarifies and streamlines the process to allow construction using best environmental methods. In the interest of finding a compromise, I think the bill does a good job of looking at all alternative options which would include possibly moving back from the water, a buildup which would be replacing sand where its shifted into the water and hardening, building new seawalls for protection.

I think clearly we currently have a -- department policy against seawalls and I think we need to have a policy which is flexible to use what is best available understanding that perhaps seawalls may be the third option but necessary in some instances. If you -- if you go up and down the coast anywhere, especially after the storm, we've all dealt with -- and I know you, Senator Meyer and Representative Roy on the coast, have -- have seen the devastation that was caused by the storms. We need to be able to give people an opportunity

to -- to repair their homes. And in my town of Fairfield we've seen, you know, before the storm, shoreline erosion for decades. And the use of -- the ability to replenish the coast with sand from other areas, use of snow fences and the like, I think can help keep our erosion down for property owners is very important.

The second bill I want to testify on which is -- now I'm just here for myself. I don't want Senator Fasano to get the blame for this, is House Bill 5409, AN ACT CONCERNING PET SHOPS and it's got one of the longer titles I've ever seen for a bill. But I want to thank you very much for raising this bill. You know, there is a need for families and people when they're looking to buy or adopt or rescue a pet to be protected to make sure that the pets they get are certified and assured to be healthy. And that given the significant number of adopted animals that are out there, that those pets sold in stores are not raised in puppy mills.

And to be honest, as you know probably in the past I've introduced measures to prohibit the sale of dogs from pet stores because there are so many dogs available out there in rescue shelters, rescue organizations. But I think section four, short of that, goes a long way to make sure that dogs and cats that families in Connecticut are getting are not being raised in substandard measures.

The third issue I want to just briefly touch upon is the underground storage tank. You're going to hear from a friend and constituent of mine, Tony Collin, he's from Easton, former first selectman and owner of a former gas station whose close to \$400,000 of his own money into cleaning up that site. We need to

SB375

But where there's a will there's a way, Senator, and I think if we look at prioritizing our spending, clearly this needs to be a priority. And -- and we can't risk losing federal -- federal funds that would go to help the program as well.

REP. ROY: Thank you.

Senator McKinney, talking about replacing homes and such along the shoreline after storms, too often we find that people build in areas that are -- are in danger. And then when the home gets damaged they turn to the federal and state governments for funds. What I would like to do along those lines and I'll throw it out, is that after the first time, you know what the problems can be so you'd better be self-insured because the state and the federal government don't have money to pay out year after year with storms. Your thoughts?

SB376

SENATOR MCKINNEY: Well, you know, I want to make sure I answer your question but I need to give you my perspective. You know, I grew up on Fairfield Beach. In the late '60s my father built cottages on Fairfield Beach which, you know, used to be summer rentals for people from the city pretty much. And now they are, you know, year-round houses that are in excess of a million dollars. But those houses were all built in the '60s and people who live along the shoreline in Fairfield have been in houses that have been there for decades and decades.

I think any policy that threatens their property rights and their ownership is a bad one and there are ways that we can protect and replenish the shoreline. If someone were

buying a vacant piece of property, that might be a different issue and they might have a very difficult time finding insurance as it is. But we're not talking about, at least along the coast in Fairfield, you know, there's not a lot of empty property there. It's already been built on and lived on.

You know, I spoke to a gentleman about a month ago who's lived on Fairfield Beach for over 60 years and he remembers a time, you know, 30, 40 years ago where the town went through a process of replenishing the shoreline. You know, we went through a lengthy process to get a harbor dredged because of all the sand and silt that had been blown in from the shoreline houses. So we need long term to look at dredging our harbors and ports to the extent that there is clean dredge material there. Is it possible to use that to help replenish our shoreline? I those are issues we need to look at.

But -- I would be very reluctant of telling somebody who's been a property owner, house has been there for 30, 40, 50, 60 years that we'll help you out one more time but if another storm hits you're on your own.

REP. ROY: Okay. Thank you for that answer and I appreciate the thoughts. And of course the beaches in West Haven and Milford have been my playground also.

Representative Chapin.

REP. CHAPIN: Thank you, Mr. Chairman.

I guess to be fair to Representative Kupchick I should ask you the same question. If it's good policy to prohibit pet shops licensed under 22-344 to not get their dogs and cats

HB 5409

that so we can -- so we can stop that market for the puppy mill puppies, absolutely.

REP. CHAPIN: Thank you.

Thank you, Mr. Chairman.

REP. P. J. MILLER: Thank you, Mr. Chairman and thank you Senator for your very thoughtful testimony. I know that when you experience your friends and neighbors who -- whose property has been so badly damaged how heart wrenching that can be certainly. And I find it really encouraging that particularly in your area, among others along the Sound, there is a lot of grassroots people looking to all sorts of innovative ways to combat the erosion and such.

SB376

And my question is when you were speaking, you mentioned a very reasonable process of looking at many options including potentially a seawall where it's appropriate and of course there's a number of factors which determine that from the proximity of the marshes structures and everything else. But on the bill itself it states the statement of purpose very clearly to give -- to clarify the right of property owners to construct shoreline flood and erosion control structures. So that seems a little bit -- I thought yours was -- this is a reaction of course to a previously submitted bill which did raise the specter to a number of people of property rights being taken. And I understand that perhaps this, with some element of pushback may go a little further than I thought what you were describing was sort of look at a lot of different options. Can you comment on that, please?

SENATOR MCKINNEY: Sure. And I -- I think as I

understand it, the need for 376 arises in part out of what I understand to be, you know, a policy within the -- within the agency of not allowing seawalls. And I think that seawalls need to be part of the array of options that property owners have. But under -- under no circumstances would I say that you can build a seawall absent local and state regulatory oversight to make sure of the environmental impacts and all the other impacts that -- that may come with that and whether or not there are alternatives that might have less impacts.

REP. ROY: Thank you.

Any other questions of --

Senator Roraback.

SENATOR RORABACK: Thank you, Mr. Chairman and good morning, Senator.

I'm reading your written testimony on Senate Bill 376 and the final paragraph says that with DEEP Commissioner Dan Esty's own view that flexibility and thoughtfulness is important to establishing a policy which is acceptable to both the shoreline property owners and shoreline preservationists, I wanted to know whether Commissioner Esty has offered his opinion on the appropriateness of this bill or indicated a willingness to work with you and other -- with other Legislators representing the shoreline to protect these rights?

SENATOR MCKINNEY: I have not spoken with him directly on this measure. I know Senator Fasano has had a number of conversations with the agency. I know that that -- that line was part of his testimony before the Committee in February 22nd and in my personal dealings with

him and on -- discussions with him on Exec Noms Committee I have found the Commissioner to -- his -- his outlook to be extraordinarily good in terms of trying to get the agency to be flexible and work with everybody to try to find out what's best for property right owners and the environment.

So I have not talked to him directly and I -- so I can't speak to whether or not he's in support of the bill.

SENATOR RORABACK: And do you think there's a risk that if this bill does not pass the state could be exposed to claims that our policy is confiscatory and that we would therefore have to pay money to people for a taking of their property? Is that a real risk?

SENATOR MCKINNEY: I wouldn't be able to quantify the risk, but I think it's a potential.

SENATOR RORABACK: Thank you, Senator.

Thank you, Mr. Chairman.

REP. ROY: Thank you.

Any other questions or comments from members of the Committee?

Seeing none, Senator, thank you very much.

SENATOR MCKINNEY: Thank you very much.

REP. ROY: Okay, we'd called Representative Ed Jutila, he'll be next but he'll bring us into the public portion and the first speak from the public will be Doug Handel.

REP. JUTILA: Good morning, Representative Roy, Senator Meyer, ranking member, vice chair,

HB5447

and approved in accordance with the substantive law that was in effect at the time the applications were filed.

I've submitted some additional written materials for your consideration so I ask you not to approve -- Senate Bill 375 but that you instead reconsider those provisions in particular. Thank you.

REP. ROY: Thank you. And three minutes goes by fast, doesn't it?

ANNE PETERS: Unfortunately.

REP. ROY: Kachina Walsh-Weaver -- wait a minute.

Any questions or comments from members of the Committee?

If not, thank you very much, Anne.

Kachina? To be followed by Vince DeRentiis.

KACHINA WALSH-WEAVER: Good afternoon.

Representative Roy, Senator Meyer, members of the Committee. For the record, I'm Kachina Walsh-Weaver with the Connecticut Conference of Municipalities. I'm going to speak to you very quickly on four bills.

SB 349  
SB 376  
HB 5121

First one up is Senate Bill 375. CCM has a number of concerns with this bill. It would eliminate funds that assist owners of underground petroleum storage tanks to clean up leaky or contaminated sites. You've heard from many people prior to me. My understanding is that this fund, just the existence of this fund helps to meet federal insurance requirements for property owners. The absence of this fund would leave them -- many without insurance and the inability to

obtain private insurance. And municipalities main concerns are about the potential for contaminated properties being forced to shut down and then being banded and creating new brownfields across the states.

Senate Bill 349, CCM supports section one of this bill which would require inland wetland training programs to be provided online. We think this is an excellent way to -- for more individuals to access the program. However we do oppose the mandate that's included in sections two and three. The language of the bill itself says that funding for such training would be provided within available funds and we have a lot of concerns about whether or not those funds would dry up too quickly and therefore municipalities would be forced to pay for the training out of their own pockets. We also always have concerns about finding volunteers to sit on these boards and commissions and whether or not some sort of a mandate might be another obstacle to filling these positions.

We are also in opposition to Senate Bill 376 which would essentially create an automatic acceptance of any proposed coastal site plan for a shoreline flood and erosion control -- structure as long as the plan includes certain provisions. It appears that there's only one method provided in the bill for the municipal zoning commissions to even raise issue with the plans and that would be to propose an -- alternative option of their own. CCM is unaware of any other regulation that would require a local commission to come up with an alternative design plan for a proposed project or before -- for its acceptance. The implications of this bill could certainly be far-reaching and detrimental to the protection of land and we urge your consideration of

those implications before moving forward.

CCM's also in opposition to section three of House Bill 5121 which would essentially take the fight that has to date been unsuccessful on the state level to ban pesticides statewide and create an emotional political tool on the local level for IPM opponents. DEP and the U.S. EPA together already have a significant regulation on -- or significantly regulate pesticides. Both agencies have the resources and scientific expertise at their disposal to make the needed decisions regarding toxicity and public health. Local governments do not have those same resources. Towns and cities are already dealing with huge budget crises and balancing trying to meet current local service needs without being -- now being able to make scientific decisions on already regulated products. Thank you.

REP. ROY: Thank you. Did you hear Commissioner McCleary earlier saying that DEP wanted a moratorium or, you know, at least a year of no pesticide laws, just leave it status quo? And then while they're -- develop a comprehensive training and plan?

KACHINA WALSH-WEAVER: I did hear that he did not want to have the preemption removed. Correct? Is that he was testifying on this morning?

REP. ROY: He didn't want the preemption. In fact when I asked him directly would you like to see all of the pesticide proposals disappear, he said yes. That would give them a chance. Would you support that?

KACHINA WALSH-WEAVER: We are -- we continue to be very much in support of the judicious use of pesticides under a regulated IPM program.

Raised Bill Number 5121, AN ACT CONCERNING THE USE OF ORGANIC PESTICIDES ON SCHOOL PROPERTY AND AUTHORIZING MUNICIPAL REGULATION OF PESTICIDES ON RESIDENTIAL PROPERTY. In particular, Connecticut Farm Bureau is concerned with Section 3 of the bill which would allow for the authorization of municipal regulation of pesticides.

We feel that the Department of Energy and Environmental Protection, through its pesticide management program, is the best place for making pesticide certification and use determination because it has the expertise and the science-based analysis, that we are really concerned that would not be replicated at the municipal level and we have always advocated for a science-based solution to pesticides and any crop inputs and any kind of pesticide or fertilizer type input.

So I'm happy to answer any questions you might have.

REP. ROY: Thank you. Any questions from members of the committee for Henry?

You did a good job. You answered the questions (inaudible). Thank you, Henry.

David Sutherland followed by Heather Millette.

DAVID SUTHERLAND: Thank you. My name is David Sutherland. I'm here today representing the Nature Conservancy and we have submitted written testimony supporting Bill 348 concerning the water conservation rate making, as well as Bill 5413 that would provide funding for the invasive plant coordinator. We want to thank the committee very much for raising both of those bills. They are extremely important.

SB376

I also submitted testimony expressing our opposition to Bill 376 as it is drafted right now. The bill would set up a new regulatory paradigm that I'm not aware of any other regulation that has this. It would basically give municipal zoning commissions no choice, no ability to reject an application for a seawall or other coastal erosion structure.

They would either have to, with this language, either have to approve the applicant's permit application or they would have to craft their own alternative design with some very serious constraints on what the design would be. And so we would just feel that this would be an unprecedented new regulatory concept that is inappropriate.

Seawalls and other armoring structures are absolutely essential in some areas and they are effective in some areas, but they have many drawbacks. We saw during Storm Irene many of them failed. Some of them actually intensified flooding and prolonged it. And in many areas they can have a devastating impact on tidal wetlands and other coastal resources. So we've got to become much more sophisticated in how we protect our coastal areas. Sometimes we're going to need and have to use seawalls, but in other places they are inappropriate.

And I don't have statistics for municipal commissions, but DEEP has received 236 applications in the last three years for seawalls, bulkheads other related structures along the coastline. And they've rejected 5. Out of 236 they've rejected 5. There are about 49 that are still pending of the more recently submitted applications, but they've rejected a very low number.

I know there are cases where permits have taken much longer than anyone would like. I know there are cases where DEP has strongly discouraged people from applying. But 236 applications in three years is a fairly substantial number and a very small number of them have been rejected.

So as it's drafted we are opposed to this bill. And I was heartened by some of the testimony we heard earlier by Senator McKinney in terms of some of the intention behind it, but as drafted it's not a wise piece of legislation.

Thank you.

REP. ROY: Thank you.

Any other questions or comments for David?

Representative Mushinsky.

REP. MUSHINSKY: Thank you, Mr. Chairman.

David, I know where this -- the origin of this bill is really that Senator Fasano saw with his own eyes tremendous destruction of his district and his personal property.

DAVID SUTHERLAND: Yeah.

REP. MUSHINSKY: And so I feel for him and his constituents. And I just want to ask you if we were to do some version of this, what could we do that takes into account choices for a property owner while still protecting the property owner's ownership of the area?

DAVID SUTHERLAND: Well, I think for starters at the very least, you -- again, I have not seen

any other regulation or law. Maybe they're out there, but I've asked a few attorneys and they are not aware of any. I've never seen a statute or a regulation where the agency has no ability to reject an application. So I think for starters that that needs to be in there. Some discretion on the part of the agency.

I like the idea of requiring some different alternative approaches if it's not going to prove much too costly for the applicant. I think that's something we want to encourage, is for people to have some different alternative approaches that they're considering. But I think we've got to give the agencies, whether it's the zoning commission or DEEP, some ability to say in some cases this is just not a smart thing to do here. So that would be a starter for example.

I hope that's a change that would be made in terms of the -- I don't know of any other case where a commission is charged with coming up with their own engineering plan. And I don't think I'd be in favor of that, but the constraints that are put on this are pretty severe. In this case the commission's plan cannot be -- I forget what the wording is -- too costly and that's defined in this bill as being greater than 15 percent of the assessed value of the structures.

So you got some cases. I was looking up just some town records the other day I found a few cases where you had properties that were appraised at a half a million dollars and the assessed value of the structures was 80,000 dollars.

So you're talking about a commission having to

design a structure, a protection structure that would be what? 8 to 10 thousand dollars, which is -- seawalls are very expensive. So I think that's a pretty burdensome restriction if you're going to make a commission come up with a plan, which I don't agree with in the first place, but if you're going to do that, you've got to give a little more latitude there I think.

And again, I feel a huge amount of sympathy for the losses that were suffered in East Haven, devastating, devastating impacts. And we've certainly got to figure out ways of helping those folks, but we've got to do it in an increasingly sophisticated way.

Again, seawalls are very effective in some places, but in other areas they actually prevent floodwater from getting back out once the Sound starts. I've got a picture in my briefcase and the end of Store Irene, a case where the water in Long Island Sound was starting to recede and the water that was flooding these houses behind the seawall couldn't get back out. So you've got to get more sophisticated.

REP. ROY: Thank you.

Senator Meyer.

SENATOR MEYER: Dave, I don't read Senate Bill 376 as it's currently drafted to relate in any way to the Department of Energy and Environmental Protection. It merely refers to the zoning, local zoning board.

DAVID SUTHERLAND: Yeah. That's -- I hope I reflected that in my testimony.

SENATOR MEYER: That means it's dealing with

structures that would be inland of the high water mark. Right? Because DEP would be involved water (inaudible) of the high water mark.

DAVID SUTHERLAND: Right. Yeah. Yes. Exactly yeah.

SENATOR MEYER: Yeah. Thanks.

REP. ROY: Representative Phil Miller.

REP. P. J. MILLER: Thank you, Mr. Chairman.

And thank you for your testimony, Dave. My question is, as you know in the lower Connecticut River we've won a number of grants to restore hundreds of acres of tidal marsh there. And most of those marshes had been compromised typically throughout time when dredge spoils, back when we dredged, were piled on top of a lot of these hardpans and things like that, drainage, natural drainage features.

And the successful part was that there was a broad coalition from paddlers and boaters and sailors, people who understand that the restored vitality of these tidal marshes means more fish, it's better for our commercial fisheries, for our tourism. All of that. Are those efforts a little more daunting in the open sound than in some of the somewhat protected rivers perhaps?

DAVID SUTHERLAND: (Inaudible) if fact where it is easier. But, yeah. Certainly when you're facing open water it's going to be a little more challenging, not as challenging because of Long Island as it is out in the open ocean. So -- but yeah. That's true.

And I'd want to stress again that I think with tidal wetlands and tidal flats and dune systems, part of the function they serve is that in some cases they can very much buffer properties inland from the worst effects of wave energy. Not in all cases, but in some cases they serve a very protective function.

REP. P. J. MILLER: And we heard some pretty encouraging testimony from some of the Fairfield legislators this morning describing some comprehensive grassroots efforts and forays into all sorts of different things which can be used in different areas from building up the beach to planting the dune grass. We also heard about how Hammonasset, as badly as it was hit after the storm, as you know, some of the features had been moved inland and they were spared.

DAVID SUTHERLAND: Right. Yeah. And in some cases it's naive to say that seagrass or a dune is going to protect the property, but in other cases it's very, very accurate to say that. And in some cases it's unfortunately naive to say that a seawall is going to protect property. So it really varies depending on the very localized circumstances.

REP. P. J. MILLER: And does the conservancy have a firm commitment to look at these, all these types of potential solutions in the future?

DAVID SUTHERLAND: We would love to work with as many people as we can on looking into those. Yeah.

REP. P. J. MILLER: Okay. Thank you.

And thank you Mr. Chairman.

REP. ROY: Thank you.

Any other questions or comments from members of the committee?

Thank you, David.

DAVID SUTHERLAND: Thank you.

REP. ROY: Heather Millette followed by Mary Campbell.

HEATHER MILLETTE: Good afternoon, Mr. Chairman and members of the committee. My name is Heather Millette. I'm from Watertown, Connecticut and I'm here testifying on H.B. 5121 today opposing this.

I've submitted some written testimony, but I'd like to leave you with a few thoughts. You can read the testimony later. I'm also here as the president of the Connecticut Pest Control Association. I'm representing over 75 member companies who are all opposing H.B. 5121.

Sitting to my left is my son. I'm also a mother of one and I'm a wife and a local pest control business owner. I've been in this industry for over 20 years and we've been regulated by the DEP at the state level -- actually it's the DEEP now. They have the scientific resources, the knowledge and the staff. They worked daily with us, both our association and our individual companies. They have the knowledgeable staff to work with us. They ensure the safety and the well-being of the public as well as the environment.

We can protect the public. It does that so that we can protect the public and its structures and its vectored past. The patchwork regulations that are being brought



CONNECTICUT LEAGUE OF  
CONSERVATION VOTERS

3/16/2012

*The following bills are of high concern to the Connecticut League of Conservation Voters and are being heard in the Environment Committee on 3/16/12*

POSITION	BILL #	DESCRIPTION	CTLCV POSITION
SUPPORT	SB 93	AN ACT CONCERNING A MERCURY THERMOSTAT COLLECTION AND FINANCIAL INCENTIVE PROGRAM	Mercury is highly neurotoxic to all of us and exposure to even a small amount can cause learning disorders and developmental delays in young children, and a single gram is enough to make all of the fish in a 20 acre lake unsafe to eat for a year.
SUPPORT	SB 348	AN ACT CONCERNING WATER CONSERVATION	This bill authorizes water company rates that support conservation measures and investments in infrastructure which promote water and energy conservation.
OPPOSE	SB 376	AN ACT CONCERNING THE COASTAL MANAGEMENT ACT AND SHORELINE FLOOD AND EROSION CONTROL STRUCTURES	This will place an unprecedented burden on municipal zoning commissions with regards to all coastal erosion control structures. It requires commissions to either 1) approve an applicant's proposal or 2) spend the money to develop an alternate engineering plan for the applicant. It also puts serious constraints on the alternate plan.
SUPPORT	HB 5121	AN ACT CONCERNING THE USE OF ORGANIC PESTICIDES ON SCHOOL PROPERTY AND AUTHORIZING MUNICIPAL REGULATION OF THE USE OF PESTICIDES ON RESIDENTIAL PROPERTY.	The pesticide industry puts a pesticide preemption law in 42 states so that towns could not have stricter laws concerning lawn-care pesticide than their state regulations. This legislation would allow towns to decide whether they want to adopt stricter, never less strict, lawn care methods than the state.
OPPOSE	HB 5410	AN ACT TRANSFERRING THE CONSERVATION FUNCTIONS OF THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION TO THE DEPARTMENT OF AGRICULTURE.	This will transfer the conservation functions, including forestry, parks and fish and game, from the Department of Energy and Environmental Protection to the Department of Agriculture and rename the Department of Agriculture as the Department of Agriculture and Natural Resources

For more information about these bills, please visit our website at [www.ctlcv.org](http://www.ctlcv.org), or contact Patrick Shortell at 860-236-5442

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# Rivers Alliance of Connecticut

ENVIRONMENT COMMITTEE PUBLIC HEARING: MARCH 16, 2012

HB 5082 SB 375  
SB 93 SB 350  
SB 347 (HB 5413)

Dear Senator Meyer, Representative Roy, and Members of the Committee:

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*Rivers Alliance of Connecticut is the statewide, non-profit coalition of river organizations, individuals, and businesses formed to protect and enhance Connecticut's waters by promoting sound water policies, uniting and strengthening the state's many river groups, and educating the public about the importance of water stewardship. Our 450 members include almost all of the state's river and watershed conservation groups, representing many thousand Connecticut residents.*

We offer brief testimony on the following bills, in the order in which they are listed in the online agenda for today's public hearing

**RB 348 AAC WATER CONSERVATION.** Rivers Alliance has been interested in supporting a bill like this for more than ten years. We hope you will like it. Both water companies and environmental advocates participated in its development. Essentially, the bill encourages the de-coupling of water revenues from volumes sold. This is the same principle that has been applied in the energy sector. Efficiency and conservation can be costly to the utility. Water-saving appliances depress sales and revenue, then investment in infrastructure and maintenance is slowed; the resulting emergency repairs are expensive, staff is let go, water quality is at risk, and rates rise in crisis mode. The solution is a rate structure that rewards the consumer for thrift but provides a predictable revenue flow for the water company. Different utilities work in very different conditions, so the bill is designed to accommodate different needs. *Support.*

**RB <sup>344</sup>375 AAC TRAINING FOR INLAND WETLANDS AGENCY MEMBERS AND AGENTS.** The Council on Environmental Quality (CEQ) developed this bill to upgrade the expertise of wetlands commissioners and agents. Present law requires almost no training for staff or members of a commission. CEQ research revealed that the better trained commissions more successfully protected wetlands. Previous efforts at legislation were more burdensome and costly than necessary, and also occasionally punitive. This bill has largely cured those problems. *Support.*

**RB 376 AAC THE COASTAL MANAGEMENT ACT AND SHORELINE FLOOD AND EROSION CONTROL STRUCTURES.** This is a complicated instrument for overriding shoreline zoning rules. We have opposed changes to regulatory authority until the state develops a broad policy for shoreline construction in an era of rising water. Note, the definition of "cost prohibitive" is pinned to the overall cost of a project. But this does not take into account the resources of the applicant (for whom nothing or everything may be too costly) or the importance of the requirement to human and environmental health. *Oppose.*



## State of Connecticut

### SENATE

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**Testimony of Senator Len Fasano**  
**Environment Committee Public Hearing**  
**Friday, March 16, 2012**  
**10:00 AM in Room 2B of the LOB**

**SB 376 AN ACT CONCERNING THE COASTAL MANAGEMENT ACT AND SHORELINE FLOOD AND EROSION CONTROL STRUCTURES.**

Tropical storm Irene tore apart Connecticut's shoreline late last summer leaving an indelible mark on the shoreline and its residents. Homes disappeared, neighborhoods were destroyed, streets were ripped up, and catastrophic damage occurred all along the coast. We have not witnessed such widespread coastal flooding and destruction since the Great Hurricane of 1938.

But after the flood waters receded and shock of the damage dissipated, people sought to rebuild their homes and their lives. It is a time when state government should be helping them, making it easier for them to rebuild, to protect their property. And if not to help, then certainly not to hinder their efforts to get back what was once theirs.

Unfortunately, the storm and its aftermath has brought to the surface a policy clash between those who have a statutory and constitutional right to rebuild their homes and protect their properties, and those who would have the entire coast returned to its natural state. Making matters worse, there are some who are taking advantage of a rare storm event, to force their agenda on Connecticut shoreline residents. Some staff within a state agency are refusing to allow these residents their statutory right to protect their homes by way of erosion control, sea walls, and other coastal flood management methods.

**Senate Bill 376** is an attempt to clarify the policies and rules covering erosion control methods on the coast. Said bill does not seek to add any further rights to protect ones property. It clarifies and streamlines a process to allow construction using the best environmental method. It realizes that there are other means to address potential flooding that can offer enough protection to property while having a minimal impact on the environment. It seeks to find some muddle ground that will give property owners protection, without widespread hardening of the coast.

In the interest of finding a compromise acceptable to all, the bill requires that an application under a coastal site plan for erosion control includes three alternative options including, but not limited to:

1. Move back from the water
2. Build up – replacing sand where it shifted into the water
3. Hardening – building new sea walls for protection

This will allow local zoning boards and The State Department of Energy and the Environment (DEEP) to consider potential impact on the environment, the protection needed for property, and will allow them to weigh the benefits of all options before approving a control measure. It will create a dialogue on the best means to protect shoreline property, rather than simply adhering to the unwritten staff level regulatory policy of no sea wall construction. A regulatory policy that is currently in practice, but that runs contrary to our laws as well as the right of property owners to protect what is theirs.

DEEP Commissioner Dan Esty in his own words testified before this committee (February 22<sup>nd</sup>) last month saying, *"the best thing we can do is be flexible and thoughtful as an agency... I encourage people to come in and work with us..... Predictability is important."*

I couldn't agree more.

I urge your support for SB 376 as a fair compromise to try and navigate treacherous waters between shoreline residents and shoreline preservationists. Thank you.

Testimony of Donald DiPalma  
Environment Committee Public Hearing  
Friday, March 16, 2012  
10:00 AM in Room 2B of the LOB

**S.B. No. 376 (RAISED) AN ACT CONCERNING THE COASTAL  
MANAGEMENT ACT AND SHORELINE FLOOD AND EROSION CONTROL  
STRUCTURES.**

I have lived on the shoreline in East Haven, CT since 1953, virtually my entire life. My children are the fourth generation to reside at our home, and I consider this our "homestead". I, along with my family, have gone to considerable expense to improve our property and home to maximize our personal safety and minimize the risk of storm damage. My love for the Long Island Sound shoreline is the foundation for my belief that development of structures along the coastline should be done with serious consideration for environmental concerns.

However, the law should not preclude property owners from doing what must be done to ensure their personal safety and protect their homes and property. Nor should the law in any way threaten their rights to property ownership on the coastline. The law should not impose restrictions that make the process unreasonably complicated or the cost of protective measures unreasonably high. It is critical that the rights of the property owners be given at least equal if not higher priority than the other environmental concerns.

I fully support the revisions to Bill # 376 supported by Senator Len Fasano. I encourage the full legislative body to lend their support to the bill as well.

Donald DiPalma  
East Haven, CT

Environment Committee Public Hearing  
Friday, March 16, 2012  
10:00 AM in Room 2B of the LOB

**SB 376 AN ACT CONCERNING THE COASTAL MANAGEMENT ACT AND  
SHORELINE FLOOD AND EROSION CONTROL STRUCTURES.**

I am unable to attend the public hearing, however, I would like to testify in favor of S.B. No. 376 AN ACT CONCERNING THE COASTAL MANAGEMENT ACT AND SHORELINE FLOOD AND EROSION CONTROL STRUCTURES. This bill will clarify the right of property owners to construct shoreline flood and erosion control structures.

As a shoreline, beach front resident, who had property damage from Tropical Storm Irene, I would like the option to protect my property from rising tides and to build a seawall or add sand to replenish the beach. The precedent of adding sand to replenish the beach for me was set in 1957, when New Haven Harbor was dredged and the sand was pumped on to the properties in my community. The cost was borne by the residents and this action saved my property. Since that time my house was rebuilt to FEMA standards. The ability to add sand or construct a sea wall today will allow the property to survive another 50 to 60 years.

Thank You

Roger P. Parisi  
46 Caroline Road  
East Haven, CT 06512



Testimony of:  
Save the Sound  
a program of Connecticut Fund for the Environment



**In Opposition of Raised Bill No. 376**

**AAC THE COASTAL MANAGEMENT ACT AND SHORELINE FLOOD  
AND EROSION CONTROL STRUCTURES**

Before the Environment Committee

March 16, 2012

Submitted by Leah Schmalz, Dir. of Legislative and Legal Affairs

*Save the Sound is a regional program dedicated to the restoration and protection of Long Island Sound; together with its parent organization, Connecticut Fund for the Environment ("CFE"), a statewide non-profit environmental advocacy organization, it represents over 5,400 members. Since 1978, CFE has used law, science and education to improve Connecticut's environment.*

Dear Senator Meyer, Representative Roy, and members of the Environment Committee:

Save the Sound, a program of Connecticut Fund for the Environment, submits this testimony in *opposition* to Raised Bill 376. If passed, this legislation would put a significant new burden on local commissions. We are concerned because the bill does not allow a commission to reject a permit application for a seawall, but instead requires that the commission either approve the permit or develop its own alternative design for a structure. This process is not only unduly burdensome, but it would also have the effect of easing the way for the construction of undesirable coastal structures, which are costly, cause accelerated erosion, and ultimately lead to decreased public access.

**Section 2 of SB 376 essentially nullifies municipal discretion in interpreting coastal policies**

The proposed language in Section 2 effectively nullifies any requirement that municipal zoning commissions determine if shoreline flood and erosion control structures proposed landward of the high tide line are consistent with the state's coastal policies. The language states that "a municipal zoning committee shall find a coastal site plan for a shoreline flood and erosion control structure...is consistent with...subsection (b) of section 22a-92...if," it is submitted with three alternatives certified by a structural engineer to be consistent with the coastal policies.

First, proposing three alternatives to a shoreline flood and erosion control structure that a third, not-governmental, party judges consistent with the Coastal Management Act cannot make an

original proposal consistent with coastal policies, yet that is exactly the result of reading Section 2 (a)(1) & (2) together.

For example, a person applying for a seawall must submit, with the application, three alternatives to that seawall (Section 2a(1)) and an engineer must certify that those alternatives—but not the original proposal for the seawall—are consistent with coastal policies (Section 2a(2)). If the commission disagrees, it must develop its own alternative to those alternatives, and that commission alternative cannot be “impractical” (which is not defined) or expensive (Section 2(b)). This process will then deem the original seawall proposal to have complied with the coastal policies found in 22a-92 (b) (language inserted in Section 1(b)(F)).

Second, even if the language of SB 376 is modified to correct this non-review of the original proposal, the final result will still be undesired. In the end this bill removes a commission’s ability to deny a permit under any circumstance and places an enormous new burden on their process. The commission has three choices 1) accept the original proposal, which again under the proposed language never undergoes its own review since mere inclusion of three certified alternatives seems to provide it with the compliance stamp of approval (see new language in Section 1 of SB 376), 2) accept one of the three alternatives certified by the applicant’s structural engineer, or 3) develop from scratch, its own alternative for the applicant. The loop created by this process is one that the commission can only escape by granting a permit. And worse, in many cases only after it expends its own resources to design and engineer the project for the applicant.

Hardening of the shoreline is argued to be appropriate under some limited circumstances, but as a matter of course, it can “cause changes to the coastal environment that threaten landscapes, public access, recreational opportunities, natural habitats, and fish populations.”<sup>1</sup> Seawalls “interrupt natural shoreline processes and sand movement that can lead to increased erosion downdrift from the structure...[and] destroys valuable shoreline habitats including wetlands and intertidal areas.”<sup>2</sup> Moreover, they can cause “increased erosion at the ends of the seawall on an adjacent beach that is not walled.”<sup>3</sup> Eventually the shoreline will migrate landward beyond the structure. “The effect of this migration will be the gradual loss of beach in front of the seawall or revetment as the water deepens and the shoreface moves landward...While private structures may be temporarily saved, the public beach is lost.”<sup>4</sup>

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<sup>1</sup> <http://www.csc.noaa.gov/magazine/2009/04/director.html>

<sup>2</sup> <http://coastalmanagement.noaa.gov/shoreline.html>

<sup>3</sup> <http://ocpc.msi.ucsb.edu/pdfs/Seawall.pdf>

<sup>4</sup> <http://www.beachapedia.org/Seawalls>

While it may be determined that some armoring of the shoreline may be necessary in rare occurrences, developing a new policy that makes it easy, which SB 376 does, is contrary to best coastal management practices as demonstrated by multiple provisions of the very part of the statute this bill seeks to avoid, 22a-92b:

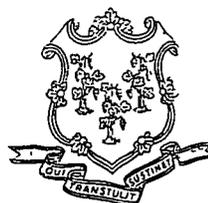
- “structures in tidal wetlands and coastal waters be designed, constructed and maintained to minimize adverse impacts on coastal resources, circulations and sedimentation patterns, water quality, and flooding and erosion...”22a-92b(1)(D)
- “to preserve the dynamic form and integrity of natural beach systems...;to insure that coastal uses...do not unreasonably interfere with natural processes of erosion and sedimentation.” 22a-92(b)(2)(C).
- “...to promote non-structural solutions to flood and erosion problems...” 22a-92 (b)(2)(F)
- “...to minimize the adverse impacts of erosion and sedimentation on coastal land uses through the promotion of nonstructural mitigation measures...Structural solutions are permissible when necessary and unavoidable for the protection of infrastructural facilities, water-dependent uses, or existing inhabited structures, and where there is no feasible, less environmentally damaging alternative and where all reasonable mitigation measures and techniques have been provided to minimize adverse environmental impacts.” 22a-92 (b)(2)(J )

The issue of armoring the shoreline is a complex one that requires much discussion and evaluation. Instead of moving forward with SB 376, we ask that you work with the Speaker’s Shoreline Preservation Taskforce to analyze this issue and develop recommendations for next steps.

Thank you for your consideration

Sincerely,

Leah L. Schmalz, Dir. of Legislative & Legal Affairs  
Save the Sound, a Program of CFE  
142 Temple St. 3rd Floor  
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## State of Connecticut

### SENATE

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### *Testimony of Senator Kevin Kelly (R-21) Minority Whip*

#### SB376 AN ACT CONCERNING THE COASTAL MANAGEMENT ACT AND SHORELINE FLOOD AND EROSION CONTROL STRUCTURES.

Tropical Storm Irene in 2011 struck Connecticut unexpectedly and left its mark both physically along the shoreline and mentally within the minds of residents and legislators across the state. Some communities faced minor damage while others were flooded and without power for days. Not since the Great Hurricane of 1938 has a storm of this magnitude hit Connecticut. As a state, we were prepared for neither the strength of the storm, nor the damage it would leave in its path. Due to the damage caused a couple years back by the tornado which tore through Bridgeport and the southern parts of Stratford, the infrastructure in Stratford susceptible to Irene had been strengthened and many of the more dangerous trees had already fallen. Had it not been for this, the damage from Irene would most likely have been much worse. However, the power failures and storm damage through the towns of Monroe, Seymour and Shelton was still extensive. Throughout my district, the flooding was severe and the storm surge covered a significant area of Stratford's coastline.

My particular concern is to allow more local control of flood prevention efforts since municipal leaders and community members understandably have a better idea of how to defend their properties. And therein lies the problem: since the storm, we in the Legislature have been searching for ways to prevent such destruction from occurring again. But in the search for programs or policies to protect residents from future severe storm damage, a policy dispute has occurred. Some legislators and agency staff believe it is more important to take Irene as a sign that people need to move away from the shoreline and allow it to be naturally reclaimed. Others believe that citizens have a right to enjoy shoreline properties and therefore should have the right to defend them from unusually destructive storms. A compromise needs to be made which allows local zoning to take part in establishing environmentally conscious policies which allow for property protection without hardening Connecticut's coastline.

Senate Bill 376 effectively established the groundwork for such a compromise. It clarifies the coastal erosion control policies and rules. It recognizes the need to prevent shoreline "hardening" by forcing applicants to take into account the wide variety of methods available for defending properties against flooding and storm surges. This is an integral part of the application process which also requires local zoning boards to take the submission of alternative methods into account when making a decision regarding coastal erosion control projects. This bill, importantly, does not expand property owner rights, it merely reinforces those rights already granted to shoreline property owners to defend their land. Key to this entire bill is the recognition that the goal is to prevent "hardening" the shoreline.

*(Over)*

The Legislature should be focusing on ways to work *with* the property owners along the Connecticut coastline, not against them. To this end, SB376 makes an effective launching point for a dialogue to begin between property owners and shoreline conservationists to form a compromise which will allow local control of the methods and means by which Connecticut can ensure property owner rights and prevent unnecessary "hardening" of our coast.

I urge you to support SB376. The Legislature should not be picking one side over the other in this case. It should be presenting a vehicle to the concerned parties to work on this issue together



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**Testimony of David Sutherland – Director of Government Relations  
Before the Environment Committee – March 16<sup>th</sup>, 2012**

**In Opposition to Bill 376 – AAC THE COASTAL MANAGEMENT ACT AND  
SHORELINE FLOOD AND EROSION CONTROL STRUCTURES**

On behalf of The Nature Conservancy, I would like to express our opposition to Bill 376.

This bill would make a significant change to the laws governing municipal permitting of sea walls, bulkheads, and other shoreline “armoring” structures. By requiring municipal commissions, in order to reject a permit application, to devise an engineering plan to accomplish the applicant’s objectives, this bill would set a new precedent in Connecticut’s regulatory law. The language also gives a local commission no choice but to approve an application, with either an option presented by the applicant, or a new one developed by the commission. There would be no possibility of a commission rejecting an application.

While necessary and effective in many cases, “armoring” structures can have significant drawbacks. During Storm Irene, numerous sea walls did not work, and others prolonged or intensified flooding. In many locations, armoring destroys tidal wetlands and flats, and beaches by creating a scouring away of these resources. This eliminates both the protection of property these resources provide by absorbing wave energy, and critical habitat for finfish, shellfish, and coastal birds.

We do not have statistics on municipal commissions, but DEEP data on recent applications it has received for coastal structures in their jurisdiction show a very low rate of project rejections. Out of 236 applications the agency received in the past three years, it rejected five. It approved 170; forty nine are pending; and six have been withdrawn. Even in the 37 cases where people installed structures without getting necessary permits and DEEP required them to apply for one retroactively, only one was rejected. Twenty nine were issued, six are pending, and one was withdrawn

Sea walls and other flood and erosion control structures are needed to protect some buildings and infrastructure. But communities need the ability to be very deliberate in determining whether or where to allow them. We as a state need to become much more sophisticated in assessing which methods of protecting coastal infrastructure are most appropriate for specific locations. One section of this bill could help do this by requiring applicants to submit alternative options for protecting their property.

The rest of the bill, however, would establish an inappropriate and unprecedented regulatory framework that would significantly hinder local commissions in performing their duties and likely create further delays in the permitting process



## State of Connecticut

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Testimony of Senator John McKinney, Minority Leader  
Environment Committee Public Hearing  
Friday, March 16, 2012  
10:00 AM in Room 2B of the LOB

### **SB 376 AN ACT CONCERNING THE COASTAL MANAGEMENT ACT AND SHORELINE FLOOD AND EROSION CONTROL STRUCTURES.**

In 2011, Connecticut was struck by two unprecedented storms, Tropical Storm Irene and the Halloween Blizzard. The damage which occurred because of these storms has had an effect on businesses, residents, and legislators. Particularly in response to Irene, the State of Connecticut has reacted to protect the citizens, businesses, and infrastructure which are integral to Connecticut.

The effects of Irene were most devastating to the shoreline of Connecticut; homes, businesses, even whole neighborhoods flooded out by the storm surge and damaged by high winds. Such damage has not been seen in our state since the Great Hurricane of 1938 ripped through Connecticut. The need to rebuild and recover after Irene is just as significant as it was 73 years ago.

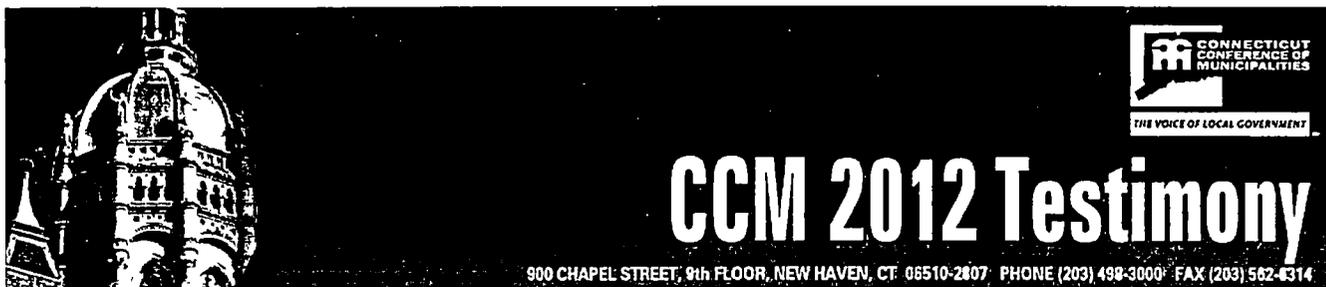
However, as people began surveying the damage to homes and properties along the Connecticut coastline they were greeted with a shock beyond the damage from the storm. A dichotomy of policy ideals has occurred between those who feel state citizens who live along the shore should be allowed to rebuild and protect their properties, and those who feel the state shoreline should not be controlled by manmade structures and should be allowed to naturally erode irrespective of how that erosion affects personal property. It is not right for legislators and state agency staff to use Irene, a "100 year flood" type storm, as an excuse to prevent coastal homeowners from rebuilding and defending their homes and property.

**Senate Bill 376** works to establish a measured response to the damage caused by Tropical Storm Irene; compromising between the right of property owners to rebuild and protect their homes and the need to ensure the Connecticut coast is protected from hardening. The bill does not expand any property owner's rights along the coastline. Instead it takes into account the need to ensure any defensive structures placed along the shoreline conform to the best environmental designs and methods. It also acknowledges the fact that there are many ways to protect against potential flooding and/or storm surges. The goal is specifically to prevent hardening the shoreline.

This bill requires that coastal site plan applications for erosion control include three alternative options to demonstrate to local zoning boards and the State Department of Energy and Environmental Protection (DEEP) that the environmental impact as well as the desire to protect property has been

taken into consideration by applicants. This information can then be utilized to weigh the pros and cons of the various options before approving applications. This will hopefully create an atmosphere of working *with* residents who wish to protect their property instead of the current staff level regulatory policy of rejecting "seawall" applications.

With DEEP Commissioner Dan Esty's own view that flexibility and thoughtfulness is important to establishing a policy which is acceptable to both shoreline property owners and shoreline preservationists, I think SB 376 provides a useful template for residents and conservationists to establish a dialogue. I urge you to support SB 376 as the beginnings of a fair compromise.



## *ENVIRONMENT COMMITTEE*

March 16, 2012

The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities and the voice of local government - your partners in governing Connecticut. Our members represent over 90% of Connecticut's population. We appreciate the opportunity to testify on bills of interest to towns and cities.

**CCM opposes SB 376 "An Act Concerning the Coastal Management Act and Shoreline Flood and Erosion Control Structures."**

This bill would essentially create an "automatic acceptance" of any proposed coastal site plan for a shoreline flood and erosion control structure if such plan includes (1) three alternative options and (2) certification of such alternative options by a structural engineer. In addition, the only method provided in the bill for a municipal zoning commission to raise issue with a proposed plan would be to propose an alternative option that would not have a total cost in excess of 15% of the assessed value of structures located on the property.

CCM is unaware of any other regulation that would require a local commission to come up with an alternative design plan for any proposed project, as a means to take issue with the proposal.

The implications of this bill could be far reaching and detrimental to the protection of certain sensitive lands along coastal boundaries.

CCM urges the committee to **take no action** on this bill.

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If you have any questions, please contact Kachina Walsh-Weaver, Senior Legislative Associate of CCM  
via email [kweaver@ccm-ct.org](mailto:kweaver@ccm-ct.org) or via phone (203) 710-9525.



## State of Connecticut

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### Environment Committee Public Hearing March 16, 2012

#### Testimony on S.B. 376 AN ACT CONCERNING THE COASTAL MANAGEMENT ACT AND SHORELINE FLOOD AND EROSION CONTROL STRUCTURES.

Last year, Tropical Storm Irene took on Connecticut's coastline and in communities like Fairfield, caused enough damage to destroy homes while leaving others severely damaged. Fairfield shoreline saw so much destruction, Governor Malloy choose Fairfield shoreline as a priority to witness first hand the severity of the damage soon after the storm.

Trees down, many days without power, flooding that brought standing water over one mile inland; these are the things that Fairfield residents think of when you ask them about Storm Irene.

The legislature has had a number of meetings to bring government, utility companies and the general public together to seek out ways to better handle these extreme weather situations. There are many ways for the Connecticut legislature to enforce policies that will hopefully protect the safety and rights of Connecticut's property owners.

Senate Bill 376 is an attempt to clarify the policies and rules covering erosion control methods on the coast. This mechanism will clarify and streamline a preventative construction process, using the best environmental methods. There are means to address potential flooding that can offer enough protection to homeowners and the shoreline while having a minimal impact on the environment.

This bill would require property owners apply for a "coastal site plan for erosion control" which would include three alternative options including, but not limited to: moving back from the water, building up – replacing sand where it shifted into the water, or hardening – building new sea walls for protection.

This will allow local zoning boards and the Connecticut Department of Energy and Environmental Protection (DEEP) to consider potential impact the construction project would have on the environment, the protection needed for the property in question, and will allow these agencies to weigh the benefits of all options before approving a control measure. This creates a dialogue between property owners, municipalities and the state on the best means to protect shoreline property.

Currently these issues are dealt with via an unwritten regulatory policy of no sea wall construction, which provides no options to property owners to protect their land and structures.

It is my understanding that in 2006, funds were appropriated through this legislature to allow communities to implement measures to protect the coastline and prevent erosion. That appropriation could have mitigated the devastation of the shoreline caused by Storm Irene. However, waiting for studies, the legislation expired and those funds weren't utilized. Now, shoreline towns are forced to react and try to legislate new policies to help deal with the affects of storm damage.

I urge support SB 376 because it's the best balance in preserving our beautiful coastline for all residents of Connecticut and protect shoreline residents and their properties.

Rep. Brenda L Kupchick 132nd district, Fairfield and Southport