

**PA12-002**

HB5302

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**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**ENVIRONMENT  
PART 4  
1042 – 1398**

**2012**

Thank you.

We're next turning to Senate Bill 211. And I cautioned at the beginning of this session that this is a bill, which in a slightly different version, the House and the Senate passed under an emergency certification. So, I don't want to deter any comments to it. But I just want you to know that it's -- the bill is in front of the Governor. And that's probably the best place to take up any concerns you have.

With that said, the first witness on this bill is Gregory Cava.

GREGORY CAVA: The Committee, I'm Greg Cava. I'm an attorney in practice here in Connecticut. And I'm here to speak to you about this. I'm aware that 5302 was passed. And that bill, because of its timing, was passed without the benefit of a public hearing. So, I do think that we would wish you would keep this issue still open because I think that bill has some significant flaws and does 211. But 211 does give you an opportunity to repair those and to make a better law.

And as I've submitted some prepared materials and I won't repeat what's in there to any great extent, but this is a very carefully balanced system that the state has for dealing with solid waste permits. And I have represented and currently representing a client who's going through this process. And it is a very arduous process.

And I think there are several critical issues that need to be addressed. And I'd like to just talk about three -- what I perceive as three flaws with the bill.

One, the bill doesn't contain any exception for existing permit holders. It doesn't contain any exception to its broad suit for those who have filed applications for permits. Now, these people are not such casually around here. The process takes a long time, more than a year, to go through to obtain these permits. It costs these people these business tens of thousands, if not more, dollars in engineering costs and other things necessary to run his regulatory gauntlet. And, yet, what's happened is the rule that's existed in Connecticut which is that solid waste facilities which do not involve land burial, not dumps or landfills, but other types of solid waste facilities, have had no municipal regulation for the last six years since the 2006 amendments.

And, in essence, what's happening is -- these people are playing by the rules and the rules are being changed in the middle of the game. And it's really necessary to protect these people that have invested this time, effort, and materials in this type of a process.

It's only fair -- it's only a fair way to do it. And it's the kind of fairness that we've come to expect, those of us that have spent most of their lives or have been born in Connecticut -- I fall into the former group -- have come to expect. And, so, I think that it's necessary for reasons of fairness.

Also, this regulation 211 -- and 5302 has the same problem of not -- of applying -- of not protecting those interest. 211 extends this regulation not just to site locating, but also to the authority to regulate waste handling practices. And that's a big problem for a couple of reasons. Not the least of which you will be putting a burden on the municipalities that have generally -- and I've been on a

planning and zoning commission, served on one and served on in the wetlands commissions. They don't have the expertise, the money, the resources to really look into and understand waste handling.

And the DEP is particularly -- the DEEP is particular well suited to handle that. And I think it would not be good to place that burden there. And, worse, you'll have two regulatory authorities exercising the same jurisdiction. I'll try to wrap up as quickly as I can. And you can get inconsistent results.

And, so, I think there are three things you can do to repair this. You should keep the language of 5302 about prohibiting -- not permitting municipalities to prohibit the construction of these or you're going to create another problem that I've discussed. And you should make sure that you protect holders of permits and applicants for permits from the impact of having the rules changed in the middle of the game.

And, finally, you should limit if you -- if 211 does go forward, you should limit this municipal decision if you're of a mind to give municipal regulations to citing decisions and not extend them to waste handling practices which should be the province of DEP.

The principle reason for these changes what I'm advocating it's not just from any client of mine, but for everyone in the process to insure that the process is fair.

And that was the principle reason for my comments. I thank you for the opportunity to address you. And if you have any questions, I'd be delighted to answer them here or off task later.

SENATOR MEYER: Mr. Cava, I -- many of us have supported this bill, first, because it looked like it was an inadvertent accidental change in the law in 2006. Before 2006, the zoning regulations and codes of our towns and cities were relevant to the location of solid waste facilities. I don't think many of us want a solid waste facility right in the middle of a residential area, a commercial area fine. So, we did -- until 2006, when, by accident apparently, this local home rule was removed, we did have the application of our zoning codes.

Secondly, you know, you're a real estate lawyer. I'm a little bit trying to understand why, as a real estate lawyer with a distinguished real estate firm, you would be -- you would want a state agency to decide the location of these facilities without some intervention by our towns.

GREGORY CAVA: Well, actually, the process does permit intervention. When the state agency makes a citing decision, whether if the state agency receives a petition signed by a very few number of people -- I think it's 20 signatures, 20 or 25 signatures, the state agency can be compelled to conduct a public hearing. Municipalities, individuals can all intervene in the process.

It's not that the process of the state agency level is without public input or public intervention, but it's that -- the unique difficulty. And I've sat on the planning and zoning side. And I believe in home rule. And I think that's very important.

But the problem is, these facilities, number one, are green facilities in a big way because

they permit waste streams to be consolidated and efficiently handled. If we allow these things not to be located in many locations, we put these trucks with the unconsolidated, unseparated wastes onto the road for longer periods of time. It's not a good think for the process. And Connecticut had to carefully crafted thing.

From my perspective, you might decide legitimately that maybe you made a mistake or maybe you didn't mean to take away home rule and you should permit home rule. But as a lawyer, when people have played by the rules and followed the rules, they shouldn't have a -  
- the rules changed on them in the middle of the game.

So, I think it's a perfectly legitimate exercise for the legislature to decide to change the rule. It's just that you should not take away and change those rules on people that are in the process. And I think if it were a little more carefully crafted, we could avoid those worst effects. You could restore home rule on this thing. But without adversely affecting the people that are in the midst of the process who have invested a lot of time, money, and effort, it takes a long time. It's an arduous task to get one of these permits issued. It's not easy.

SENATOR MEYER: Well, you know, I think those of us in the Environment Committee certainly favor solid waste facilities. And it's a way to deal with waste in Connecticut without dumping it in someone else's backyard. But we were concerned that, therefore, that zoning regulations could be abused and solid waste facilities prohibited. And that's why we put in the second section of that bill that was passed by the Senate just this week. And that bill says

that no municipality may prohibit the location within municipalities' limits, town limits, of a solid waste facility. So, there was a balance there.

GREGORY CAVA: No. And I think that's a very good provision of the bill and should be retained. And that's what I would urge you to do is to retain that provision. I think that's good. I just think that the corrections that we need are to make sure we don't change the rule that's been in existence for six years on the people that have followed it and they're in the process. That's really my biggest concern.

It's a question of fairness for the people in the process. And I think that's something that we, as lawyers, do advocate for which is fairness. It doesn't mean rules can't be changed. Rules can be changed. They just can't be changed in the middle of a game for people because it's not fair to those people who have done this. And it doesn't send a good message to people that might establish this kind of facility or any other administratively approved facility in Connecticut that we would change the rules arbitrarily when you're in the midst of the process.

Only because it's not an easy process. If it were a quick fast process, that's one thing. But it's years and it's extremely costly for these people, you know, to go through it. So, I think that's the primary focus for my comments.

SENATOR MEYER: Okay. Any other questions or comments from members of the Committee?

GREGORY CAVA: Thank you very much.

SENATOR MEYER: Thank you, Mr. Cava.

Our next witness on the same bill is hard to read -- oh, Carroll Hughes. Hi, Carol. You've become a public figure.

CAROLL HUGHES: Oh, no. That's insecure. Thank you very much, Senator Meyer, members of the Environment Committee. I'm Carroll Hughes representing the National Solid Waste Management Association which represents the recycling in the hauling community in Connecticut. And with me is the president of that chapter, Michael Paine, who will speak to the issue.

But, first, I'd just like to say we're fully aware of all the circumstances surrounding the bill. And had it not passed this week on emergency certification, what we're going to say that we would have said it's not anything to do with the issue. The bill is gone. We're not suggesting anything differently. The Governor will sign it. And that's appropriate and proper.

But we felt it was important representing the recyclers and the people and the effect it might have on some of the committees in Connecticut to make you aware of those circumstances. And that's why we're here today.

MICHAEL PAINE: Good afternoon, Senator Meyer and other members of the Environment Committee. My name is Mike Paine. I represent the Connecticut Chapter of National Solid Waste Management Association. My family and I own Paine's, excuse me, Recycling and Rubbish Removal and service a number of homes.

This bill, 211, as Carroll explained, we understand the process that it has gone

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**TESTIMONY OF GREGORY J. CAVA**  
**SB 211, AAC Municipalities and Solid Waste Management**  
March 2, 2012

HB 5302

I appreciate the opportunity to address you concerning Raised Bill 211. I am an attorney at law admitted in Connecticut, a former chairman of the Real Property Section of the Connecticut Bar Association, and am a Fellow of the American College of Real Estate Lawyers. My practice is concentrated in the area of real estate and land development. I appear frequently on behalf of clients before planning and zoning commissions and have served as an elected planning and zoning commissioner, and as an inland wetland commissioner in two different municipalities.

***Principal types of Solid waste facilities.***

It is not a stretch to say that our modern consumer and business society creates an enormous amount of solid waste. Solid waste management is a critical state priority and a proper distribution of properly constructed facilities for handling solid waste is necessary to protect the environment. There are two principal types of solid waste facilities, those that involve the land burial of solid waste (e.g., a landfill) and those that do not (e.g., a transfer station or recycling center). The first presents concerns of long-term environmental impacts and under existing law, municipal planning and zoning commissions make siting decisions affecting land burial solid waste facilities. However, solid waste facilities that do not involve land burial of waste, do not present the same sorts of concerns. These green facilities separate waste streams into such components as municipal solid waste, or what we commonly refer to as household garbage, construction debris, metals, glass, plastics and other recyclables, wood, and other resources.

***How solid waste facilities serve the larger community.***

Once separated, these waste streams are sorted and consolidated, their volume is reduced, and they are placed in containers for efficient trans-shipment to a disposal or recycling facility in-state or out-of-state. We *all* generate waste, and we like our garbage taken away, but we don't want this done in our backyards. So we act on our irrational fears and oppose efforts to site these facilities where they are most needed, forcing inefficient and longer distance trans shipment of the larger unconsolidated waste stream through our communities and others people's communities.

***Why DEEP is in the best position to make solid waste siting decisions.***

It is for this reason that Connecticut law rationally places regulatory and siting concerns for these facilities with DEEP which can filter out irrational and unfounded fears and focus on making sure that the facilities proposed are properly conceived, designed, and executed. And make no mistake about it, *when properly designed, solid waste facilities are safe and promote public health, and DEEP has the knowledge and experience to insure these facilities are properly designed.*

I have experience representing clients seeking to establish solid waste facilities that do not involve the land burial of solid waste. Believe me when I tell you that DEEP is careful and thorough in its review of permit applications. Solid waste permit applicants typically spend many tens of thousands of dollars to establish a solid waste facility, including the fees of engineers and design professionals as well as mandatory equipment and design features. They have to run a challenging and lengthy regulatory gauntlet.

**Raised Bill 211 is a seriously flawed departure from good public policy.**

It is precisely because it disturbs this carefully crafted balance, that Raised Bill 211 is a departure from our usual sensible good public policy and is bad public policy. Seemingly simple, it is breathtaking in its scope and has the following major flaws:

It contains no exception for existing permit holders and those who have filed applications for permits. These persons have *played by the rules* and have invested significant time and money in running the regulatory gauntlet, only to have the rules changed in the middle of the game. Far from being a square deal, this is fundamentally unfair.

It extends municipal regulation to not just the location of sites but the authority to regulate waste handling practices. This could place existing operators and permit applicants in the untenable position of having designed a facility in order to facilitate waste handling practices required by DEEP only to have a municipality prohibit those same practices and possibly require a practice which is impractical, unsafe, and in direct violation of state or federal law and regulations. This is an intolerable burden and would make it impossible for DEEP to properly regulate these facilities.

By stating that municipalities may approve or deny such facilities, it would permit the disruption of necessary solid waste facility construction. Recently passed House Bill 5302 does not even go so far.

**Changes that could improve Raised Bill 211**

If you are disposed to permit some municipal regulation of non-disposal solid waste facilities, at the very least, an effective bill would provide that:

No municipal regulation adopted pursuant to section 8-2 shall have the effect of prohibiting the construction, alteration, or operation of solid waste facilities within the limits of a municipality.

Any holder of a permit, or any person or business entity that has filed an application for a permit for a solid waste facility not involving the land burial of solid waste be exempted from municipal zoning and land use regulation.

Municipal regulation be limited to siting and does not extend to waste handling practices which should be the sole province of DEEP.

Thanks you for your time and attention.

**H - 1123**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2012**

**VOL.55  
PART 1  
1 - 344**

**INDEX**

House "A."

Total number voting	131
Necessary for adoption	66
Those voting Yea	120
Those voting Nay	11
Those absent and not voting	20

DEPUTY SPEAKER GODFREY:

The emergency certified bill as amended is passed.

Deputy Speaker Orange in the Chair.

DEPUTY SPEAKER ORANGE:

Will the Clerk please call Emergency Certified  
Bill Number 5302.

THE CLERK:

Emergency Certified Bill, House Bill 5302, AN ACT  
CONCERNING MUNICIPALITIES AND SOLID WASTE FACILITIES,  
LCO Number 1398, introduced by Representative Donovan  
and Senator Williams.

DEPUTY SPEAKER ORANGE:

Representative Roy, you have the floor, sir.

REP. ROY (119th):

Thank you, Madam Speaker.

Madam Speaker, I move passage of the certified

bill.

DEPUTY SPEAKER ORANGE:

The question is on passage of the bill.

Representative Roy, you have the floor.

REP. ROY (119th):

Thank you, Madam Speaker.

Madam Speaker, a recent superior court decision that municipalities do not have any power to regulate solid waste facilities because of a 2006 statutory amendment. This bill clarifies that municipalities do retain those powers to enact and implement local zoning laws that regulate safety issues such as fire and traffic concerns at solid waste facilities in their communities.

The court decision would deny towns any ability to oversee safety issues at solid waste facilities, even those traditionally under local control. Now this applies to all 169 communities in Connecticut, not just mine.

The Department of Environmental -- of Energy and Environmental Protection will possess sole regulatory authority over those facilities and its power to impose conditions related to such local concerns are limited.

The bill makes clear that towns can continue to

regulate these traditional local issues. A town would not be permitted to pass an ordinance banning such facilities. So you can locate in a town and the DEP will be very, very much involved in that.

Without this legislation towns would not have -- excuse me. Towns with existing solid waste facilities would no longer be able to require the facilities to comply with zoning ordinances. Moreover towns where there is an application with DEEP to construct a new facility or expand the existing facility would not be able to make clear to the applicant or DEEP what standards the Town expects the facility to meet.

The immediate clarification of the town's authority over safety issues is necessary to ensure continuing compliance with local ordinances at existing facilities and to ensure that pending applications are reviewed for all safety issues relevant to the proposed facilities, not just those within the jurisdiction of the DEEP.

Immediate clarification to a town's authority will also bring fairness to applicants who will be informed early in the application process of all the conditions that they are expected to meet.

I move passage.

DEPUTY SPEAKER ORANGE:

The question is on passage of the bill.

Representative Roy.

REP. RYAN (139th):

I move passage.

DEPUTY SPEAKER ORANGE:

Okay. The Representative moves passage.

Will you remark further on the bill? Will you  
remark further on the bill?

If not, Representative Miner.

REP. MINER (66th):

Thank you, Madam Speaker. I've got it.

I'm just trying to get a --

Madam Speaker? Uh-oh.

DEPUTY SPEAKER ORANGE:

Representative Miner, hello. Good evening.

REP. MINER (66th):

Hi. You were looking over there and I thought I  
was in the wrong spot. Good evening.

If I might ask a few questions, through you to the  
proponent of the bill, please.

DEPUTY SPEAKER ORANGE:

Please proceed, sir.

REP. MINER (66th):

Thank you.

Madam Speaker, what I'm attempting to try and figure out is what the retrospective effect of this legislation would be with regard to facilities that currently exist. And so if I could, through you, upon passage if a municipality doesn't currently have, under our law, regulatory authority and might not have regulations on these facilities, what is the net effect of passing this on those that currently exist?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you, Madam Speaker.

Through you, it clarifies that the towns do have zoning regulation power to continue as we've been doing.

DEPUTY SPEAKER ORANGE:

Representative Miner.

REP. MINER (66th):

Thank you, Madam Speaker.

And so yesterday during the Environment Committee hearing I think we heard from individuals who either

did have operating facilities I think under this definition, or might soon have under this definition. And under our current law we don't specifically say that they have regulatory authority.

I'm just trying to get a clarification of whether they could put in place regulations that might in retrospect affect something that currently exists.

Through you.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you, Madam Speaker.

Through you, what this does is it clarifies that the current practices that towns have this power and that exert this power, are in fact -- have the power of law.

DEPUTY SPEAKER ORANGE:

Representative Miner.

REP. MINER (66th):

And so for those municipalities that don't have regulations because they didn't think they had the authority, can they now develop them and retrospectively enforce them on businesses that may have opened?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Madam Speaker, would you please ask that question be rephrased?

DEPUTY SPEAKER ORANGE:

Representative Miner, would you mind?

REP. MINER (66th):

Thank you, Madam Speaker. I'd be glad to.

What I'm trying to make sure of here in voting for or against this piece of legislation is what our action does to those facilities that might currently exist.

And so in the Town of Warren, for instance, if someone wanted to do something six months from now, I think the net effect of this is very clear and that is that the Town of Warren, if they don't have them, could develop regulations that would permit them and permit them to operate.

But if a facility opened six months ago or last year and was permitted by the DEEP, I want to be able to, with some surety, know that the adoption of this new legislation will not retrospectively close that facility or so regulate that facility that it can no

longer operate. I'm afraid of a conflict here between a DEP permit that may already be issued and in operation, existing, and what we might be doing here.

Thank you, Madam Speaker.

REP. RYAN (139th):

Through you, Madam Speaker, it will not change anything for that facility.

DEPUTY SPEAKER ORANGE:

Representative Miner.

REP. MINER (66th):

And so in the case of a facility that may have been granted its permits and has yet to open, will this change the potential operation of that facility?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Through you, Madam Speaker.

Because the current practices follow the law that we've had on the books in the past there will be no change.

DEPUTY SPEAKER ORANGE:

Representative Miner.

REP. MINER (66th):

I apologize, Madam Speaker. Somebody was talking in my ear. So if you could just repeat that for me please.

REP. ROY (119th):

There will be no change. We've been practicing the law as we've thought it was on that book and there would be no change in those operations.

DEPUTY SPEAKER ORANGE:

Representative Miner.

REP. MINER (66th):

Thank you, Madam Speaker.

And I'm not questioning what you just said, Representative, but I suspect that this piece of legislation is here for a reason. And now I wonder what that reason is.

If we're saying by passing this we're not going to affect something that already exists, I get that. That helps clarify it for me. If we're also saying it's not going to affect something that is currently permitted, but doesn't exist, I'm trying to figure out what this gets at.

Is it a future applicant and a permittee?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you, Madam Speaker.

We are looking at this as the future. The court decision that would deny towns the ability, what we're saying is, no. That is not correct. Will in the future have the power of law through this bill. We're not going to change anything that's happened up to this point.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Miner.

REP. MINER (66th):

So if an applicant approached DEEP and was going to open a facility and it was their intention to open it and there was some action taken to stop that opening, this legislation will not reverse that action. That applicant will still be able to open whatever it was they wanted to open, I'm assuming you say, in Milford.

Through you.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

That is correct.

DEPUTY SPEAKER ORANGE:

Representative Miner.

REP. MINER (66th):

Thank you, Madam Speaker. That clarifies it for me. Thank you.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

Would you care to remark further?

Representative Carter of the 2nd, you have the floor, sir. Good evening.

REP. CARTER (2nd):

Good evening, Madam Chairman. Thank you very much.

Through you, Madam Chairman, a few questions for the proponent of the bill.

DEPUTY SPEAKER ORANGE:

Please proceed, sir.

REP. CARTER (2nd):

Thank you, Madam Chairman.

Through you, when we were talking about whether or not this would affect things that already happened or companies that are already existing, it says specifically that it would affect land usage for an existing facility.

Through you, Madam Speaker, what exactly can the city do for something that already exists? I mean, they're going to be able to change how they expand. Is that the intent of this bill? Or change whether they don't expand?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

It will take effect for new plants that are coming on board. Whatever is there already will still exist.

DEPUTY SPEAKER ORANGE:

Representative Carter.

REP. CARTER (2nd):

Okay, Madam Speaker. So I guess the real confusion that a lot of us may have is the fact that the way the legislation is written, it does say that through zoning the Town can now affect an existing solid waste facility.

Now I think the problem with that is, you know, they've gone through the process. They have permits. They're in existence. The question is, should we as a Legislature go back and try to change something that's already been put in place? And it sounds like that's

not what the plan is for this legislation, that we're looking at prospective places, new companies coming in. Is that true, to the proponent of the bill?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you.

Through you, Madam Speaker that is correct.

DEPUTY SPEAKER ORANGE:

Representative Carter.

REP. CARTER (2nd):

Well, Madam Speaker, with that in mind then the Clerk has an amendment. It's LCO Number 1456. Would you please ask the Clerk to call it and I be allowed to summarize.

DEPUTY SPEAKER ORANGE:

Will the Clerk please call LCO Number 1456, designated as House Amendment Schedule "A."

THE CLERK:

LCO 1456, House "A," offered by Representative Shaban, Carter, and Miner.

DEPUTY SPEAKER ORANGE:

The representatives seeks leave of the Chamber to

summarize.

REP. CARTER (2nd):

Thank you, Madam Speaker.

This amendment, LCO 1456 is actually a very simple change. Number one, it changes the effective date of the legislation to January 1, 2013. Again, we're looking in the future and it gives a chance to look at this and make prospective changes.

The second change is it strikes line 15 and takes out the word "an existing or." So in this case it allows us to put a new solid waste facility under the auspice of a Town and their zoning.

So with this, Madam Speaker, I would move adoption of the amendment.

DEPUTY SPEAKER ORANGE:

The question before the chamber is on adoption.

Will you remark further?

REP. CARTER (2nd):

When the vote be taken I also ask that it be taken by roll.

DEPUTY SPEAKER ORANGE:

The question before the Chamber is when the vote is taken, it be taken by roll.

All those in favor, please signify by saying, aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ORANGE:

The 20 percent has been met. When the vote is taken, it shall be taken by roll.

Representative Carter.

REP. CARTER (2nd):

Thank you very much, Madam Speaker.

So I believe with the intent of this legislation, you know, this has come before us and we're looking at a chance to give local control of some of the zoning in the area of solid waste for these facilities.

Now I understand when this was done many years ago they looked at facilities, or in this case, we carved out of landfills and now we have the opportunity for these towns to go and look at the solid waste facility and it makes sense to give them local control. I think the problem is, with this legislation is the way it was written. It clearly goes retrospectively. And I think by the comments that have been made this evening, that was the one concern we have.

And this small tweak to the language of the bill actually makes it very clear that we are establishing legislative intent as a body, moving forward, that we

can give legislate -- or excuse me, the zoning and the local control to the choice of the Town and I think that makes a lot of sense.

So with that I urge my colleagues on both side of the aisle to vote for the amendment.

Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

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

Representative Roy.

REP. ROY (119th):

Thank you, Madam Speaker.

Madam Speaker, I rise to oppose this amendment. What this will do, every town that has a facility for trash removal will be open to changes that they have no control over going forward.

So Madam Speaker, I ask the Chamber to help with me reject this amendment. Thank you.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

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

If you could just --

Representative Shaban.

REP. SHABAN (135th):

Thank you, Madam Speaker.

I rise to support the amendment because just by the soliloquy, the conversation we've just had, the amendment accomplishes what the stated purpose of the bill apparently was, and i.e., that is to put into the force of law or remove all doubt that at least for new facilities -- new facilities, local towns have some local control. And if that was the intent of the bill, as I believe that's -- we just heard, well, this straightens it out.

The existing language in the bill however appears to be contrary to what we're being told is the stated purpose of the bill. The word "existing" in here creates doubts. So all this discussion is never actually going to get reached should somebody, a court or whomever else, need to examine this bill because the word "existing" is in there. Well, if that's not the intent of the bill let's get that word out of there.

It appears to me and, you know, more of a statement than a question, that this bill was -- is trying to do the right thing, but for the wrong reasons. Well, let's have it do the right thing, local control for the

right reasons, i.e., certainty. Let's not change the rules in the middle of the game and give people six months to know what's coming down the road.

So if you've got a permit in the pipeline or you've got a business plan in the pipeline you've got six months to make an adjustment. But starting January 1, 2013, you know what the rules are. It's not being changed midstream.

So with that, I ask the Chamber to support the amendment because apparently the amendment is what the bill was meant to do.

Thank you, Madam Chair.

DEPUTY SPEAKER ORANGE:

Thank you.

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

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Madam Speaker.

I too rise in strong support of this amendment. I think what we see across the state is many business owners have invested many hundreds of thousands of dollars in cases to develop plans that will be put to use.

And I think that this amendment and this establishment of a date allows that we will respect the fact that private enterprise is engaged in making investments to better the economic future of the State. And by simply putting the date in place I think really addresses the myriad of issues that surrounds this.

So for those reasons, Madam Speaker, I urge my colleagues to support this.

DEPUTY SPEAKER ORANGE:

Thank you, Representative Alberts.

Will you care to remark further on House Amendment "A?"

Representative Perillo of the 113th, good evening.

REP. PERILLO (113th):

Madam Speaker, thank you very much.

I wish to speak on the amendment before us, but I'm going to have a few questions, if I may, through you to the proponent of the underlying bill?

DEPUTY SPEAKER ORANGE:

Please proceed.

REP. PERILLO (113th):

Thank you, Madam Speaker.

Through you, I know that the process to get

approval through rezoning and through DEEP is quite extensive. Does the proponent know how much money was spent by the applicant in this particular instance in Milford in order to get those approvals?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Through you, Madam Speaker.

No.

DEPUTY SPEAKER ORANGE:

Representative Perillo, please keep your questions to the amendment.

REP. PERILLO (113th):

Thank you. I'm getting there. I appreciate it.

The amendment before us addresses prospective or retrospective, and whether or not what we are going to do or not do today would have an impact on previous applications. Perhaps I need to get just more to the core of the issue.

As I understood the gentleman's answers to questions previously, any applicant that had already applied and had been approved, as is the case in Milford, would not be impacted by the legislation

before us. And the amendment, as I understand it, would clarify that.

So just to clarify what we're doing, could the gentleman please state very, very equivocally, an applicant -- an application that has been approved by DEEP, as I understood the gentleman said that that would not be an effective. An approval would stand and future construction could ever.

Through you, Madam Speaker, is that the case?

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Through you, Madam Speaker.

It simply clarifies that existing zoning law still is in force.

DEPUTY SPEAKER ORANGE:

Representative Perillo.

REP. PERILLO (113th):

Madam Speaker, thank you. I appreciate the answer. I don't know if it answers my question, though.

We're not referring necessarily to zoning law. We are referring specifically to DEEP and its approval. That's what I'm asking about. DEEP in this instance

has approved an application. That application happens to be in Milford.

So my question again is, that approval, though, it was previous to our action or inaction today, is that approval still valid? Does that approval still stand and can future construction occur if we pass this legislation?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you, Madam Speaker.

That approval is still valid.

DEPUTY SPEAKER ORANGE:

Representative Perillo.

REP. PERILLO (113th):

And again, just to clarify, through you, Madam Speaker.

So future construction can occur if we pass this legislation whether amended or otherwise?

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Through you, Madam Speaker.

**H – 1124**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2012**

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Yes.

DEPUTY SPEAKER ORANGE:

Representative Perillo.

REP. PERILLO (113th):

Thank you, Madam Speaker.

And just because perhaps I'm misunderstanding the language that I'm reading, could be gentleman -- because it is pertinent to the amendment as we're looking at prospectivity versus retrospectivity, could the gentleman point to in the language where his statement is accurate in that the specific project or any other project that has received DEEP approval could be constructed if this action is approved? I'd just like to clarify that within the language.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

The bill makes clear that towns can continue to regulate the traditional local issues. They would be able to pass an ordinance banning such -- they cannot ban such facilities.

It ensures continuing compliance with local

ordinances and existing facilities and the zoning laws.

None of that will change.

DEPUTY SPEAKER ORANGE:

Representative Perillo.

REP. PERILLO (113th):

Madam Speaker, through you.

My perception of the intent of this bill, among other things, was that it would change a previous denial and subsequent DEEP approval and appellate approval of the specific project in Milford. What the gentleman is explaining to me as to whether or not it can or cannot be approved seems again inconsistent with the language here.

So I will ask again very specifically about this particular application that was approved by DEEP in Milford. If we pass this legislation whether amended or otherwise, can the applicant move forward with their specific application and the specs of that application as submitted to DEEP?

Through you, Mr. Speaker.

REP. ORANGE (48th):

Representative Roy.

REP. ROY (119th):

Thank you, Madam Speaker.

The tentative approval is moving forward. We cannot stop that. The only thing that we can do after this is approved is to regulate the zoning laws -- or under the zoning laws make sure that the safety of our residents, the health of our children is maintained.

DEPUTY SPEAKER ORANGE:

House Amendment "A." Representative Perillo.

REP. PERILLO (113th):

Thank you, Madam Speaker.

And again, as we refer to the amendment in terms of whether it is prospective, this action is prospective or retrospective, to speak to the gentleman's answer, he's referring to local zoning and whether or not zoning can impact an application.

So my question is could future zoning applicate -- zoning regulations, whether they be changes or otherwise, could future zoning regulations change the specific application that has already been ruled on by DEEP in this case in Milford?

Through you, Mr. Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

No. What has been approved by the DEEP, which is

what you've been asking, will not change, cannot be changed by the zoning regulations which are in place, have been in place and the work has gone forward under that.

DEPUTY SPEAKER ORANGE:

Representative Perillo.

REP. PERILLO (113th):

Madam Speaker, I thank you very much.

And I thank the gentleman for answering my questions and indulging me because I do believe they are pertinent to the amendment before us. I appreciate the gentleman clarifying that, whether this amendment is approved or not approved, any previous approvals by DEEP will not be affected and construction will be able to move forward.

However to clarify that, as I do believe there's some ambiguity in the language I would urge adoption of the amendment before us.

And I thank you very much for your time.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

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

Representative Sean Williams, you have the floor.

REP. WILLIAMS (68th):

Thank you, Madam Speaker. And good evening.

If I may, again a few questions to the proponent of the bill as it pertains to the amendment before us.

DEPUTY SPEAKER ORANGE:

Please proceed.

REP. WILLIAMS (68th):

Thank you, Madam Speaker.

Through you, to Representative Roy, I'm just looking -- or thinking specifically about the existing permits that are out there -- forget about the Milford situation that we've been sort of talking about. But the existing permits that are out there, existing facilities that are out there.

What concerns me is that it very specifically speaks to in lines 14 and 15 that municipalities can regulate through zoning land usage for existing or new solid waste facilities. So that could be in the town of Watertown where I live or in another community.

Am I incorrect in understanding that permits that may already exist may be jeopardized as a result of this bill?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Through you, Madam Speaker.

I do not believe they would be jeopardized. I believe it would just go forward from today.

DEPUTY SPEAKER ORANGE:

Representative Williams on House "A."

REP. WILLIAMS (68th):

Thank you, Madam Speaker.

So I can only go by -- I'm sure you believe that, Representative Roy, and I certainly trust your honesty here. But I read lines 14 and 15 as saying that nothing shall be construed to limit the right of a municipality to regulate through zoning land usage for an existing or new solid waste facility. Existing, meaning something that is already in place.

Am I wrong in believing that this proposal that is before us would jeopardize those existing plans?

Through you --

I shouldn't say, would, as if -- as in that it would happen, but could it jeopardize those?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

I do not believe so, Madam Speaker.

Through you.

DEPUTY SPEAKER ORANGE:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Madam Speaker.

What level of comfort then could someone who's in that business take away from this evening's events that, other than, you know, I think so or you think so, or I don't think it might happen or you might not think it would happen -- I mean, I --

You know, when we're talking about legislative intent and a bill that we pass here in this building, the court doesn't really care about legislative intent if the language is very clear. I think it's particularly clear that an existing facility would be now subject to such local regulation. So what level of comfort would one take away from that?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Richard Roy.

REP. RYAN (139th):

Thank you. Through you, Madam Speaker.

Since 2006 we have all been working without the law that had been in place designating what the Town could do through its zoning laws. No Town has had an issue until this past couple of months in a court case that came down.

We've all been using the zoning laws that we have in place. We've all been using the normal processes and all. Once we found out that that line had been deleted unintentionally -- I have to believe unintentionally since it happened in LCO -- we have tried to bring back the law that lets the Town have a voice in what happens to that town.

So what we're doing -- we can't go back and say (inaudible) six years and go into every town and change what's happened over those years. So, no. This is prospective. We're that trying to change anything that already exists properly under law and through the phantom law, I guess that we can call it, that we had out there.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Madam Speaker.

And through you, to Representative Roy, if I'm the CEO of a solid waste facility that exists in the town of Watertown, could the Town of Watertown, after this bill becomes law, create zoning regulations that effectively keep solid waste facilities out of the town of Watertown and then put me out of business?

Is there -- could you point to something in this bill, or in our existing law -- which I am not as familiar with as many of the land-use lawyers might be in this room -- but could you point to something that would prohibit the Town of Watertown from regulating my business out of town based on line 15?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Through you, Madam Speaker.

They could have done that before this, this evening. They can do that after this is done. There's nothing to prevent a Town from changing its zoning laws.

DEPUTY SPEAKER ORANGE:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Madam Speaker.

And through you to Representative Roy. Then what is the rush here? Why do we have to do this today on an e-cert? Why did this have to be done today? Why? What is the rush? Why do we have to do this? Did something happen recently that has demanded this action on the part of the Legislature?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you.

Through you, without the legislation towns with existing solid waste facilities would no longer be able to require the facilities to comply with their current zoning regulations -- with the current zoning regulations.

Where -- what this is doing is saying, you've got to comply with the zoning regulations. Those are the zoning regulations that they use to get their permits. Those are the zoning regulations that are going to be in place tomorrow. Those are the zoning regulations that we will all follow.

DEPUTY SPEAKER ORANGE:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Madam Speaker .

But if we did -- through you, if we did this through our normal public hearing process this year and, let's say, worst-case scenario, the bill is passed in both the House and the Senate on Wednesday, May 6th, or whatever the last day is of our legislative session. And then two weeks later the Governor signed it into law, well, what's the harm in that? Why? Why did we rush this through? What's the emergency here?

I understand the point of the bill, as you've just stated, but what makes it an emergency? Why does it rise to that level?

Through you.

DEPUTY SPEAKER ORANGE:

I think, Representative Williams, we're on the amendment.

REP. WILLIAMS (68th):

Certainly could come back to this, Madam Speaker, if you'd like.

DEPUTY SPEAKER ORANGE:

Okeydoke.

REP. WILLIAMS (68th):

Thank you.

I'll stay standing.

DEPUTY SPEAKER ORANGE:

Okay. Would you care to remark further on House amendment "A?" House amendment "A?"

Representative Rose on House Amendment Schedule "A."

REP. ROSE (118th):

Thank you, Madam Speaker.

Through you to the proponent of the amendment, I have several questions.

DEPUTY SPEAKER ORANGE:

Please proceed, ma'am.

REP. ROSE (118th):

Thank you, Madam Chair.

First of all, this bill and amendment affects 22 towns currently in the state of Connecticut. This is not just a Milford issue.

DEPUTY SPEAKER ORANGE:

Representative Carter.

REP. ROSE (118th):

If we postpone this to January of 2013, that leaves the 22 towns that have existing facilities in their cities and towns open to the recycling facilities and

waste facilities, circumventing your local zoning regulations and putting in applications with DEEP, potentially expanding your facilities beyond what perhaps your towns can bear.

DEPUTY SPEAKER ORANGE:

Representative Carter.

REP. CARTER (2nd):

Through you, Madam Speaker.

Yes, it does actually. The current system right now allows for the solid waste facilities to get all their permits through the State. And the State has control over what happens.

By putting this out to the 1st of January this gives us an opportunity that we're not changing the rules midstream for people who maybe recently applied or maybe -- basically gives six months for people to get their act together. And they can apply to the State and at that point we're saying, okay. We're going to turn local control over to the municipalities.

See, the problem we have is if we look backwards and we say, all right. We're going to let these businesses that are already in business, they've gone through the permitting, they've spent money, they've built their facility.

Now we're giving the ability of a Town or the neighbors, or whoever, to really put them out of business, to come in and say, well, that waste treatment facility really stinks. And instead of negotiating and working through the State -- because that's where the permits are -- we're basically letting them go out of business.

What we're saying with this amendment is, we're going to look at this prospectively. We're going to look at this in January from here on out. If you put a new facility in, once the facility is in then it's about local control of where you put it. And the stakeholders, neighbors, everybody has a chance to look at it then locally.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Rose.

REP. ROSE (118th):

Thank you, Madam Speaker.

Through you, local control as it stands right now is nonexistent. If one of the facilities in anyone of the 22 towns and cities in the state of Connecticut decides to put a siren on the top of their building and blow that siren every time a truck wants to drive out

of their driveway, your towns, your cities will not have any jurisdiction. The police have no jurisdiction. They can do whatever they want.

Luckily we found the problem in Milford. We found this loophole, this inadvertent legislate -- verbiage that came out of our statute. All we're trying to do is to protect other towns and cities from suffering what we've suffered.

REP. CARTER (2nd):

Madam Speaker, is that a question or --

REP. ROSE (118th):

I guess what I'm saying -- no. It's not a question.

I'm just urging my colleagues to vote no on the amendment.

Thank you.

DEPUTY SPEAKER ORANGE:

Thank you, madam.

Thank you, sir.

Will you care to remark further on House Amendment "A?"

Representative Hetherington of the 125th, good evening.

REP. HETHERINGTON (125th):

If I may, if you indulge me, I would ask the proponent of the bill, because it pertains to the issue that's been addressed in the amendment.

DEPUTY SPEAKER ORANGE:

Please proceed, sir.

REP. HETHERINGTON (125th):

Thank you.

The question has been asked about the prospective or retrospective impact of this. I would like to just be a little more particular in that question.

If a project has been approved by the DEP, we understand that that approval is not reversed or altered by local action, P and Z action or whatever, but isn't it a -- wouldn't a project already approved by the DEP still be subject to modification through planning and zoning regulations if this bill passes?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you, Madam Speaker.

Through you, it always has been. It always will be, sir.

Thank you.

DEPUTY SPEAKER ORANGE:

Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you.

I think that that clarifies the point and makes the case for what this amendment is supposed to address. In fact, a previously approved project can be frustrated even though it is approved and presumably in the course of undertaking by local authorities if this bill passes.

So it is not prospective. In fact, it applies retroactively. For that reason I would urge adoption to the amendment to clarify this point.

Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

Will you care to remark further on the amendment? Will you care to remark further on the amendment? If not, staff and guests please come to the well of the House. Members take your 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

House Amendment Schedule "A" by roll call. Members to the Chamber, please.

DEPUTY SPEAKER ORANGE:

Have all members voted? Have all members voted? If all the members have voted, please check the machine to be sure that your vote has been properly cast. And if so, the machine will be locked and the Clerk will please take a tally. Will the Clerk please announce the tally.

THE CLERK:

House Amendment Schedule "A" on an Emergency Certified House Bill 5302.

Total number voting	130
Necessary for adoption	66
Those voting Yea	47
Those voting Nay	83
Those absent and not voting	21

DEPUTY SPEAKER ORANGE:

The amendment fails.

Will you care to remark further on the bill? Will you care to remark further on the bill?

Representative Sean Williams, good evening again, sir. You have the floor.

REP. WILLIAMS (68th):

Good evening again, Madam Speaker.

Picking up where we left off a few moments ago, I have a few questions, through you, to the proponent of the bill.

DEPUTY SPEAKER ORANGE:

Please proceed, sir.

REP. WILLIAMS (68th):

Thank you, Madam Speaker.

And I am not trying to prolong this. We've been at this for quite a while. And I just have a few issues I want to clarify here before we vote on the bill. And I thank you, Representative Roy for your indulgence.

But if, as you said earlier, the passage of this bill will have no bearing on the project in the city of Milford, then why is this a -- what makes this an emergency?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you, Madam Speaker.

The residents of Milford are looking for some real comfort and we're also trying to protect all of the communities because if we don't do this, every

community that has a facility will certainly be at risk of having an expansion of that facility and they will not have any say in what happens to that facility.

DEPUTY SPEAKER ORANGE:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Mr. Speaker.

And through you, so if -- what are we trying to protect the residents of Milford from? You said earlier that this will not affect the project that exists in the city of Milford and we take you at your word. But what are we trying to protect them, specifically the residents of Milford from?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

We're trying to protect them and everyone else from more activity without any oversight by the City, without any work -- they've got a temporary permit now to go ahead and they're working. The City has, you know, certainly not interfered with that.

And what we're trying to do when we found out that we do have this law is to make sure that we and the rest

of the State can have some say in what happens within our borders.

DEPUTY SPEAKER ORANGE:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Madam Speaker and I thank the gentleman for his answers.

I have a very difficult time believing that there will not then be an attempt by the City of Milford where there is application.

And -- but I mean no disrespect to Representative Roy or your intentions, but I have a very difficult time that -- believing that we are e-certing this bill. This bill is an emergency. We have to do this right now to protect the citizens of Milford from possible future development of a solid waste facility.

I have a hard time believing that there's a hotbed of solid waste activity in the city of Milford or in the region, or frankly, anywhere in the state of Connecticut. And that we are now going to be protecting people from that on this emergency basis because of this bill.

It strikes me that this bill is meant for a particular project. And over the years -- I was

telling somebody earlier this afternoon I've seen this Legislature pass laws, invite projects to come into the state of Connecticut, invite private capital to come into the state of Connecticut. And then when we don't like something we pass a law and say, no. We can't do it or we're going to change the rules on you midstream. It's part of the reason why we're in the situation that we're in economically here in this state and in this country, because we change the rules all the time and nobody wants to invest.

So it strikes me that we are doing something that at the very least we should be vetting through our normal legislative process, through our public hearing process. Let the public testify. Let businesspeople testify. Let investors testify. Let people have their say.

If this is truly an emergency it can wait a couple of days and at least have people heard and let everybody affected by it be heard, not just rush it through the process yet once, again.

Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

Will you care to remark further on the bill?

Representative Shaban, you have the floor, sir.

REP. SHABAN (135th):

Thank you, Madam Speaker. I had to fight the button here for a second.

Through you, ma'am, a couple questions to the proponent of the bill, please.

DEPUTY SPEAKER ORANGE:

Please proceed.

REP. SHABAN (135th):

Thank you.

And though you, if this bill gets passed as is and there's a facility permitted and operating now, or at least permitted, would that facility then become a prior nonconforming use under local zoning?

Through you.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

If I understand the question, the facility is a nonconforming use. It was grandfathered in when the new zoning regulations were put in place and so that doesn't change.

There is a permit in place now that's allowing certain construction and expansion. We're not

interfering with that. So I think we're fine with it.

DEPUTY SPEAKER ORANGE:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Madam Speaker.

And through you, so for lack of a better -- a different example or a better one, I'll use the project in Milford. The permits that the project in Milford has in place now, sitting here today before you without this bill being passed or otherwise, those permits would stay in effect, I believe you've testified?

Through you, ma'am.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Through you, Madam Speaker.

Yes, sir.

DEPUTY SPEAKER ORANGE:

Representative Shaban.

REP. CHAPIN (67th):

Thank you.

And through you, so if this bill is to become law those permits allowing that use would continue on, but would be in nonconformity with what?

Through you, Mr. Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you.

Yes, they would continue in the nonconforming use. As I say, it was grandfathered in and so it's not going to change.

DEPUTY SPEAKER ORANGE:

Representative Shaban.

REP. SHABAN (135th):

Thank you.

And through you, so if they're grandfathered in as a nonconforming use, is -- then the use could be intensified but it could not be expanded as current land-use law. Is that correct?

Through you, ma'am.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Through you, Madam Speaker.

Yes.

DEPUTY SPEAKER ORANGE:

Representative Shaban.

REP. SHABAN (135th):

And thank you, ma'am. Last question.

One of our colleagues mentioned there are 22 other -- I think the number was 22 -- 22 other towns that are facing this issue.

To the proponent's knowledge, is there another Town now that's facing an issue similar to that of Milford, i.e., there's a live case or there was a light case and a -- is a live project? Is there anybody else in the same situation?

Through you, ma'am.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Madam Speaker, I do not know.

DEPUTY SPEAKER ORANGE:

Representative Shaban.

REP. SHABAN (135th):

Thank you, ma'am.

And thank you for your responses.

DEPUTY SPEAKER ORANGE:

Will you care to remark?

Representative Larry Miller, good evening, sir.

You have the floor.

REP. L. MILLER (122nd):

Thank you, Madam Speaker.

I have a couple of questions to the distinguished chairman of the Environment Committee.

DEPUTY SPEAKER ORANGE:

Please proceed.

REP. L. MILLER (122nd):

Thank you, Madam Speaker.

Where is the location of this proposed facility?

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you.

Through you, Madam Speaker, it is on Housatonic River right opposite Stratford.

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

Thank you.

And through you, Madam Speaker, Milford and Stratford have always been very cooperative as neighbors. We respect each other's positions and often support each other all the time. So being on the Housatonic River it may impact my district.

In the neighborhood that -- through you, Madam Speaker -- in the neighborhood that it's in, is it going to be an industrial area? Or a commercial area?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Please repeat the question.

DEPUTY SPEAKER ORANGE:

Representative Miller, do you mind?

REP. L. MILLER (122nd):

No, I do not, Madam Speaker.

What is the zoning currently in that for this facility prior to this application.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you. Through you, Madam Speaker.

It's residential (inaudible) mixed.

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

And the townspeople, through you, Madam Speaker, are they in favor? Or opposed to it? What was the

turnout for the public hearing?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Through you, Madam Speaker, they were opposed to any expansion, but permit that had been granted by the DEP will stand and add construction moving forward.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

Yes. Thank you, Madam Speaker.

As far as the nonconforming use, it's always been my knowledge that once the use nonconforming use ends, the property would return back to the original zoning. Is that correct today?

Through you, Madam Speaker.

DEPUTY SPEAKER RYAN:

Representative Roy.

REP. ROY (119th):

I had trouble with hearing that one. If the gentleman would please repeat?

REP. L. MILLER (122nd):

Gladly.

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

Thank you, Madam Speaker.

The zoning, if this particular facility doesn't make it, would they return the zone to its original designation?

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Is that as if the facility ceased to exist?

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

In other words, if they fail could they sell that property at a higher price as an industrial site?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you. Through you, Madam Speaker.

I don't know that that's possible. But I would assume that if they sold it, the City would want more

residential as opposed to industrial.

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

Thank you, Madam Speaker. I have some more questions.

If you'd give me more of a location where this is going to be, I'd appreciate it. You said on the Housatonic river. Exactly where and how close?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

It's on the west side of Milford. It is on the -- just above the banks of the Housatonic River. And there would be, I think, there's some railroad tracks between the river and the property.

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

And through you, Madam Speaker.

The biggest investment that we all make is our home. And the fact that we're going to have this location in a mixed area, there is some residential,

as you said. It will impact the value of their home and I know that they always deny that it does have that impact, but when they go to sell their home they're going to have a problem, because it will suggest that this area is more of an industrial area than a residential area to any new buyer.

And I would just point out the fact that whenever the State gets involved, you know, I'm a guy who likes local control. I like people to have a say into what's happening in their community. And we always, all of us here always want the public to be involved in anything we do. We want to make sure that they have a say in it so they know what's going on.

And you know, I'd even point out that all the mandates we throw at the towns, that they -- we force them to make -- pay for all our mandates. And affordable housing, you know, we can't deny that. Group homes, we can't deny that. Cell tower applications, we can't deny those. So it's something that again, the Town has very little control over. And I don't believe that having a Town put it's 2 cents in is going to hurt in any respect.

Through you, Madam Speaker, what's the size of the property, Representative?

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

I don't have an exact figure. I know it's several acres, but I don't know the exact number.

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

And through you, Madam Speaker.

Will this be trucks coming in through a residential neighborhood? Or is it more of a commercial area they can come into? Because it's close to the Merritt Parkway. They can't use 95. It's too far away. So will the trucks be running through a neighborhood that's residential? Or through the town?

Through you, Mr. Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Yes, they would, sir.

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

And through you, Madam Speaker.

Is there any indication as to how much traffic would be generated for this facility?

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

They're talking upwards of a hundred trucks a day, but they're also talking about bringing in some materials by train and others by barge, which we don't have at this point. So I'm hoping, sir, that we can change that.

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

Thank you. And through you, Madam Speaker.

I'm concerned about the fact that you're talking about a barge. The Housatonic River is something that feeds into Long Island Sound and Long Island Sound is in trouble from a pollution standpoint. If we have a solid waste facility in Milford and they're going to be barging in things or --

Will this stuff -- I hope doesn't leach to the Housatonic river and eventually into Long Island Sound. Did DEEP make any comments about that?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

The last part of your question, sir?

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

Yeah. Through you, Madam Speaker.

Did DEEP make any comments about that?

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Through you, Madam Speaker.

No. The temporary permit does not address those issues.

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

Thank you, Madam Speaker.

That's a concern of mine. Certainly being across the river from Milford, we don't want to have any pollution coming down our end of the river. And there's probably going to be -- there won't be any guarantee that this won't happen.

So I'm not sure if -- when planning and zoning looks at this and I -- again, I believe local control is important. They can ask those questions and find out if there's going to be any pollution associated with this facility.

And I would just point out, through you, Madam Speaker, that CRRA in Bridgeport was a, you know, energy to -- a facility that uses refuse to produce energy. And it was all supposed to be maybe 15 or 16 towns that brought their refuse there, but in the end what happened was they were bringing in barge -- not barge loads, but they were bringing in truckloads of material from New York and New Jersey and burning it there.

And we didn't find out about it for quite a while, but again, they were bringing in stuff from other states which we have no control over as what comes in those bags or from those particular states. So I'm just wondering if that's going to happen to Milford?

Through you, Madam Speaker.

REP. ROY (119th):

Thank you.

Through you, Madam Speaker, I would think that with the force of law that this will give us under the zoning laws, we'll be able to prevent that sort of

thing.

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

Yeah. Thank you, Madam Speaker.

Okay. Just give me a moment. I'm having trouble reading my own handwriting.

DEPUTY SPEAKER ORANGE:

Certainly, sir.

REP. L. MILLER (122nd):

And through you, Madam Speaker.

Did inland wetlands review this application as well?

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Wetlands are not discussed by the DEP in their permit which is strictly in construction of the expansion of the facility. The zoning laws go into the wetlands, go into the river, go to the ancillary issues that are there, the traffic and all.

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

Thank you, Madam Speaker.

And through you, I would imagine that in normal situations when something is close to the river, DEP is -- I'm sorry, your inland wetlands commission usually oversees what's going to happen there and makes a -- gives an opinion to the planning and zoning people.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Through you, Madam Speaker.

The DEP -- or DEEP, excuse me, would have the Coastal Management Act regulations to guide them.

DEPUTY SPEAKER ORANGE:

Representative Miller.

REP. L. MILLER (122nd):

Thank you, Madam Speaker.

I plan to support this. I don't think it's any intrusion by the Town to have some say into what's going to happen there. The facility has been approved and the Town can put some restrictions on there to make sure that the facility is run properly, the construction is done properly so it doesn't infringe on the residential areas that may abut.

And also the fact that the river is there and

they've got to protect the river from any kind of leeching from this facility. Although they say there probably won't be anything, but you know, that's something that may happen in the future. So they've got to be understanding of what's happening there.

And again, a few questions by planning and zoning, some restrictions. It's not going to ban the facility, but it may improve it and certainly give the Town some say into something that again, the State says you have to do this. And you're not banning the facility. You're just going to maybe make it a little better. And it's only the townspeople, the people in Milford, the planning and zoning and the people that are there that know what's happening in their communities. The State has no idea and DEEP has no idea, but it's always good to have local control, some local say into things that are happening that will affect their town for many years to come.

So again, I would advise the assembly to vote for this bill and it's going to give some control to the Town that will be affected mostly by it.

Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

Will you care to remark further on the bill before us?

Representative Smith.

REP. SMITH (108th):

Thank you, Madam Chair. And good evening.

DEPUTY SPEAKER ORANGE:

Good evening, sir.

REP. SMITH (108th):

Madam Speaker, I should say. It's been a while since I was here. Good to see you again.

I'm going to be very quick. I just -- if we're looking at line 15 of the proposed bill to the -- starting with the word "no municipal regulation" and all the way to the end, a question through you to the proponent, please.

DEPUTY SPEAKER ORANGE:

Please proceed.

REP. SMITH (108th):

I'm just wondering what that language, what the intent of that language is -- start -- when no municipal regulation through the end of line 18.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

I'm sorry. Could you speak a little slower.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

Sure. I'm looking at line 15 where it starts the word, "no municipal regulation adopted pursuant to section 8-2 and thereafter." I'm wondering what the legislative intent is for that particular language.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you, Madam Speaker.

Through you, it's to delineate the activities of both the DEEP and the town planning and zoning boards. We cannot stop the construction. We don't have that power. We have -- can't bar the construction of any facility like that. That's the power of the DEP. We control some of the other stuff around the traffic and that, that sort of thing.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

So I'm clear, Madam Speaker, through you, as I understand your answer to that question, then if an

application is made in a Town and the Town has regulations already in adoption that would permit a waste facility, they would have to allow that facility to actually come into the town as long as they complied with zoning and other regulations. Is that accurate?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Yes. Thank you. Through you, Madam Speaker.

Yes. And we would give the DEP our thoughts on the location and all of that, but that's not our decision. We can't prohibit it.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

And thank you.

And I thought I heard you state earlier that the purpose of this bill is to codify the practice of the municipalities as they exist today. Is that accurate?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Yes. Thank you.

Yes, that's true. And those laws are in place. The state law was what was eliminated, that one line and -- but we've been operating nicely without it at this point. But now that we know that there's a problem there we're trying to plug that loophole so that no other communities and any other parts of Milford are affected.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

Thank you, Madam Speaker.

And through you again, the loophole that you refer to is the Recycling Inc versus Milford case. Is that true?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

The what? Can you repeat that question, please?

REP. SMITH (108th):

I'd be happy to. So the loophole that you referred --

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

Thank you, Madam Speaker.

The loophole that you referred to is the Recycling Inc versus Milford case and the decision therein, which basically said that there is no local control, that the state law preempted regulation in this area.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Richard Roy.

REP. ROY (119th):

Yes. Through you, Madam Speaker.

Prior to 2006 there was wording that gave local zoning regulations the power to enact and then have some affect on the construction and the final product. But we cannot prohibit the construction. We cannot tell the DEP how big, how small. That's up to them.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

And finally through you, Madam Speaker.

So then it was never the legislative intent of this Chamber to take away the local control in this area.

Is that accurate?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

It's to uphold local control of the zoning laws which were erased unfortunately 12 years ago -- six years ago.

DEPUTY SPEAKER ORANGE:

Representative Smith.

REP. SMITH (108th):

Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

Will you care to remark further? Will you care to remark further?

Representative Debbie Hovey, you have the floor, ma'am. Good evening.

REP. HOVEY (112th):

Good evening, Madam Speaker.

Gee, you know, the only person who calls me Debbie is my mother. So --

But thank you, Madam Speaker for recognizing me.

Through you, a couple of questions to the

proponent of the bill.

DEPUTY SPEAKER ORANGE:

Mother says, please proceed.

REP. HOVEY (112th):

Thank you, ma'am.

Through you, Madam Speaker I just -- I'm sorry. This is not my area of expertise and so I just need a little clarification. It's my understanding that the DEEP in this situation acts almost similarly to the siting council for other types activity that are considered kind of necessary for the greater good. Am I correct?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Through you, Madam Speaker.

That is correct.

DEPUTY SPEAKER ORANGE:

Representative Hovey.

REP. HOVEY (112th):

Thank you, Madam Speaker.

So through you, Madam Speaker, just to make sure I'm completely clear on this, what we're doing here

tonight does not impact on the concept of greater good by allowing local control, local authority to supersede that concept of greater good. Am I correct?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you.

Through you, Madam Speaker, we cannot supersede the construction permit that the DEP has put in place. That's their purview. We can control some of the traffic and the dust and stuff of that nature in the area of the site.

DEPUTY SPEAKER ORANGE:

Representative Hovey.

REP. HOVEY (112th):

Thank you, Madam Speaker.

So sir, when you speak about what the local authority is, it would be around sizing, ascetics, traffic, parking, those kind of entities that your local P and Zs appear to have most authority over; fitting into the environment of the community in a more aesthetically attractive manner. And that type of activity, is that what you're speaking of?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

That is correct, ma'am.

DEPUTY SPEAKER ORANGE:

Representative Hovey.

REP. HOVEY (112th):

Thank you, Madam Speaker.

And through you, sir, does this legislation impact at all whatsoever, even to a slight little degree on sewers?

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Impact on sewers? No, ma'am. If there are sewers in the area nothing is going to change that. If there are not and they apply for sewers at some point, we will certainly have to accommodate those issues, especially this close to the river.

DEPUTY SPEAKER ORANGE:

Representative Hovey.

REP. HOVEY (112th):

Thank you, Madam Speaker.

Through you, Madam Speaker, I'm not even necessarily as concerned as some seem to be about this particular specific situation as much as I am about what the legislation would do for other communities. And so from my perspective I would like to know whether or not this will impact on the ability to locate sewage facilities.

Through you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you. Through you, Madam Speaker.

No, ma'am, and it's right up the river, right up the street from them.

DEPUTY SPEAKER ORANGE:

Representative Hovey.

REP. HOVEY (112th):

Thank you, Madam Speaker.

And I thank the good gentleman for his answers.

DEPUTY SPEAKER ORANGE:

Thank you, ma'am.

Will you care to remark further?

Representative Phil Miller, you have the floor,

sir.

REP. P. J. MILLER (36th):

Thank you, Madam Speaker.

I would like to try to simplify this as I may. All along, up until this time municipalities in this state, not just the 22 who have at the very least are what are solid waste disposal sites -- have always understood that they have had local regulatory control and as such we've had a series of checks and balances why -- whereby the DEEP or the State can make a determination, but it's not inconceivable that a local municipality could take exception with their local zoning laws and have an opinion that's contrary to what the agency had previously designed, and that's no doubt happened.

The problem here is with the 2006 legislation. What apparently has happened is that in all of these places where there are solid waste disposal sites, many of them over the years have diversified and enlarged and they've become solid waste facilities. And that's a much broader definition which includes things such as recycling, volume reduction, biomedical waste, wood burning.

And certainly it's conceivable that local municipalities can exercise their local zoning and they

could turn down some of those requests to diversify into a solid waste facility based on things such as the proximity of wetlands, the drainage of the soil and other factors, including the presence or not presence of sewers or septic tanks and other systems like that.

What apparently the judge found was a liability in the 2006 legislation and it refers to that same line 15 that we've been speaking of. In that line 15 it presently talks about a solid waste facility. It used to say in the old language, a solid waste disposal.

And therefore what that judge I think did was said that when the applicant who has an existing solid waste disposal site in Milford applied to DEP and Milford they initially heard what they probably didn't want to hear from the local planning and zoning in Milford. And therefore they then went to a judge and the judge looked at the 2006 legislation and found that that -- the wording in there that said solid waste disposal only talked about a narrow scope. And therefore because it was not a solid waste facility the judge concluded that the local municipality could not speak on the desire of this business to expand its use.

Now the reason why there's a timeliness here is that if we correct this and we then give our

municipalities the right to use local regulatory power to regulate these sites and other things, the liability is that some of the other sites in the rest of the state could say, hey, well, if the local municipality that we heard from a couple years ago and gave us the answer that we didn't want to hear -- really shouldn't because they're not supposed to comment on the expansion to a facility, but only on a solid waste disposal site. Then let's have another bite at the apple here.

What this bill seeks to do by clarifying this language, it gives municipalities local autonomy. In this case it gives Milford the opportunity to -- before the expansion begins -- and I understand this is in a residential neighborhood and that's why there's a local reservation about having it expand -- this would uphold the autonomy of Milford and all of the other municipalities. So it really does uphold local rule and I think on concept that that's something that I hope both sides of the aisle could support.

So that's the liability here, was with the 2006 language. And by simply adding that we give towns the opportunity to regulate that potential expansion from a solid waste disposal site into a facility which allows a lot greater use. So we are again seeking to uphold

the autonomy of the local towns.

Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, sir. Will you care to remark further on the bill? Will you care to remark further on the bill?

Representative Srinivasan, good evening, sir.

REP. SRINIVASAN (31st):

Good evening, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Good evening, sir.

REP. SRINIVASAN (31st):

Good evening.

Through you, Madam Speaker to the chairman of the Environment Committee.

DEPUTY SPEAKER ORANGE:

Please proceed.

REP. SRINIVASAN (31st):

Thank you, Madam Speaker.

I am all in favor of town control, town and local -- town and municipality control. So I definitely feel this bill is and will do what we intend it to do, give back the control to the local communities.

Having said that, I just want to make sure of a small clarification for my own mind, that if a permit has been approved and given by DEEP, is it possible that with the autonomy that the municipalities now have through the zoning commission, that they can alter some of the requirements making that permit not feasible? Could that scenario happen? Or will it not? Or is -- that's my question to you, sir.

DEPUTY SPEAKER ORANGE:

Representative Roy.

REP. ROY (119th):

Thank you, Madam Speaker.

I think that has been the case in the past. It is the case today. It will be the case tomorrow.

Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, sir. Will you care to --

Oh, I'm sorry. Representative Srinivasan.

REP. SRINIVASAN (31st):

No. Thank you, Madam Speaker. Thank you, Madam Speaker.

DEPUTY SPEAKER ORANGE:

Thank you, sir.

Will you care to remark further on the bill? Will

you care to remark further on the bill? Going once,  
twice. Will you care to remark further?

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

THE CLERK:

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

DEPUTY SPEAKER ORANGE:

Have all members voted? Have all members voted?  
Have all members voted? Please check the machine to  
determine if your vote has been properly cast. If so,  
the machine will be locked and the Clerk will take a  
tally. And will the Clerk please announce the tally.

THE CLERK:

Emergency Certified House Bill 5302.

Total number voting 128

Necessary for adoption 65

Those voting Yea 120

Those voting Nay 8

Those absent and not voting 23

DEPUTY SPEAKER ORANGE:

The Emergency Certified Bill passes.

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**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2012**

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next one, please.

THE CHAIR:

Seeing no objection --

SENATOR MEYER:

We'll come back to it.

THE CHAIR:

-- we will pass the bill.

SENATOR MEYER:

Thank you.

THE CHAIR:

Mr. Clerk, pass temporarily.

Mr. Clerk, will you call the next bill, please.

THE CLERK:

On page 9, Calendar Number 40, House Bill Number 5303,  
AN ACT CONCERNING THE EXEMPTION FROM DISCLOSURE OF  
CERTAIN ADDRESSES UNDER THE FREEDOM OF INFORMATION  
ACT.

THE CHAIR:

Yes. And we'll have Senator Slossberg on House  
Bill 5903.

Senator Looney.

SENATOR LOONEY:

Yes, Madam President. If the Clerk would call  
Calendar page 9, Calendar 39, House Bill 5302.

THE CHAIR:

Okay. Mr. Clerk, would you call it again, please.

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THE CLERK:

On page 9, Calendar 39, House Bill Number 5302, AN ACT  
CONCERNING MUNICIPALITIES AND SOLID WASTE FACILITIES.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Sorry about the confusion, Madam President.

THE CHAIR:

It's leap day anyway. It's okay, sir.

SENATOR MEYER:

I move passage of Emergency Certified Bill 5302 in  
concurrence with the House and ask permission to make  
remarks.

THE CHAIR:

Acceptance and approval of the bill, will you remark?  
Senator Meyer.

SENATOR MEYER:

Thank you. Thank you, Madam President.

Colleagues, this bill arises because of a mistake that  
was made in year 2006 when the General Assembly took  
up and passed a bill, an environment bill that related  
among other things to solid waste. No one noticed at  
that time when the bill was passed that we were  
deleting the town authority, zoning authority with  
respect to solid waste facilities. And that repeal  
was unintended.

I was a member of the Environment Committee at the  
time and had no knowledge that we were appealing the  
authority of the town to implement and apply its  
zoning laws to a solid waste facility. Given that  
mistake, we are here today to correct that, and in a  
measure of home rule, we are putting back the zoning

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authority of our towns with respect to solid waste disposal.

Solid waste disposal facilities will still require a permit from DEEP, but now, there will also be the municipal zoning regulations that are so important to our towns and cities. The bill does a second thing and that is it prohibits a municipality from in effect outlawing a solid waste disposal. It cannot break a solid waste disposal. The bill is very clear on that.

So we're supportive as a matter of public policy of solid waste facilities and that's why there is an indication that towns cannot prohibit solid waste facilities. So that's the essence of the bill and I'd like, with your permission, to call upon -- to yield, in fact, to Senator Slossberg for further remarks and for answers to any questions that members of the circle might have.

Thank you, Madam President.

THE CHAIR:

Senator Slossberg, will you except the yield, ma'am?

SENATOR SLOSSBERG:

Yes, I will. Thank you.

THE CHAIR:

Thank you.

SENATOR SLOSSBERG:

Thank you, Madam President. Nice to see you.

THE CHAIR:

Good seeing you.

SENATOR SLOSSBERG:

And thank you, Senator Meyer, for bringing of the bill.

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As Senator Meyer stated we are here simply to fix the error that was made in 2006 and restore local control. I want to make it very clear that both the law and practice in our state has been that municipalities have local control over solid waste facilities.

The language at question was enacted in 1978 and it was made clear that municipalities do, in fact, have broad authority to regulate solid waste facilities through zoning. The Supreme Court in Bauer versus Waste Management in 1995 affirmed the rights of municipalities to regulate through zoning. DEEP's own documents all state, even to this day, that the permits granted are subject to local laws. The practice in our state, that is, every volume reduction plant solid waste facility in the state has gone through the local zoning process for approval pursuant to their local laws. As for pending applications, this bill simply makes them comply with local laws and follow the same rules and procedures as everyone else.

Now, because the court decision came from a case in Milford, people have been focusing on Milford. And there have been suggestions that this is a question of NIMBY, not in my backyard, but it is not. For the record, Milford already has two solid waste facilities. This is a question of who is in the best position with regard to solid waste facilities to ensure the public health, safety and welfare of the residents of a town.

I don't have any doubt that it is the municipality, through its local boards and commissions, that have the greatest local expertise to review and regulate for the protection of our neighbors. It has been the law and the policy of this State to grant broad authority to our municipalities to regulate solid waste facilities and this bill simply reaffirms and reestablishes that local control. Thank you, Madam President.

THE CHAIR:

The motion is on acceptance and approval of the bill. Will you remark further? Will you remark further?

Senator Fasano.

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SENATOR FASANO:

Good morning, Governor. How are you?

THE CHAIR:

Good, and yourself, sir?

SENATOR FASANO:

Good.

If I may, through you to Senator Slossberg, Senator Slossberg, through you, Senator Slossberg, with respect to the change, Senator Meyer had indicated that the change was to correct an error in 2006. Through you, Madam President, do you agree with Senator Meyer's summation of why -- of what this language does?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, Madam President. Yes, I do agree with the -- with Senator Meyer's assertion that the change was passed in 2006. The language and reference that was deleted was -- started out in 2005. It did go through the regular process in this building. It came to the House and to the Senate. It did not pass ultimately.

It came back again in the '06; however, nowhere in that discussion, debate, committee hearings, public hearings, testimony on the floor was there ever any discussion that the effect of deleting that language would be to eliminate local control over solid waste facilities.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

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So just with respect to my question which was whether or not you agreed with Senator Meyer that this language that you're putting forth is identical language that was in 2006. You agree with that summation relative to that point? Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam Chair.

I don't -- I wouldn't call it identical language, but what it does is restore us to the state of the law, the policy and practice that was prior to the 2006 change.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President, and I thank Senator Slossberg for that answer.

So if now we're back talking about that it is a different language, perhaps we can look at the language in 2006 and the language that's been presented here today to determine if, since it has different words, whether we have different meanings.

So through you, Madam President to Senator Slossberg, in the language of 2006, for the pertinent point of today's discussion, it talks about the fact that waste facilities would be -- no waste facility shall be built or established, no solid waste facility without a permit to construct shall be offered after July 1, 1971, and it goes on, unless approved by the commission, commissioner being DEP, provided that nothing in this chapter shall be construed to limit the right of any local governing body to regulate through the zoning and land use for solid waste disposal.

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Do you recall that to be the language in 2006?  
Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President. Through you, I don't have that language in front of me, but yes, that is my recollection.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President. Just because there is a lot of words there I'm sending the link which over to Senator Slossberg so she can take a look at that language, but I believe she agrees that we're dealing with the provided -- is the exception to the rule. And the exception to the rule deals with solid waste disposal.

Through you, Madam President, would the --

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

The language specifically that is in discussion is solid waste disposal; however, it is in the subsection that relates to solid waste facilities.

SENATOR FASANO:

And can you identify where "solid waste facilities" in the 2006 language appears that was deleted?

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Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President.

It isn't the beginning of the paragraph and it is also the subject of 22-208a that deals primarily with solid waste facilities as a general matter.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

So let's look at this statute of what -- and what you just said. I agree "solid waste facility" is in there and it says no solid waste facility shall be permitted unless DEP otherwise agrees. However -- and that's provided in normal words -- however nothing in this chapter shall be construed to limit any local governing body to regulate through zoning solid waste disposal.

Would you agree with me therefore there is a difference between "solid waste facility" and "solid waste disposal" with respect to the definition under Connecticut General Statutes. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

No, I would not.

SENATOR FASANO:

You do not? Would you agree with me that solid waste disposal area means any landfill or other land disposal site used for long-term placement of solid waste. Do you have any reason to believe that that's

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not the appropriate statutory definition in our general statutes?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes. I believe that is.

THE CHAIR:  
Senator Fasano.

SENATOR FASANO:

I'm sorry. I didn't hear the answer. I apologize. I'm sorry, Senator Slossberg. I didn't hear what you --

THE CHAIR:

Please repeat your answer, Senator Slossberg.

SENATOR SLOSSBERG:

Yes.

SENATOR FASANO:

Yes, you disagree that it is not the definition?

SENATOR SLOSSBERG:

No. No. No. I said, yes, I agree, that is the definition as I recall it, although I don't have it in front of me, but that is the definition as best I recall of "solid waste disposal."

SENATOR FASANO:

And would you agree that the solid waste facility includes solid waste disposal areas as well as volume reduction plans, transfer stations, wood-burning facility or other biomedical waste treatment facility? So in other words "solid waste disposal" is the bigger set within that is a subset, which is solid waste

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disposal.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

Would you agree that "solid waste facility" includes more things than solid waste disposal? Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you.

Would you agree that on your language that you're putting forth, you now longer use the word "solid waste disposal," but you use the word "solid waste facility."

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Senator Slossberg.

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SENATOR SLOSSBERG:

Yes, that is correct.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And would you agree therefore your language, the original language in 2006 said local control to solid waste disposal. And now, you're saying local control to solid waste facilities is different. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

While the language is different, the effect is the exact same thing as what it has been since 1978.

SENATOR FASANO:

Okay. So let's look at that, if I may. You would agree -- forget about the effect -- how the state is applied, you'd agree that the language is different and it incorporates -- your language is more broad than the existing language, but if I understand Senator Slossberg, by practice it has included everything and you are trying to bring the statute to comply with practice. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

No, I would not agree with that.

THE CHAIR:

Senator Fasano.

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SENATOR FASANO:

Okay. Then I am confused. Perhaps the good lady can help me out in this area. It is my understanding that we agreed that the original language dealt with solid waste disposal area. We agreed that meant landfill. We agreed that solid waste facilities is everything including landfill. We've agreed to that point. You've agree that your language is different than the language there, because in practice, you claim that DEP looked at the towns and the towns had to get zoning approval and that's why you're doing this language.

And if I'm in error, please specify exactly where I'm in error so I can correct the confusion.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:  
Thank you, Madam President.

And I thank you for the question Senator Fasano because I think it can be confusing here. The language that we're discussing that was deleted in 2006 unintentionally was language that was originally placed in our statutes in 1978 as a result of the Colchester case, which I'm sure you're very well aware of. When that language was placed, though, the legislative history makes it very clear -- and I will quote -- that the authority to promulgate and enforce zoning regulations is a right that has been held and upheld and recently upheld by municipalities.

This bill, meaning the language that we are discussing right now specifies that -- and this is a quote from the floor -- nothing in the Solid Waste Amendment Services Act, which means the entire act, preempts this right. What it does is reaffirm local autonomy.

And throughout the entire debate and discussion when this language was drafted and specifically placed in 22a-208(a), which deals with solid waste facilities, that discussion was all about home rule, local

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control. There was never a discussion when this language was drafted as to a distinction between solid waste disposal and solid waste facility. And that is why our courts have held, including our Supreme Court in Bauer versus Waste Management in 1995, that this language applies broadly, not narrowly to just solid waste disposal or solid waste disposal areas or to landfills. It applies to the broader category of solid waste facility.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you. And you would agree with me that those cases Solid Waste Management of Connecticut, as well as Colchester, dealt with landfills. Is that correct? Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Madam President, yes. I would agree that the facts of those cases were on landfills; however, our Supreme Court in their articulation of our statute -- and I would tend to think that they would choose their words carefully -- very clearly used the language of "solid waste facility" when interpreting 22a-208(b), the operative language in question.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

Madam President, I would ask the good lady if she's aware of the Bristol Resource Recovery Facility versus the Town of Bristol?

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Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, I'm aware of that. I don't have it in front of me and my understanding is that case came before the Bauer case.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Madam President, that case came right about the same time, but in that case, was it not decided that that section that then appeared in 1970 dealt strictly -- that court determined that that dealt strictly with landfill only is what that case held in 1995. And the Supreme Court in Waste Management was dealing with the language that dealt with the landfill case.

The only case that came between 1978 and now dealing with that statute to determine if that statute applied to facilities was the Bristol Resource case in which that, much like the issue here today, was a volume reduction plant and not a landfill. And it was determined by that court that that section did not apply to volume reduction, i.e. facilities that were not landfills. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President. I'm not sure there was a question there. ]

SENATOR FASANO:

The question is are you aware that that's what that

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case is stood for.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

I'm not prepared to argue or reargue the Bristol case. My understanding, though, that was a trash to energy plant as opposed to the discussions that we're having here.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

I think that that is not correct. I think that this is a volume reduction plant and a resource recovery facility and that the issue here is that law, it applies to other than landfills. And that case said, the judge said in that case that the restriction with respect to local approval is inapplicable because this is not a landfill; and therefore, it is not covered by the statute.

I think the court went on to say the Legislature spoke and when the Legislature spoke it took out "landfill" thus meaning that it wanted to have regulations with respect to things other than landfill and it exerts its authority.

Would good lady agree with my understanding of that case? Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

It's my understanding -- I'm just checking here in terms of the language here, and perhaps, I realize the Senator is asking me questions -- but with the documents I have in front of me, Bauer was a Supreme

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Court case and the Bristol Resource Recovery Facility is a superior court case. Do I misunderstand that?

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

You're right as far as the court being different, but the subject matter was equally as different. The Bauer case was a landfill case which related to the Colchester issue that result in a change in 1978 and you and I have the same meeting of the minds as to "landfills." Clearly landfills are subject to local approval. In '77 the case was brought, in '78, the statute was changed to reflect that we believe, as a Legislature, that landfill cases should be governed by local municipalities.

And in '78, that language went in and it stayed there. When it came up in the Bauer case, that case was a landfill case and the court said, hey, no, landfills, you have local regulations and they control. I am talking about the case in which it was not a landfill, but was a solid waste facility other than a landfill. And that court spoke and said you do not have local control. The statute and the Legislature said so. And that case stood. And that case was the law of the land.

In 2006 -- we'll get to that -- so that's the reason why those two cases are apparent, one dealt with landfill, local control, one dealt with facilities that wasn't a landfill and said, no local control according to the laws as we know them. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes. Thank you, Madam President.

I disagree with your interpretation of the law and I

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believe that Bauer is the Supreme Court of the land and in that it very clearly stated that this -- that the holding in Bauer related -- bears on solid waste facilities, not just landfills.

Even though the facts of that case were with regard to landfills, the Supreme Court very clearly enunciated "solid waste facilities." With regard to the Bristol case that was a trash to energy plant, which is a different matter with regard to our laws. Bauer is a Supreme Court case, 1995. Bristol is a superior court case, a lower court, and after that. And in addition to that, the Supreme Court case from Bauer, it's very clear from our practice in the state that municipal zoning has applied to this.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

Madam President, I guess we can agree to disagree, but trash to energy is a volume reduction plant, and if you read Bauer, the only jurisdiction -- and the Supreme Court only takes up those matters directly in front of them -- the only thing in front of them -- and you agree with me -- is that this case involved a landfill. That's the only thing in front of this court -- or that court, I should say. That it only dealt with the landfill.

And the court spoke as to this landfill as to the matter in front of us, only as to a landfill, we say you have a right to regulate only as to a landfill because it is under a solid waste disposal which the statute covered. Madam President, through Senator Slossberg, if I may.

THE CHAIR:

Please proceed, sir.

Senator Slossberg.

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SENATOR FASANO:

You would agree with me that -- and you had stated earlier -- that in 2005 this language that deleted that section came in front of the Environment Committee and had a public hearing. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, that is correct.

SENATOR FASANO:

And you agree with me that it passed the Environment Committee went to the Judiciary Committee, and passed the Judiciary Committee. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, that is my understanding.

SENATOR FASANO:

And then it came to the Senate in one form or the other it was an amendment, but through one form or the other, it passed through the Senate on the consent calendar. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, that's my understanding.

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SENATOR FASANO:

And if you read -- if you read the transcripts, when asked about particular sections, people who spoke about this, including DEP had said that this was a technical change. This bill was a technical bill in nature. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, I believe that that was -- those were some of the comments.

SENATOR FASANO:

And then when the bill came up in 2006, it was an identical bill to the 2005. Would you agree with me, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

In that -- in the language we are discussing, yes.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

I'll take that as answer, but I believe the whole bill was identical, but nevertheless, at least through the paragraph that we're talking about was identical. And then that passed through Environment, went to Judiciary and died in Judiciary. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

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SENATOR SLOSSBERG:

That's my -- that's -- I don't have the chronology in front of me, but I wouldn't disagree.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And then it came in front of -- then there was an amendment to an existing bill, and at that time, the chairman of Environment added that 2006, deleting that 2006 language. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yeah. I'm not -- I don't recall the chronology in front of me, but I will accept the Senator's assertion.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you. Do you have any understanding as to why that section was deemed to be a technical correction with respect to local jurisdiction over solid waste disposal areas, i.e. landfill?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

No, Madam Chair. I'm not clear where the Senator is going.

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THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

Madam President, I guess the other questions I would have is it's my understanding that this case derived from a Milford issue. And in that Milford issue, the court had found that local zoning does not have jurisdiction in solid waste facilities and that decision was on or about -- in 2010. Would Senator Slossberg agree with me on that?

SENATOR SLOSSBERG:

Yes, thank you, Madam Chair.

I would agree.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And between -- between 2010 and today, has there ever been a bill submitted either by the Milford delegation or by you to address the issue that this e-cert is addressing today?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Not that I -- not that I am aware of.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

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And in this -- in this particular year, 2012, at the beginning of the session, did you ever introduce a bill through your committee to deal with this issue? Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

No.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Was there any informational meetings held with respect to the concerns that you raise as to why we have to change the law that you're aware of? Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

No.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

And do you know of any letters sent by Commissioner Esty, commissioner of DEP or any authority within the solid waste portion of DEP that requested that this change had to be made because there's an error based upon this court's ruling? Are you aware of any letter? Do you have any letter from any of those authorities?

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THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

No, I'm not.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

You had testified -- I'm sorry -- you had mentioned earlier that the approval process -- sorry -- the approval process does have -- require local approval through zoning. So you're not really making -- so the language would not be a significant change because that's already done. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

I'm not sure I'm clear on the question, but if you're -- if you're suggesting that the law has been and the process has been requiring local zoning approval and that this law -- this bill in front of us restore that, reaffirms authority, if that's the question then, yes.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And is it your view that whatever the local land-use board does is irrelevant to what DEP does, through you, Madam President, with respect to citing these facilities?

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Senator Slossberg.

SENATOR SLOSSBERG:

If you mean by irrelevant that there's two separate tracks that DEP goes through their permitting process and then municipal zoning goes through their process, then yes.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

So it's your view that if a town does not like a facility, for whatever reason, and doesn't approve it through the zoning, that that would stop a DEP permit from being cited for a waste facilities plant? Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

No, I would not agree with that. If DEP permits, those two tracks could happen at the same time. DEP could permit. The town could permit and the town can only reject it if it doesn't meet their zoning requirements or their regulations.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

So it is your view that whatever the town believes, DEP could say, hey, we think this is a good idea. We're going to give them a permit. We don't really care what the town believes. Is that an accurate statement, through you, Madam President?

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Senator Slossberg.

SENATOR SLOSSBERG:

If DEP finds that an application meets their requirements, then I would expect DEP would approve their permit.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And you believe that irrespective of the case law of the Bristol resources, that zoning would have an impact on the ability of these waste facilities to operate. Is that correct? Am I hearing that correct?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Then what's the purpose of the bill? If they can stop them now, what's the purpose of the bill?

SENATOR SLOSSBERG:

The purpose of the bill is to restore local zoning so maybe I didn't understand your last question accurately, but the purpose is -- right now as a result of Judge Hiller's decision in Recycling Inc, because we make clear that because we had struck that section of 22a-208(b), we had removed authority, the broad authority that gave our towns the ability to regulate solid waste facilities, and today's --

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today's action restores that.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

See, I guess I'm confused because I believe in the case from Milford, they cited the Bauer case. And I believe in the case from Milford, they cited the Bristol case, and it seems to me that going back to my original understanding with you, you said the Supreme Court spoke and said that solid waste facilities are governed by local zoning. Are you suggesting that the court that decided the Milford case rendered a decision that's complete opposite of the Supreme Court decision?

Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President. My understanding is that the court at the local level -- that Judge Hiller's court -- superior court found that as a result of our action in 2006, deleting this language 22a-208(b), the language in reference, that as a result of that, that that was the authority for municipal oversight and regulation with regard to solid waste facilities.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And you don't believe that that case stood for the fact -- the same thing in Bristol, which was the case on all fours, that a solid waste facility is not governed by that rule. Those were different. Through you, Madam President.

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THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President. I'm not sure that I'm clear on the question, but I think I made it clear before that I believe that Bauer is the Supreme Court case of -- is the controlling language in the land. And that as a result of that, and Judge Heller relies on that in his -- in his opinion as well, when he references 22a-208(b) and our 2006 act, which repealed that language.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Madam President, through you to Senator Slossberg, is she -- is Senator Slossberg aware of how many applications are now pending for permits for solid waste facilities in front of DEP?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President.

No, I'm not.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Sorry, Madam President. Sorry.

Is Senator Slossberg aware that there are at least two applications in the city of -- or the town of Milford now pending with respect to DEP permits to operate a

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solid facility volume reduction facility?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President.

I'm aware of one.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

I would also like to know if Senator Slossberg is aware of 22a-258 of Connecticut General Statutes with respect to legislative findings that this body approved when it spoke as to solid waste facilities. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

No, I'm not.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

If I could just get back to the Milford case for a moment. I'm quoting from the case -- what is clear from the plain language of Section 22a-208(b) is that it is a narrow exception to the comprehensive scheme that applies only to facilities for land-use disposal of solid waste, i.e., my words now, i.e. landfill, and that that court was aware that there was an exception only built-in for landfill.

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THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President.

Yes, I recognize the discussion of 22a-208(b), but that is not the section that we are discussing. We're discussing 22a-208a Sub (b).

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

So when I asked you before the technical correction which deleted the 2006 language, I asked you if you understood why that was a technical correction. I believe you answered that you did not know why they specified that to be a technical correction.

Through you, Madam President, is that an accurate reflection of your view?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Yes, thank you, Madam Chair. And to the extent that you asked the question of whether I knew why it was a technical correction, I certainly didn't have any information in front of me that explained why that would be called a technical correction, but I certainly would not suggest that language that deletes municipal oversight and eliminate home rule and local control is a technical correction so -- if that clarifies the Senator's question.

THE CHAIR:

Senator Fasano.

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SENATOR FASANO:

Thank you, Madam President.

Madam President, are you aware that that section that gave control for landfill after the Colchester case that came out and said disposal areas, then was rewritten in the landfill area of the statute to give local control over landfill and that's the language this court was speaking to. And that the reason why it was deleted from the waste facility side was it was redundant language -- it was redundant language in the statute, and therefore, it was deemed a technical correction because it was already covered in the landfill.

Is the good lady aware of that issue?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President.

According to all the floor debate, the testimony that came out in the hearings and, you know, the practice of DEEP, at that time DEP, there was no explanation whatsoever in 2005 or 2006 that stated that removal of that language was a technical correction to conform to 22a-208b.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And other than you supporting the bill here today, Rep Roy down in the House, do you have any other objective documents from any one of our agencies suggesting that you are correct, that this is in error?

THE CHAIR:

Senator Slossberg.

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SENATOR SLOSSBERG:

Yes, thank you, Madam President.

Sure. Our DEP permit right now states under general permit for solid waste facilities under Section 5u, that it needs to comply with all federal state and local regulations. And, in fact, after 2006, there are numerous documents from the DEP including the case in -- the Milford case where the very first paragraph of the general permit that has been issued states this must comply -- in order to go forward you need to get local zoning approval.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And so if there was a letter or an e-mail that is in my possession dated in January of 2012, from those people who cite these facilities who indicate that local approval is not necessary to achieving a permit from the DEP, you would say that that person is writing in error? Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President.

No. That's different because now that we -- that DEP became aware of this error and we became aware of this error and that was highlighted in the 2010 case in Milford, the Recycling, Inc., case. People were then aware that this had happened. And after that happened, DEP realized that they no longer have this authority specifically; however, the proof is in the practice in that our facilities have continued to go to municipal zoning. And, in fact, in this case this applicant also went to municipal zoning initially until the decision that came down.

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THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

So if you are correct, but yet, you don't have any letter/request that you ever seen or have been in receipt of or know of from DEP at any level saying, hey, since the 2010 decision, this is a problem. This is and what was meant. We need to correct the statute. You don't have any of that with you or presenting that as part of the reason why you're supporting this bill? Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

If the question is did DEP or anybody from DEP contact me or anybody else I know to say, hey, this is a problem, we need to fix this. No, the answer is no.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

I thank Senator Slossberg for answers and I appreciate the patience of both the President and Senator Slossberg.

Madam President, I stand in opposition of this bill on a process issue. Look, let's be clear of what we're doing. In 1971, we wrote a statute that said, all facilities, solid waste facilities are going to be in control of DEP. Why would you do that? You do that because if you leave it to local control nobody wants them in my backyard. I don't blame Senator Slossberg for protecting her district. I would try to protect my district, but that's what we wrote in 1971.

In 1977, a Colchester case came up where they were going to put a landfill in Colchester. And they said, no, you're not. Zoning says no. And the court says, they're right. You can't do it without zoning. So in 1978, the Legislature said well, we don't like that result. Let's exclude landfills, solid waste disposal areas. Only landfills are excluded. 1978 the language goes in. 1995 comes the Bristol case, volume reduction plant. They say well, that language meant us. The court said no, it didn't. That was the reaction to Colchester, dealt with the landfill, doesn't mean you guys. The Legislature didn't react in 1995. Nobody said, boo. The policy stayed intact. It kind of makes sense when you look at the legislative findings.

Legislative findings under 22a-258 we spoke and we said that it is important and necessary that the state structure the initiative for the -- and they were referring to solid waste facilities done by the State. Because we all know the politics of a solid waste facility going in your district. Our mayors, first selectman, all of us, our reps, friends down in the House would all be, no. We don't want them.

And we all end up with the worst case in scenario, cost of trash moving out of the state. We wouldn't have trash energy recycling plants here in the State of Connecticut. We wouldn't be able to achieve our goal of 60 percent, which this body set, 60 percent for trash to energy. Because nobody wants them in the state.

What this bill does is say, if you want to do anything to the CRRAs, to any trash-to-energy plant, any recycling facility, bulk waste facility, you have to go through zoning so if you decide to upgrade your facility to make it trash to energy, which is a big plus that we talk about all the time, how good we are with green energy, and now that these people who want to do that, no, they got to go to local zoning. I don't think there's anybody here in this room that would say if that did not come to local zoning and your neighbors were against, you would not be standing that microphone saying, no. You would. We all know it.

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So what happened after that? So 1995, the court spoke and said, only landfills. We did nothing. Language stayed there. Then that language dealing with landfills was moved to landfills. So it's clear it's only landfills. And then we dealt with facilities still being under the jurisdiction of just DEP, but you didn't need that language in that section because you moved it to landfills.

That's the reason why Commissioner McCarthy stood up and said, the rest of it is technical change. That's the reason why Rep Roy said, the rest is technical change. That's the reason why Senator -- of the Environment back then who's now the mayor of Bridgeport -- stood up and said -- Finch -- Senator Finch said it is a technical change. Because it was a technical change. It existed. It existed.

The decision comes on 2010. Nobody has an informational hearing about the issue. Nobody submits a bill in 2010. Nobody submits a bill in 2011. No one does anything and miraculously we've got to do an e-cert. Nobody gets to come and say, hey, there's a letter floating around this building where CRRAs are saying exclude me. Take me out of this. There are problems with this bill. It only applies to that zoning which is 8-2, which means you're governed by the state zoning delegation powers. If you're a district or you are a town that the zoning is a special act, you're not governed by any of this. What does that mean? That means Bridgeport and New Haven could say, no facility in our town. Not that they would, but they could, which is going to push them to other areas because we can't prohibit them.

There are many problems with this bill. No matter where you are on the policy issue, no matter where you are on the policy issue, how can you make an informed issue that's going affect 169 towns, all the waste facility plants that we have in the state, all the money that we pumped into these waste facility plants and not have a public hearing to determine what the impact is? What is the rush? What is the rush?

We're the shortest session, three months. One of these committees that believed this was important

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could have had a public hearing on this and get it out of their committee. At least they could stand here and say I had a public hearing on it. People came. Now, I'm going to e-cert it, because I've got to move it quick for whatever reason, which we are dumbfounded to find out, that now we can vote on it because people were heard. We don't even do that. We don't even give them a moderate informational hearing.

We just say, you know what? We're going to do it. Is it coincidence that it occurred 30 days after the last one was certified so this person who's been writing to all of us is the person who's being harmed by this? And the only person being harmed by this? Because the other permit is a solid permit already, the one that was approved December 4th that time ran out roughly January. Is that why all of a sudden it came up?

It's wrong. Even if you believe it's the right thing to do, it's the wrong thing process-wise. This is dangerous politics. Dangerous politics. E-certs are supposed to be for an emergency. We're helping somebody or like the last e-cert -- maybe it wasn't the last one, but the one we're doing to help DSS -- they have to make a decision by tomorrow or something. Well yeah, you know what? We better do that pretty quick. That's an emergency. When we have to fund something that's going to happen in a couple days or we're violating federal law, that's an emergency. What is the problem here? What is the ill that we're trying to correct that we have to do it now.

And I know it's a tough vote. Why is it a tough vote? Because if you vote that you don't want to have your town weigh in on a solid waste facility, it looks like you're taking power away from your town. I understand that's a risk of that vote, but you've got to do the right thing. You don't have a public hearing. Do you believe in green energy or not? Do you believe in solid waste reduction? We talk about streamlining our recycling plant, and now, we're going to make it more difficult for them to open up or to keep current or to expand.

So, Madam President, I'm not sure why we have it in front of us today as a e-cert. I can tell you that the one has weighed in on this in the public. I can

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tell you it was done as quickly as that FOI thing was done and I don't think that's the right thing to do. I don't know if this is good or bad. I really don't know. I don't know to be hurt or was not going to be hurt. I don't know what other people feel about the policy, but I do know this, the only people who get to weigh in is the House and the Senate. That I do know and I will tell you that I talked to Gina McCarthy at DEP. I called her up at the EPA and I asked her, hey, this is what's going on up here. Is it the intent to have these facilities governed by local?

She said, no; otherwise, you don't have them. Look at what I did in Massachusetts. Massachusetts has it as a -- excuse me -- as cited by their equivalent of DEP. There's no mistake here. There is no error here. There's no evidence from anybody, regardless of testimony, not a letter on our desk from anybody saying, this was in error. That's compelling in this building. We all know about it. That is compelling in this building.

Thank you, Madam President.

THE CHAIR:

Thank you, Senator.

The question is on adoption.

Senator Guglielmo.

SENATOR GUGLIELMO:

Thank you, Madam President.

I'm not going to speak to the legal points of the legislation. I think Senator Fasano did that very well, but I am concerned and I'm not even concerned so much with the basic legislation. I might even vote for it if there was an amendment on it to make it retroactive. And we have such an amendment I understand.

So, you know, I'm a local control guy. I've always believed in that town should have a say. But I guess what I have the trouble with is a thing that Senator

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Fasano talked about near the end, what's the emergency? And I also understand that Senator Fasano said the Milford delegation, they are in a tough spot. This is a hot local issue. People in my district wouldn't want this either. I have no doubt about it, but what I do have problems with is the fact that it's retroactive and that it's emergency certified.

Now, the reason I'm involved frankly is I've been involved since December. One of my constituents who lives in Eastford, Connecticut, owns this facility in Milford. She came to me and she explained the problem. She's an expert in this field. She's not somebody who just got into it by accident. She's been used as a consultant and it's my understanding she's been involved in every single solid waste facility permit in the State of Connecticut because they are very hard to obtain. As you know, DEP is really tough on these and so what others try to get permitted, they hired her as the consultant so they could work their way through the process because it's so complicated and it's so demanding. So she's not a novice. This is somebody who's qualified, who's work at it.

She was operating like everybody else under a piece of legislation that we passed here in 2006, unanimously by the way, consent calendar, both houses, signed by our Governor. She spent four years of her life working on this. She spent all of her money working on this. She's made all the steps that she was supposed to make. She took it right through. She's got a temporary permit. The only emergency here is that she's going to be permitted in a matter of weeks or months with a permanent permit if this body doesn't reverse that.

Now, interestingly, another facility in Milford applied for a permit a full year after my constituent to expand their facility. They received their approval, permitted approval January 1st -- January 4th of 2012, January 4, 2012, just a little while back. So whatever we do here today does not affect them. It affects my constituent only. Perhaps there's another one in Danbury, I've heard from that it might also affect, but I'm not as familiar with that.

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The City of Milford did not take the other party to court to contest this. They received their approval with no local objection. My constituent however was taken to court. And she won her court case. So what would be next step be if you lost a court case? We have lots of lawyers in here, which I'm not one, but there are lots of them. What's your next step? You appeal. Right? That's what you do. You appeal the court decision.

But no, that's not what happened here. We're going to go around the court system here and we're going to do it by legislative edict. We're going to change the rule of law. That's what we've been doing. We're changing the rule of law, that this person in good faith went with, an expert in this area took it step-by-step. Got to the point where she should be approved -- and by the way that as Senator Fasano said, this is a mandate of the State of Connecticut. We have 85 percent of our solid waste goes out of state, something like that.

This -- by permitting this facility -- and again I understand why Milford doesn't want it -- but by permitting this facility DEEP is fulfilling its mandate. So I guess I'm a little confused about the emergency. I'm very disturbed about the fact that it's retroactive. In fact, what the other Milford case, CRRA -- what I was told -- asked for a public -- asked for a hearing on it and did not get it in the other case.

I guess what I'm concerned about, as I've said, is the retroactivity, the fact that its emergency certified. The fact that we are changing the rule of law. The fact that we violated, in my opinion, the good-faith effort of this citizen of the State of Connecticut. And I think this is one of those rare issues that test the integrity of this body. I've been up here 20 years. There's been a few of those and stay with me on this. Don't -- I'm not going to impugn anybody's motives. We had a Senator here who was a friend of mine who was accused of an ethics violation. And I was selected to be on that committee to decide whether he was expelled, censured or what the end result was going to be. I had mixed emotions about that because he was my friend and a mentor.

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But I was also pleased that this body of my peers selected me as one of the six to sit in judgment because I think they understood that I really respect what goes on here. I understand that I'm privileged to serve here. I understand that this body has been around for hundreds of years and people have sat in these seats before me and people will sit in the seats after. The only thing we've got going for us is that we follow the rule of law.

So I sat with Senator Don DeFronzo, Senator Martin Looney, Senator Andrea Stillman on the Democratic side, Senator Roraback, Senator Nickerson and myself, and I think all of us felt the weight of that responsibility. We knew what we were going to decide was going to be a precedent for this body going forward. No doubt in my mind the most important decision I was going to make in my time in this body. Because it spoke to the integrity of the body.

Fortunately for us as human beings we didn't have to make the decision. The individual resigned, but this is another one of those points because what we're doing here is we're testing the integrity of this body. We're saying we have set out the rules in 2006 and one of our citizens, just a regular citizen followed the rules that we set up. She was even taken to court. And the judge decided that she was correct. This is a very average person, just trying to get along, following our lead.

If we can't be trusted to follow the rule of law -- we're the lawmakers. Who are our citizens supposed to trust? So all I'm saying to you today -- is all I'm hoping it's and I'm not sure what's going to happen, but I've got a pretty good idea, but I'm not a hundred percent sure -- I would say that I hope that all of you, all 35 of you go where the facts take you. That's all I'm asking. Not a partisan vote. Go where the facts take you.

Thank you very much.

THE CHAIR:

Thank you.

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Senator Kane.

SENATOR KANE:

Thank you, Madam President. Good afternoon.

THE CHAIR:

Good afternoon, sir.

SENATOR KANE:

Through you, a couple of questions to the proponent of the bill.

THE CHAIR:

Prepare yourself, Senator Slossberg.

SENATOR KANE:

Thank you, Madam President.

I assume that you're the proponent of the bill since the issue that we have in front of us is in Milford and Senator Meyer yielded to you. So is that true? Am I correct? Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam Chair. The issues in front of us in not just in Milford. It's in front of the entire state.

THE CHAIR:

Senator Kane.

SENATOR KANE:

True. Senator Fasano made that point. You're right, a little earlier, but I'm just asking if you are the

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proponent of the bill. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam Chair. I'm not sure what you mean by proponent. I'm standing here ready and willing to answer questions. Senator Meyer brought the bill out.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. I think Senator Slossberg has been here long enough to know what the proponent of the bill is. I've only been here four short years and I kind of figured that out.

But I guess the reason for my question is last week this issue was taken up in the House of Representatives. Did you watch what took place in the House of Representatives? Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

To some extent, yes.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

And there were some questions to Representative Roy in regards to the bill and one of which was, does it

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affect existing applications? And I believe he said it did not. So I was hoping that maybe you were watching the House of Representatives at the time or maybe saw the transcripts or caught it on CT-N or what have you and maybe could clarify his remarks in regards to this bill. Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam Chair.

I'm not able to clarify his remarks since I don't have them in front of me, but if the question is, does the language before us in affect existing facilities? The answer is yes.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Okay. Thank you. I appreciate that answer because I believe -- and I could be mistaken -- I've been wrong before certainly, but I believe he said that it would not affect existing projects, but maybe if I could understand some clarification to that, I'd appreciate that, but I except Senator Slossberg's answer.

Being involved in this bill, maybe not the proponent of the bill, but since you're familiar with the issue that took place in Milford and could take place in 168 other towns, can you tell me why this bill hasn't gone through the regular committee process?

Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

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Yes. Thank you, Madam President.

Through you, this is an e-cert today because the law changed as a result of a technical error that this Legislature made in 2006. When that error occurred, there was no discussion, no -- nothing whatsoever on the floor of the House, the floor of the Senate or in any committees that said, if we pass this bill, we will be eliminating local control over solid waste facilities. The language of the out without anyone recognizing that it happened, and as a result, it is our obligation to turn around and to restore the law to fix the error was made. And that is one of the reasons why we are here today.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

I appreciate the answer because having been -- paying attention, having watched the House last week, and of course, talking and listening in caucus and listening to Senator Fasano and Senator Guglielmo, I get the understanding that the potential mistake, as it were, to place in 2006, and here we are in 2012, six years later, but you didn't really answer my question because I understand all of that. I get all of that.

But why did this bill not go through the process as most or all bills do? What's the emergency? Why are we doing an e-cert when the mistake quote/unquote took place in 2006 and here we are six years later and we don't have that -- during that time, be able to put it through the process as every other piece of legislation in this building. Through you.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President.

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There are a number of reasons why. First of all, as I explained, this error did not come to light until -- until the decision in November 2010. After that, it was not something that I became aware of until sometime later after that. This has been the earliest opportunity I've been able to address it here. But the importance of doing this now is that the law and the policy and the practice in our state consistently since 1978 has been to allow municipal -- municipalities to regulate solid waste facilities through zoning.

Now, as a result of that case, it leaves the question open. The law is not clear and certainly, as a result of Judge Hiller's decision, we could very well argue that we no longer have municipal authority to zone and to regulate solid waste facilities.

So we have all of these solid waste facilities that are out in our state right now that are currently operating. And there's nobody to enforce the local laws and local regulations. So they're existing, but there is no compliance. So if one of those facilities decided tomorrow that they wanted to place a siren on the top of their facility and blow the horn every hour on the hour, there is no local body or authority that could deal with that, that could regulate that. So for existing, it needs to ensure compliance.

In addition to that Senator Fasano mentioned as well that there are pending applications. People need to know what the law is and DEEP is going to be making decisions on those determinations and they need to know what they're reviewing for. Are they are going to review for who connects to sewer and whether the traffic is safe? Are they going to review for whether your local firetruck could go in the turnaround? Are they going to review for whether they have complied with the building code?

And right now, there's no one to do that because the municipal -- because of that language that had fallen out. So in terms of people knowing what the process is, what the law is both DEEP, the towns and the applicants, it is important that we clarify that here and now.

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THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President. I appreciate Senator Slossberg for the answer.

I don't know if it answered my question because my question, as you stated, there was a court decision in 2010. Okay. Well, first of all, this bill, according to Senator Fasano -- I mean we talk about legislation back in the seventies, I was in grade school and now --

THE CHAIR:

Stop bragging.

SENATOR KANE:

Well, 2006 there was a mistake made. 2010 there was a court decision, and now, you're just aware of it, I believe you said a moment ago. What happened in 2011? What happened in the time in between? Now, all this time to place for this process to occur and all of a sudden today we have an emergency certification bill in front of us.

Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President.

I think I've answered the question with regard to what has happened in terms of why we're back here to the and why this is an e-cert and bringing this forward. The decision was in 2010. It certainly didn't come to my attention personally until sometime thereafter. This is certainly the earliest opportunity being the

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very first day of session of this -- of this year that we could possibly bring this legislation forward.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

Has anyone -- have you gotten e-mails or calls from your constituents or even outside of your constituency about a public hearing on this issue?

Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President.

Through -- if the question is about a public hearing in the traditional sense in this building, a legislative public hearing, the answer is no.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

Let me just change gears if I might, because I know you've mentioned that it not only affects Milford, but certainly affects 168 other towns. But in Milford, was there an existing waste facility that this will impact or has it impacted any existing facilities in Milford?

Through you.

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Senator Slossberg.

SENATOR SLOSSBERG:

I'm not sure I understand the question, Madam President. There are at least two facilities that exist right now and then the facility that -- where the court case brought this to light would be defined as an existing facility. So I'm not sure if that answers your question.

THE CHAIR:

Senator Kane.

SENATOR KANE:

For example, is there an existing facility at Old Gate Lane. Is that an existing facility? Through you, Madam President.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President.

It is my understanding just based on documents that I've reviewed that there is one there, but I'm not familiar with whether it operates or doesn't. I don't know anything about it.

THE CHAIR:

Senator Kane.

SENATOR KANE:

I apologize. I didn't hear the answer. Through you, Madam President.

THE CHAIR:

Could you repeat that, please, Senator Slossberg?

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SENATOR SLOSSBERG:

Thank you, Madam President. There is -- based on documents I've reviewed, I understand that there is a facility there, but I'm not aware of whether they're operating or they're not operating or what their status is.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

Yeah. From what I understand, there is a facility there and possibly looking to expand. Will this bill change that expansion? Will the town of Milford now cease to inhibit that expansion as well? Through you.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam Chair.

I couldn't speak to that. I don't know anything about it.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

I appreciate Senator Slossberg for her answers and I appreciate her taking the time with me.

You know, I've only been here a short time, Madam President, 2008, actually, that I got elected. And in that short period of time, I've seen this Legislature

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make special arrangements or change legislation or come up with bills to stop a food-to-waste energy plan in Waterbury, and an ash plant in eastern Connecticut, windmills locally in Prospect, so it's interesting this whole not-in-my-backyard mentality that takes place in this building. And I would agree with Senator Fasano that certainly if these things happen in our district -- protect our district.

And I get all that, but the problem is that companies want to do business in the State of Connecticut. They follow the application process. They go to all the hurdles that we talk about all the time in this building and in the State of Connecticut, the regulations, the burdens, the hoops, all these things that businesses have to go through and then we change the rules on them. You know, it's like when you play a pick-up basketball game in your yard with your brother and your down tens point and you said, well, let's change the rules now because I'm losing. It just doesn't make sense how we are able to change rules on businesses. Then we wonder why we haven't created one net new job since 1989.

Well, maybe it's too tough for business to do business here in the State of Connecticut. Maybe they don't feel like they have an even playing field with us. Maybe we keep changing the rules over and over and over where it suits us best. So, Madam President, I don't believe that we should be rushing this through this type of process. This should have a public hearing. This should go to the committee process. We should not be changing the rules for businesses and I will be voting against this measure. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark further?

Senator Frantz.

SENATOR FRANTZ:

Thank you, Madam President.

Good morning. Good afternoon. Whatever it is. I

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have no further questions for the witness today, and at the risk of repeating myself, I'm going to repeat myself, I am for local control. I am in favor of local control. It's a very interesting situation that we have here and it's one that begs some of the most fundamental questions about our democratic and legislative process here in the State of Connecticut and as it may relate to other states as well, and certainly at the federal level.

Well over a decade ago, I was first exposed to how things actually happened within this building. I went to committee meetings trying to get a bill passed as a normal citizen and was just kind of taken aback. I was shocked at how laborious and how meticulous, first of all, the hearings were. That three or four hundred people could show up and all had a chance to voice their opinions and questions were asked, meticulous questions were asked and elaborate answers were given. It went on forever.

And when the committee meetings would meet, the deliberations would continue on some of the simplest of concepts. They would just go on for what seemed like forever and then they would go to the floors, the floor of the House and the floor of the Senate.

And again, it would be repeated, and in some cases, the debate could go on for a day or two at a time and I was astounded as a normal nonpublic office holding citizen that this is how it works. How can you ever get anything done? This is maybe not such a good system, but at the end of the day, I have come to appreciate the ways of the Democratic process as we traditionally do it here under the gold dome. It all is there for reason and that is to make sure that issues are fully vetted.

I have not studied this issue with respect to the permit application and with respect to the e-cert application. And by the way, another two concepts that really stood out when I was first getting my education and how this whole process worked up here was strike-all amendments. I could not understand how it was possible within a Democratic process to at the last minute come in with a strike-all amendment, essentially put in a whole new bill several hundred

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pages, in some cases, wiping out the original language that had gone through the traditional legislative process and the other one is a whole concept of an e-cert.

I do understand why we have the e-cert provision because you can think of and you can probably remember some occasions upon which it was an appropriate device to use to move something to the process very quickly, but we have to remember that you bypassed the hearing process. You bypassed the deliberation process.

So at the end of the day, a dozen years or ago or so, I'm thinking this is -- how do you ever get anything done? Maybe this is not such a great system, but I have come to appreciate the vetting process because it slows things down so that we can really get to the issues at hand and figure out what is good and what is bad. I don't know what's going to happen here in Milford.

I don't know who the winners and losers are going to be, but I will make a plea in the interest and the sake of democracy, let's not make Connecticut citizens losers by disregarding the traditional process of putting concepts that have plenty -- plenty of implication in a lot of profound different ways through the process.

There are 804 other bills before the chambers potentially this session, the vast majority -- I would say 99.8 percent are subject to the traditional process. Let's not make Connecticut citizens loses. Thank you, Madam President.

THE CHAIR:

Thank you, Senator.

Will you remark further?

Senator Markley.

SENATOR MARKLEY:

Thank you, Madam President.

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Since Senator Kane brought up ancient history in his high school days, it reminded me of -- about that time period in the first day that I was in this chamber in January of 1985. Before -- of course, it's basically a day of celebration. There were 13 freshmen sworn in that they so it was a lot of -- a big party and a fair amount of confusion and a great deal of ignorance, even more than usual.

And I remember we had only moment in the caucus room and Phil Robertson, who was the Senate President said, we're going to have to go in and vote on an e-cert to keep the UConn Torrington campus open. And there were mostly blank looks; although, a few people raised their hands. And he said we don't have any time to talk about it. We just got to go in and vote for it.

And just in -- I remember being in the elevator with some of the other Senators who had just been elected and the conversation was, gee, I don't know anything about that. I don't feel comfortable doing that. It's my very first day as a Senator and I'd hate to do something -- it seems like I'm spoiling my whole experience by immediately starting out by voting for something that I have no understanding of. And so four of us actually voted against it.

I thought, at the time, I was probably -- it was probably some tremendous consequential action, but like so many things the only effect of that was to make Senator Leary, who was the minority leader stare up at that board in confusion, but there were no repercussions. The bill passed 22 to 16. There were plenty of Republicans to go around in those days.

But I actually -- of course, looking back on it, was always happy that my instinct has led me in that direction because I think it's a very dangerous thing to have bills not go through the proper process. And I think it's an extremely dangerous thing for us as a body, to circumvent existing processes, whether they are local legislative processes, judicial processes, commissions set up by state agencies or whatever simply because we have the power to do so.

The fact that we have the power doesn't mean we have the wisdom or understanding. And this to my mind is a

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perfect example of a situation where I would never expect to have a full understanding of what was going on with this bill even if it went through the committee process. It wouldn't be before any committee that I was serving on. I wouldn't be present at any of the public hearings for it, but I would have confidence at least that people who I knew and trusted in both parties on the committees would have had a chance to give the change a fair hearing. And I would have complete confidence that the interested parties would have found a way through their licensed representatives here in the capitol to weigh in on the issue.

Instead we have a bill that's been emergency certified in a situation where it truly does not seem clear to me what the emergency is. It seems that would've been possible for the bill to have gone through the regular committee process and be vetted and have any questions about it answered in that respect and questions about it I would have to say there are based on the exchange that I heard between Senator Fasano and Senator Slossberg.

As I said, I think that, you know, we have philosophical and ideological differences and that will never end. But I think it makes it all so much more important that we come to an agreement on the procedural requirements of this chamber, which we all need to function under.

And I would say, too, this is the second time in this term that I've seen an issue that is not a subject of my purview or a special interest of mine or an area that I know much about. My fields of ignorance stretch vastly across areas of state government and I think true of all of us, although I won't speak for all of us on that, but there are things that I don't know and I never will know. And the older I get the more of those things I'm aware of.

Last year we had an issue with a piece of property in Haddam that I felt, again, there was a procedure for making a decision about -- there interests involved in the district. There was a Senator involved for whom I have great respect, but who felt that it was important for us to make a decision that to my mind went

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contrary to the procedure which was in place. I spoke against it at the time and voted against it, but obviously, the votes weren't there. I have exactly the same situation here now, a senator that I like and respect very well who has a situation locally that she has a concern about and I can understand that concern is -- it is her duty to be concerned about the impact of state law on her municipality.

But we are denied the reassurance of a full process, of the ability of a ranking member on the committee to come to me and say, Joe, it's okay. I've been listening to it. It doesn't affect anything. For the lobbyist for the industries or the agencies that are involved, for the Representative of DEEP or whoever to have input into this.

I think that this is -- I don't mind getting beaten on a vote on the budget. It's a fair fight and you make your argument and the votes are there are they are not there. And I'm not alarmed by it. I might be alarmed on it from a policy point of view and where I think it takes the state. As important as that is, still, that's proper to my mind. It's what we circumvent these processes that I think we really tread on the most dangerous ground. I hope I have the integrity to do this as well when it comes from my own party, but I think it is exactly the same principle and we all need to respect it.

So I do not support this and I would hope that the chamber would reject it. I understand it's very difficult to reject something that a colleague and a friend in your own caucus feels strongly about. It does not seem appropriate to me that it would be before us in the form that it is.

And having said that, let me offer an amendment. I believe the Clerk is in possession of Amendment LCO Number 1777.

THE CHAIR:

Mr. Clerk, will you call the amendment, please.

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LCO Number 1777, Senate "A," offered by Senator  
Markley.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

Thank you, Madam President. This amendment, which was suggested to me by the Connecticut Resources Recovery Authority, would remove them from the -- would exempt them from this bill as it stands before us. I will say this about it: I am interested in the healthy function of the Connecticut Resource Recovery Authority. I have no deeper understanding of the impact of this bill on them, almost any that that they are concerned about it and they've offered an amendment and it seems to me that if we are that going to make legislation on the fly like this, that we have to consider it as best we can.

I believe there are people here that can speak more directly to the concerns of the Connecticut Resource Recovery Authority, but I would invite comment on it from them, from the proponents of this bill or from anyone else who can clarify the impact of this legislation on the extremely important operation of CRRA.

THE CHAIR:

Senator, would you move for adoption of the amendment, please.

SENATOR MARKLEY:

I'm sorry, Madam President. I move for adoption of the amendment.

THE CHAIR:

Thank you. The question is on adoption. Will you remark further?

Senator Fasano.

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Senator Looney.

I changed my mind.

SENATOR LOONEY:

Thank you, Madam President.

THE CHAIR:

Can you wait one second, sir.

SENATOR LOONEY:

Thank you, Madam President. If I might, through you, a question to the proponent of the amendment.

THE CHAIR:

Please proceed, sir.

SENATOR LOONEY:

Yes. Thank you, Madam President.

My reading of the amendment is that it requires -- that applies generally to all mandates. It says that no provision of the general statutes shall be construed as to require a municipality to comply with any state mandate unless the municipality is receiving state funding to fully cover the cost of such compliance. My understanding that this amendment is not in any way limited to the subject of solid waste. Is that correct?

THE CHAIR:

Senator Looney, I believe it's the -- would you check to see if your LCO Number is 1777.

SENATOR LOONEY:

Oh, I have 1767. I'm sorry, Madam President.

THE CHAIR:

I apologize.

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SENATOR LOONEY:

I withdraw the comment. Thank you.

THE CHAIR:

Thank you. Okay. Will you remark further on LCO -- oh, now, Senator Fasano.

SENATOR FASANO:

I was yielding to the majority leader by sitting down. Thank you, Madam President.

Madam President, I support this amendment and here's why: If it is the assumption that there was an error in 2006, if that is an assumption, which I reject wholeheartedly, but if there is then they're certain businesses that have been following that rule. And many of which have in the pipeline permits waiting. In fact, there's even a permit waiting in Plainville. There's many permits that are in the process now that we don't even know about that are going through.

And if they live by a set of rules and they put all their engineering and all their work in to it, and now, we're back changing the game. This is a major, major policy change because the argument is it was an error it was deleted, therefore, it should be there and local zoning should have total control.

Well, I've got to tell you, doing zoning, the first person you go to before you go to DEP, which is -- we all know what that's like -- you go to local and find out whether they're going to except you or not, but if that is not a requirement then you go to DEP and you deal with the local the best you can. This is a major game changer. We should exempt those who have the right to rely upon the law as deciphered in the statute and two cases now support that conclusion. Two cases support that conclusion.

People have a right to rely upon that and what this is doing is going back, reaching back and saying I know this was law. Oops. Our mistake, but now you've got to suffer. We could go all the way back to the

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beginning. That's just simply unfair. If we're going to be fair -- and if this isn't about Milford and this isn't about all that stuff going on, then we'll correct it and go forward. If we're reaching back, then we've got a different policy going on here, one of which I object to.

Thank you, Madam President.

THE CHAIR:

Thank you, Senator.

Senator Roraback.

SENATOR RORABACK:

Thank you, Madam President. Good afternoon.

THE CHAIR:

Good afternoon, sir.

SENATOR RORABACK:

Through you, Madam President, if I may, a couple questions to the proponent of the amendment?

THE CHAIR:

Senator Markley, prepare yourself.

Please proceed, sir.

SENATOR RORABACK:

Thank you, Madam President.

Through you to Senator Markley, I believe I understood Senator Markley to say that the Connecticut Resources Recovery Authority was concerned that passage of this bill might have implications to the work that they do. Through you, Madam President, to Senator Markley, is that -- did I understand him correctly?

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Senator Markley.

SENATOR MARKLEY:

That is my understanding from the communication that I had from them. Obviously, they've had little time themselves to respond and the information I got from them was not voluminous.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Madam President.

In fairness to them, I don't believe that this bill has had the benefit of a public hearing which would have provided them with a formal opportunity to present, as most legislation affords people the opportunity to present their comments in writing and in person to answer questions.

But through you to Senator Markley, does he have an understanding of the gravamen of their concerns? Through you, Madam President, to Senator Markley.

THE CHAIR:

Senator Markley.

SENATOR MARKLEY:

It sounded pretty grave to me, but I couldn't tell you exactly what they expect will happen as a result of the legislation passing. This is exactly the reason I think the procedure is so important obviously.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Madam President.

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I'm asking these questions because a number of the 15 communities which I represent are participants in and stakeholders in the Connecticut Resources Recovery Authority. And it would be distressing to me if a consequence of this legislation, whether intended or unintended would be to drive up the already very high costs our towns incur in connection with solid waste disposal.

Madam President, if the effect of this bill is to cause the Connecticut Resource Recovery Authority to spend a lot of money and a lot of time on what might ultimately be unsuccessful efforts to handle our state's solid waste requirements, it would be regrettable because those costs are going to be borne by taxpayers in each of the member municipalities. I'm not sure how many member towns there in CRRA, but I know it's a lot and I know a lot of the towns I represent may be -- may be in a position where this bill is going to cost them a lot of money.

So I support the amendment. I sure would want to know a lot more about this bill before I could support it and I certainly want to support the amendment. Thank you, Madam President.

THE CHAIR:

Thank you.

Senator Markley.

SENATOR MARKLEY:

Thank you, Madam President.

Very briefly, I would like to request with apologies to Senator Hartley that we have a roll call on this amendment.

THE CHAIR:

Seeing no objection, a roll call will be called at this time -- oh, after discussion.

Senator Guglielmo. Senator Guglielmo.

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SENATOR GUGLIELMO:

Thank you, Madam President.

Very briefly, I rise to support the amendment. It's limited. Just we all understand, it's limited to those that are in the pipeline at DEEP, D-E-E-P, not anybody who plans to ask for a permit, it's someone who's already gone through the permitting process, is in the pipeline. This would make it fair for those folks who have, as Senator Roraback said, invested time and money and did so basically based on what we said as a state, and as we laid out as our policy.

So they did nothing more than follow the rules and for us to change the rules at the last minute is extremely unfair and I think that this amendment corrects the law. Thank you, Madam President.

THE CHAIR:

Thank you. Thank you, Senator.

Will you remark? Will you remark?

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President. I would just urge the Chamber to reject this amendment to the extent that we are dealing with 1777, the CRRA issue. The CRRA is established by General Statutes 22a-261. It's a separate body politic and it's my understanding that this bill before us will not affect them.

THE CHAIR:

Will you remark? Will you remark?

If not, Mr. Clerk, would you call for a vote. The machine will be open.

THE CLERK:

An immediate roll call vote has been ordered in the Senate. Will all Senators please return to the

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Chamber. Immediate roll call in the Senate.

THE CHAIR:

Have all members voted? Have all members voted? If so, the machine will be closed.

Mr. Clerk, will you call the tally, please.

THE CLERK:

Total number voting	35
Necessary for Adoption	18
Those voting Yea	13
Those voting Nay	22
Those absent and not voting	1

THE CHAIR:

The amendment fails.

Will you remark? Senator Markley.

SENATOR MARKLEY:

Madam President, I have one more amendment to offer. Senator Looney has scared me off of my -- preemptively argued against the other amendments so I will respect his legal expertise and ask the Clerk to call LCO Number 1761.

THE CHAIR:

Mr. Clerk, would you please call LCO 1761, is it?

SENATOR MARKLEY:

1761, correct.

THE CLERK:

LCO Number 1761, Senate "B," offered by Senators Fasano and Markley.

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SENATOR MARKLEY:

I move adoption of the amendment and ask leave to comment further.

THE CHAIR:

The question is on adoption. Please remark, sir.

SENATOR MARKLEY:

Thank you, Madam President.

This amendment would make -- would make the bill, as it stands, not retroactive, not applying to any site for which DEEP has already issued a permit or a tentative permit. We've had several questions over retroactivity. I asked for a bill, in fact, in the Finance Committee concerning this going forward with taxation. I think it's a very dangerous thing.

Senator Roraback I believe commented on the uncertainty that it creates with businesspeople who we are trying to attract that things which they think may be determined and set in law can melt away before their eyes. And I would urge adoption of the amendment to make sure that this clarification applies to things going forward only.

THE CHAIR:

Thank you, Senator.

Will you remark? Will you remark further?

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Thank you, Madam President.

I urge rejection for all of the remarks we made earlier during the discussion of the underlying bill.

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Senator Markley.

SENATOR MARKLEY:

I would ask, Madam President, the vote be taken by roll call.

THE CHAIR:

A vote by roll call will be taken. Will you remark further? Will you remark further?

If not, Mr. Clerk, will you call for a vote and the machine will be opened.

THE CLERK:

Immediate roll call ordered in the Senate. Senators please report to the Chamber. Immediate roll call ordered in the Senate.

THE CHAIR:

Senator Prague. Senator Prague, I apologize. Would you please vote. Thank you, ma'am.

Have all members have voted? If all members voted?  
If all members have voted, the machine will be closed.

Mr. Clerk, would you call the tally.

THE CLERK:

Senate Amendment Schedule "B."

Total number voting	35
Necessary for Adoption	18
Those voting Yea	14
Those voting Nay	21
Those absent and not voting	1

THE CHAIR:

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The amendment fails.

Will you remark further? Will you remark further?

Senator Meyer.

SENATOR MEYER:

Thank you, Madam President.

Just in brief rebuttal of a couple of the points that the opponents are making. I think it was Senator Fasano and Senator Guglielmo who made a point that, as a matter of integrity, we should defeat this bill because we should have a good policy supporting these facilities and -- solid waste facilities. You know, this is a very balanced bill.

I urge -- I urge the members to look at lines 15 to 18 because there's specific provision in the bill that says -- and I'm reading -- "no municipality regulation shall have the effect of prohibiting the construction or alteration or operation of solid waste facilities." So in effect, the concern that we're not going to have solid waste facilities and we're to continue shipping our solid waste outside of the state is -- is really countered by the provision. That -- that provision is balance to this bill. On the one hand, there is local control, but on the other hand, there can't be an outright prohibition of a solid waste facility in our towns.

Secondly, with respect to the comment that this is not a proper bill for emergency certification. DEEP told me that there are at least five applications right now that are before that agency with respect to solid waste facilities. That agency has got to know whether or not the towns are going to be involved. This is indeed a matter that would avoid confusion with respect to governance over solid waste facilities. So I think this is an ideal example of the bill in which e-cert should apply as a matter of good administration.

Thank you, Madam President.

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Thank you, Senator.

Senator Witkos.

SENATOR WITKOS:

Thank you, Madam President.

If I may just a quick question to the chair of the Environment Committee.

THE CHAIR:

Prepare yourself, Senator Meyer.

Please proceed, sir.

SENATOR WITKOS:

Thank you, Madam President.

Through you, you say that the bills -- people should feel comfortable because the bill -- I think you said lines 15 to 18 -- specifically prohibits local action to prevent a solid waste facility being built in the communities. But couldn't that be done through enacting zoning issues and that basically don't spell out that we're not going to allow this particular facility be built, but the zoning regulations are developed such that there is no way one could be built. Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President to Senator Witkos, I think that the balance is here because within zoning, for example, a solid waste facility might not be appropriate in a residential zone, but would be appropriate in a commercial zone. And the town, if it did an outright prohibition, and just said that there is no zone in which a solid waste facility could be constructed in that town.

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You've got a very direct provision in this bill that we're debating today that says you can't prohibit solid waste facilities. So within a zoning plan or a zoning scheme of any town there will be, as a matter of law, a place in which one of these facilities could be constructed. This, as I said, is a very balanced bill.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. I thank the gentleman for his answer.

THE CHAIR:

Thank you.

Will you remark further? Will you remark further?

Senator Bye.

SENATOR BYE:

Thank you. Thank you, Madam President.

Through you just a question for the proponent of the bill, Senator Meyer.

THE CHAIR:

Senator Meyer, prepare yourself.

Proceed, please.

SENATOR BYE:

Through you, Madam President, Senator Meyer, we talked about this earlier, but I just want to, on the floor, ask a question. Do you think there's anything about this bill that will reduce or limit the development of solid waste facilities?

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Senator Meyer.

SENATOR MEYER:

I think that if there was, that last sentence cures them and adds the balance that I mentioned before. So I don't think this bill carries any deterrence because of the fact that we are saying here, no town may prohibit a solid waste facility. So it's just a matter of reasonable zoning, not in a residential neighborhood, okay, in a commercial zone. Those kind of things are -- are good home rule provisions that most of us strongly support.

THE CHAIR:

Senator Bye.

SENATOR BYE:

Thank you, Madam President.

Through you, just a follow-up for Senator Meyer, as Chair of the Environment Committee, we know that there's this challenge with a lack of sites for certain kinds of solid waste in Connecticut. Will your committee be working to address this so there's less waste that needs to be taken out of state?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

Well, Senator Bye, that's a very good public policy, what you stated. And there are currently, I believe, 17 of these facilities in the state of Connecticut. We are encouraging them -- the Environment Committee is encouraging them.

We believe that -- that good public policy is not to

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send the waste out. And we're very excited about converting waste to energy, for example. And we're supportive of legislation that does that. So we're looking less favorably on sites, disposal sites and more favorably on waste to energy.

THE CHAIR:

Senator Bye.

SENATOR BYE:

Thank you, Madam President.

And I thank the gentleman for his answers and I would just follow up by saying that as a State Senator who's aware of some of the challenges we have with solid waste removal, you know, I want to continue to work on this. And if there are ways that folks know of that -- changes that we can make legislatively to help with this issue, I would be very willing to work with them and I thank Senator Meyer for his advocacy about this challenge that we face as a State.

Thank you, Madam President.

THE CHAIR:

Thank you, Senator Bye.

Will you remark?

Senator Suzio.

SENATOR SUZIO:

Okay. There we go. Thank you, Madam President.

Through you, if I may, to Senator Meyer the proponent of the bill?

THE CHAIR:

Senator Meyer, prepare yourself again.

SENATOR SUZIO:

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Oh, he's going to use that one. Okay.

Senator Meyer, you just gave some testimony about lines 15 through 18 that, quote, no municipal regulation adopted pursuant to Section 82 shall have the effect of prohibiting the construction, alteration or operation of solid waste facilities within the limits of the municipality. Are all Connecticut municipalities operating under that regulation or that law or are there exceptions?

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

If we pass this today and I'm very hopeful that all the members will vote for this, that will affect every municipality in Connecticut, all 169 towns and cities.

SENATOR SUZIO:

Through you, Madam President, are there not some municipalities operate under acts of the Legislature and are not subject to this? Through you, Madam President.

THE CLERK:

Senator Meyer.

SENATOR MEYER:

I have no personal knowledge of that.

THE CHAIR:

Senator Suzio.

SENATOR SUZIO:

I would ask that that might be clarified because if there is some municipalities that are not subject to this that could in effect adopt regulations that would

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effectively proscribe this kind of facility then I think it's important for the members to know that. Is there a way we could get that information?

SENATOR MEYER:

Through you, Madam President.

The fact is that this provision, lines 15 through 18, is absolute in its language. It does not make an exception for special act towns. So without -- without an exception for special act towns, it applies to all 169 towns and cities in Connecticut.

THE CHAIR:

Senator Suzio.

SENATOR SUZIO:

Thank you, Madam President.

And so, through you -- so you are saying, for the record, unequivocally that the special act towns would be prohibited by this bill from passing a regulation that would have the effect of prohibiting the construction, alteration, or operation of solid waste facilities within the limits of such municipality.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

I don't want to give a legal opinion on that, but that is the plain meaning of the language of the last sentence of this bill.

THE CHAIR:

Senator Suzio.

SENATOR SUZIO:

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Through you, Madam President.

Since we are passing a law and there's a legal question before us, I would respectfully request clarification of that, if I may? Can we get some legal opinion about that?

THE CHAIR:

The circle will stand at ease for a moment, please.

(Chamber at ease.)

SENATOR MEYER:

Madam President.

THE CHAIR:

Senator Meyer.

The circle, come back to order.

SENATOR MEYER:

Thank you for your indulgence.

First of all, as a matter of legislative intent and as is one of the sponsors of this bill, it is the intent that none of our 169 towns or cities should be able to avoid what it says here. This is very clear language that every town and city must consider and cannot prohibit a solid waste facility within the limits, the boundaries of that town. Senator Suzio raises an interesting question, though, with respect to are there some special act towns that would be affected? And I want to represent to him, and I just conferred with counsel and with the Majority Leader that we will, as we go forward in this session, we will look at that and communicate with him as to what we find.

THE CHAIR:

Thank you, Senator Meyer.

Senator Suzio.

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SENATOR SUZIO:

Thank you, Madam President.

Through you, to Senator Meyer, if it were found that this legislation did exempt the special acts or the municipalities operating the special acts, would you object to that? Was that your intention.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Well, I only speak -- through you, Madam President, I only speak as one legislator here. So my intent with respect to what I think is the best public policy -- and Senator Fasano spoke to this before in his remarks -- I think -- I think that every municipality should have to entertain a solid waste facility and not prohibit it within the limits of the town.

THE CHAIR:

Senator Suzio.

SENATOR SUZIO:

Thank you, and through you, Madam President, again I just want to make clear or make sure I clearly understand the Senator, the proponent's intention. So the proponent's intention seems to be to include all municipalities, but if it were found that the municipalities operate under the special acts were exempted, if there were a legal opinion to that effect, would that be a problem for you with the way this bill is written?

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President, I'm -- I'm reluctant to state a conclusion on that without knowing what the

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special act provision is and what it actually provides and consider what conditions might apply. I just don't think I can make a blanket conclusion about that. I'll be guided by what the research shows.

THE CHAIR:

Senator Suzio.

SENATOR SUZIO:

Thank you.

And through you, Madam President, I don't know if my colleague Senator Meyer is aware of the OLR analysis of the proposed bill, but I have a summary of it here in front of me. And it says, the bill does not provide a similar prohibition for municipal zoning regulations adopted under a special act. Apparently, it's the opinion of OLR that that's omitted by the proposed wording.

If that were the case, don't you think we ought to take this back and take it through the normal process where it can be vetted properly and we can make certain that you as a proponent of the bill -- apparently, there is an exemption for these municipalities that you do not intend, but nonetheless, it's there according to OLR. Would you be agreeable that we should take this back and vet it through the normal process?

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President, to Senator Suzio.

As I said, I -- I like the balance of the current bill. If it turns out that it's affected by special acts, we will look at that and the Majority Leader and counsel for the Senate majority party has told us that we will look at that and we'll consider that. And I just want to make that representation to you.

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THE CHAIR:

Senator Suzio.

SENATOR SUZIO:

Through you, Madam President.

But it seems to me, as a proponent of the bill, this is a significant question and we do have an opinion from the Office of Legislative Research which seems to say pretty clearly that special acts municipalities are not covered by this, and therefore, they could adopt a regulation that would explicitly proscribe this kind of operation and you, as a proponent of the bill, say you object to that. So why would we vote for this legislation with that opinion from OLR?

SENATOR MEYER:

Through you, Madam President.

I've looked at the OLR provision here. I believe -- I think it's vague. I think that our representation that we will look at special acts of very specifically to see what they do and what the conditions are is a reasonable way to. We're going to be in session here for more than another two months. We've got plenty of time to do the right and reasonable thing.

THE CHAIR:

Senator Suzio.

SENATOR SUZIO:

Thank you, Madam President.

And through you, Madam President, but I would just suggest that it's important that when a critical question comes up about a piece of legislation that we're about to vote on, that we have the answer before we vote on it. I'm not in the habit of voting for a piece of legislation and then figuring out what it means after the fact.

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Wouldn't you agree that this would basically say we should be putting this through the normal process instead of the through the e-cert process? Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President, I'll just put a question right back to Senator Suzio and that is if we do what you're requesting, will you vote for this bill?

THE CHAIR:

Senator Suzio.

SENATOR SUZIO:

Through you, Madam President, I am not requesting anything except for a clarification of what the intention is, and apparently, the intention is to mandate that all municipalities do so but the proposed bill does not do that. It apparently allows for an exemption and you yourself are not clear about that, but OLR has given us an opinion that it is exempted apparently.

I think issues like that need to be clarified thoroughly to your satisfaction and to my satisfaction and to everyone's satisfaction in the circle. There should be no ambiguity about a critical question like that before we vote on a bill.

SENATOR MEYER:

Through you, Madam President, I would just repeat that the last sentence of the bill, which is the key provision here, has no exemption. It's absolute in its language. It's -- the plain language of it is that it will -- that no town or city in Connecticut will be able to prohibit the consideration of a solid waste facility.

So I take the language as it is, but in an abundance

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of caution, at the request of Senator Suzio, we will look at it further.

THE CHAIR:

Thank you, Senator.

Senator Suzio.

SENATOR SUZIO:

Thank you. I have no further questions for the Senator other than to say that I believe the issue is a clouded issue right now. I don't believe it's prudent policy to pass a law where such a huge question hangs undecided and we're going to be voting on it not knowing what the answer is to that question, and therefore, I would respectfully suggest that we vote against the proposed bill today and basically require it to go through the normal process where it can be properly vetted and then voted on with all these questions resolved with clarity.

Thank you, Madam President.

THE CHAIR:

Thank you, Senator.

Okay. I wanted to make sure I was right. Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

Madam President, I wasn't inclined to speak on this issue, but actually the remarks by my friend in the chair of the Environment Committee have raised a couple of questions, which I think are important to what we are doing here today and would try to seek a little bit more clarification.

So if I could, through you, Madam President, a couple of questions.

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Please proceed, sir.

SENATOR MCKINNEY:

Senator Meyer, the last colloquy you had with Senator Suzio raises the following question for me. Because you are correct to note that the language in lines 15 and 18 says that -- and I'm paraphrasing -- that no municipality can prohibit these facilities. But as I look at the language, it refers to municipal regulations adopted pursuant to Section 8-2. And using that language? Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

I do.

SENATOR MCKINNEY:

And through you, my question is: Does 8-2 encompass all 169 towns in a state of Connecticut or does 8-2 exclude special act towns?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

I don't know the answer to that question. I'd be very happy to yield to Senator Slossberg if she knows or anybody else.

SENATOR MCKINNEY:

Madam President, let me -- I appreciate the answer. I don't know either. You know, they usually say don't ask a question you don't know the answer to. I don't

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know the answer. The reason why I'm asking is if we're going to say in statute that no municipal regulation adopted pursuant to 8-2 can prohibit this, but 8-2 doesn't include special act towns then by inference we're saying special act towns can prohibit this. That would be, I think, the most accurate interpretation by a court if this were to end up in court and I think we have to assume since it's been there on a couple of issues it will be there, again. So that's critical to what we're doing here.

It's been told that the policy is for all 169 towns and I think whether you agree or disagree with the policy, we would agree that it should apply to all 169 towns similarly. That's critical. So that's my question. Does 8-2 encompass even special act towns? And what I would like to do, Madam President, is perhaps we can find somebody to get an answer to that and then I'll go on now with my second line of questioning. Through you, Senator, if I could.

THE CHAIR:

Please proceed, sir.

SENATOR MCKINNEY:

So that was a hint to some smart people around the room to maybe see if we can get an answer.

Madam President, through you, Senator Meyer, the second line of question I had is -- and you're correct in that a municipality cannot adopt a regulation that prohibits a facility. Only the state agency, now DEEP, can prohibit a facility. I think the question then is -- and maybe the answer is this is going to have to be determined on a case-by-case basis if there are lawsuits filed -- but the general question is -- and we've seen this in our towns with all kinds of developments -- that -- and I guess, of course, would you agree that zoning regulations can be adopted and conditions can be put on permits that, although not explicitly prohibiting facilities, could have the effect of prohibiting.

For example, they could say you can't construct something within a thousand feet of the school and

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perhaps was no property in that town that's within a thousand feet of the school or they could say you can construct a facility such as the one that was taken to court in Milford, which involves trucks and you can only have, you know, five trucks per day which would make it an unworkable business.

So I guess the first question is: Would you concede that a zoning board could adopt regulations or put conditions on a permit that although not specifically prohibit, could have the effect of making a facility unworkable? Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

And through you, Madam President, to Senator McKinney, yes, I have seen those kind of -- in my law practice formerly. I've seen those kind of -- of zoning provisions. I think the effect of the last sentence of this bill is that that kind of tricky zone provision you're talking about would probably be void as it applied to solid waste facilities because of the no prohibition language in the last sentence of this bill.

SENATOR MCKINNEY:

And Madam President, thank you.

That was -- my follow-up question then was if a local board were to do that which would have the effect of prohibiting a certain application, even though not explicitly, then that would be against what we are trying to do here today, and if taken to court do you think would survive a legal challenge?

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President, I believe so.

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THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY: . .

Thank you, Madam President. I think there are others who want to speak, which is fine and perhaps I'll go do a little research on the answer to my question and maybe will get one before the debate is over soon. Thank you.

THE CHAIR:

Thank you.

Senator Fasano.

SENATOR FASANO:

Madam President, if I may to Senator Slossberg, if I may?

Through you, Madam President, Madam President, to Senator Slossberg, is Milford an 8-2 town or a special act zoning town if Senator Slossberg knows the answer?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

I'm trying, Madam Chair. There you go. Thank you.

And the question of whether Milford is an 8-2 town or not, I am not -- not sure to the answer to that question, but I believe it is not.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

I apologize. It might be a double negative that I

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might ask the question so let me ask you a positive.  
Is it an 8-2 or is it a special act town?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you, Madam President. To the best of my knowledge, it is an 8-2 town, but I don't have an answer on that.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you. Thank you.

And senator Meyer had gotten up and I think Senator McKinney makes a good point. I do do a lot of zoning and pre-existing nonconforming uses have a right to exist because they are constitutionally protected under 8-2 of the general statutes. That being said, although they're pre-existing nonconforming, a town has a right to regulate through the public health safety and welfare clause in 8-2 and those -- the question always becomes how far do they go before they regulate the business out of business? And that's always a gray area that you end up pre-existing nonconforming uses, most of the cases will all -- swirls around, rock quarries and rock permit issues because those date back to the fifties.

So getting back to Senator McKinney's point of view, there comes a time when the regulations become heavy effectively you have prohibited the use from existing. So even though the language says, you cannot prohibit, that is a word -- believe me as I stand here -- which is litigated in multiple courts over multiple occasions with respect to pre-existing nonconforming uses. So I don't think that gives any protection to anything if a municipality doesn't want anything.

The next thing is the e-cert language, Senator Meyer

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says the emergency is there are permits waiting and nobody knows what to do. Well, yeah, we do. Apparently, we've known since 2006, and we've known since 2010 that the court has spoken. Zoning doesn't have a right to prohibit or to rule. It's up to DEEP on the permits. So we know what it says. We may not like what it says, but we know what it says. There's no ambiguity. There's no ambiguity. This wants to correct what they believe may be wrong. Okay. Debatable policy, but there's no ambiguity. And the issue is, why are we still inserting it? Many of you may recall six or seven years ago a court said in a subdivision you have the right when that subdivision was created to have that zoning that existed the day the subdivision was created until now.

So what this court said was if you built your house in 1960 and the side yards five foot away, and they changed the zoning in your town to say the side yards are 25 feet away, you have a right to still be five feet away and you can add to your house because the old zoning applied, and in Greenwich, this was a big problem. People were tearing down their houses and expanding it to the sideline, left and right. It became a huge problem statewide.

Well, we didn't jump in here and say e-cert we've got the answer. We went through public hearings. We went through significant discussions to figure out what the best policy is and we voted on it. That's the process. When the court we think makes a mistake or we drafted it in error, reasonable people can disagree. Look at the Kelo case with the condemnation. None of us liked those decisions. We didn't jump in here and say, e-cert the bill. We had public hearings on the bill. That's just the process. It may not be the most functional process.

We came in for special session on jobs. We still had our informational hearings before that. We could have had informational hearings on this. There's a gazillion things that we all know -- we're kidding ourselves if we say there's not -- there is a gazillion things we could have done before this bill hit the floor to make sure we got it right, and now, as we sit here stand here, which I'm doing, and talking about the bill, we're not even sure which

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towns it applies to and which towns it doesn't apply to, and what this language means. That's the point. That's the whole point.

Thank you, Madam President.

THE CHAIR:

Thank you, Senator Fasano.

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

You know, I wasn't going to speak again.

THE CHAIR:

The second time.

SENATOR KANE:

For the second time, you're right. And that's -- you just lead me into my good segue. I wasn't going to speak again, but I guess I'm not as good a speaker as I think I am. So -- because Senator Meyer asked Senator Suzio if there were a public hearing, would you vote for it?

And the whole point of my conversation from earlier, certainly there are questions from our side of the aisle and probably some on your side of the aisle in regards to the actual bill, but my question is about the process, Senator Meyer. It's not about the underlying bill, but the process itself.

Through you, to Senator Slossberg, if I might, Madam President.

THE CHAIR:

Senator Slossberg, prepare.

Please proceed, sir.

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SENATOR KANE:

Senator Slossberg, as I stated during my earlier conversation if you will, that this bill is an e-cert bill, emergency certification. It's been going on for years and years and years. We had no public hearing process. We had no committee process. To you, through you, Madam President, what's the harm in having a public hearing?

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you. Through you, Madam President.

As we said before, while the law changed in 2006 and that error was made, this did not come to light until the decision in the superior court in 2010. And we are here today because there are existing facilities that need to know that they are responsible to the local regulations, that local towns know that they have the ability to regulate for the public health and safety and welfare of their communities, just like they always have. And in addition to that, as has been stated before, there are pending applications and the department needs to do what they reviewing for.

They need to know what they are reviewing for. Are they reviewing for whether the firetruck can come in there and make it safe or are they not? Are they reviewing for traffic safety? Are they reviewing whether it's going to cause a problem to hook up to the local sewer? They need to know those things right now. That is not clear. Up until now, the application procedure does not include those things because it has always been left to the municipality to regulate for the public health, safety, and welfare. Now, it is not clear. We need to get clarification and we need to make sure that the law is very clear that towns indeed do have the authority to regulate for the public health, safety and welfare of their -- of their citizens.

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Senator Kane.

SENATOR KANE:

Thank you, Madam President.

And I thank, Senator Slossberg, for her answer and she's kind of making my point. You have questions about the firetrucks. You have all these questions that you brought up, but you didn't answer my question which is, what is the harm in having a public hearing? Wouldn't all of this that you talk about come out in the public hearing process rather than rush through a bill through e-certification. That's -- that's my question and you still haven't answered it.

My question is what is the harm in allowing people to speak on this bill. What is the harm? Through you.

THE CHAIR:

Senator Slossberg.

SENATOR SLOSSBERG:

Thank you.

Through you, Madam Chair, this language fell out unintentionally. There was never a public hearing as to whether we were intending to eliminate local control. All we are doing is turning back to the original -- the original manner in which the law had operated the policy and the practice.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Madam President.

You know, I still am not fulfilled in that answer because my question was: What is the harm in having a public hearing? Yet, we talk about the procedure, the this -- everything but, you know, I guess that's going

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to be your answer Senator Slossberg and I'll accept it, but I don't accept that the fact that we should have a public hearing on this issue that we've been debating for two hours or so. And the public has not been allowed in the process.

So, again, it is all about the process in this building. That's what people expect from us as legislators in this building. And for that reason, again, I cannot support this measure and wish that we would take the time to give the people of the state of Connecticut an opportunity to weigh in.

Thank you, Madam President.

THE CHAIR:

Thank you, Senator Kane.

Senator Guglielmo.

SENATOR GUGLIELMO:

For the second time, Madam President.

THE CHAIR:

For the second time, thank you.

SENATOR GUGLIELMO:

Or maybe the third. I'm not sure.

I just wanted to speak to what Senator Kane mentioned. The problem here is the fact that it violated the process. I mean, you might actually agree with bill in its end form but the fact that I had a constituent -- by the way, who is sitting right up there. Darlene Chapdelaine is right there. She's the person this whole firestorm is about. And -- so she went to the process. I don't know how to say it any other way in.

And I know the chairman of the Environment Committee, who I have a great deal of perspective for, basically said that this local control wouldn't stop any of these future projects from moving ahead. Well, that's

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probably true or could be true. I'm not a lawyer. I'm not a zoning expert. But what I will say is that anytime you change the rules at the last minute you have made a statement that you, as the state of Connecticut, the Department of Environmental Protection or their new name, DEEP, can't be trusted. This Legislature can't be trusted. We don't keep our word.

So why would you, as a business person, wanting to open up a solid waste facility in the state of Connecticut, why would you site it here? If you're going to be my partner I was going to be a partner with Darlene and we knew the state of Connecticut's track record for changing rules after the fact, I would go somewhere else. I would do it in Massachusetts. I would do it in New Jersey. I don't know. I wouldn't do it here.

And yet, this State of Connecticut has a mandate to get the recycling in-state down to, I think, it's 60 percent -- I'm not on the Environment Committee, but about 85 percent of the solid waste goes out of state now. We mandated that the DEEP bring that down to some figure, which I think is 60 percent within a very few years.

But we've changed the rules and I don't think there's any fair-minded person who can say that that wouldn't affect somebody thinking of doing this in the future. Can't believe it. That's like being in a basketball game and you're up by five points and there's five seconds ago and then the other team goes to the official and says well, we would like to extend this to overtime. Who would take part in something like that? Who would do that? Was going to take -- who is going to waste their time and money?

This is an expensive process we're talking about. Hundreds of thousands of dollars and then at the end, the state of Connecticut is going to say, oops. You know, we don't like it. We're going to change the rules on you.

I think this is a very sad precedent.

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Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

I just took a look at our statutes and I think it's just important to get on the record when I think the effect of the language is today, what I believe is most likely a drafting error and what I hope this Legislature will look at afterwards. So here's what I mean: The language clearly talks about not allowing a town under 8-2 to adopt zoning regulations to prohibit these facilities. Not all 169 towns adopt zoning regulations pursuant to 8-2.

Special act towns are towns that were created by special act before we had the zoning regulations, which is why many times when we pass legislation, we include language or pursuant to a special act. So we can have it apply to all 169 towns. So those special act towns don't -- are not -- one thing we know, those special act towns are not treated similarly. What we don't know is what they can do.

Do they have the right to actually prohibit these because we've passed language that said, these towns cannot? Or do they not have the right to even apply their zoning regulations to the extent that we're granting all non-special act towns. And I don't know the answer to that question, but I do know that clearly by the language, if you're a special act town, you are not treated the same as all of the other towns and you either, A, can just prohibit these things or, B, you don't have the right to regulate them under your zoning which we're giving to all the other towns.

I don't know the answered that question, but I do know after doing a little research that special act towns do zone differently pursuant to their special act, not pursue to 8-2, that this language only references 8-2, and historically, this Legislature includes 8-2 and under a special act.

I've talked to the Majority Leader, who I respect. It is the desire of the majority to pass this and not

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amend it and send it back down to the House. That's a common frustration we, in the minority, have. We're told, we agree with you, but not now. But it needs to be put on the record and it needs to be noted that absent us taking further action, we're making what I think is a mistake on that specific part of this issue. Thank you.

THE CHAIR:

Thank you, Senator McKinney.

Will you remark?

Senator Slossberg.

SENATOR SLOSSBERG:

Yes. Thank you, Madam Chair, and hopefully, this closes our debate for the day; although, I don't know that it will.

I just want to be very clear on the record that, you know, there's been this discussion about changing rules midstream and I have great respect for the Senator from the 35th District, who is arguing on behalf of his constituent and I understand that, and I know that we do that, but the reality is that's just not true.

The rule, the law, the practice has always been until Judge Hiller's decision that these facilities go to local zoning. You can see that every single volume reduction plant in this state has gone to local zoning. We know. We called and asked. They all went to local zoning in order to get approved. Even the applicant in the Milford case went to local zoning to get approval. And that is an issue that is still in court. The rules have not changed. These were the rules all along until Judge Hiller's decision made it clear that the 2006 law dropped this language out.

All we are doing is restoring what has always been the process. It would have to be the process; otherwise, we would have to be turning around putting all these other resources into DEP to make sure that they can go out to every one of these facilities and make sure

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that they apply the local -- the building code that they conform to local fire standards, that they do what they're supposed to do with regard to traffic. That they don't hook up to sewers when they're not supposed to. This has always been the law. There has been no change in the rules midstream. All this does is reaffirm what the law has always been since 1978 and that is that municipal zoning applies.

Thank you, Madam Chair.

THE CHAIR:

Thank you.

Will you remark?

Senator Roraback.

SENATOR RORABACK:

Thank you, Madam Chair.

Just one quick question, through you, to the proponent of the bill.

THE CHAIR:

Is that Senator Meyer or Senator Slossberg?

SENATOR RORABACK:

I believe Senator Meyer brought out the bill.

THE CHAIR:

Senator Meyer, will you prepare yourself, please.

SENATOR MEYER:

Getting prepared.

THE CHAIR:

Please proceed, sir.

SENATOR RORABACK:

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Thank you, Madam President.

I have the pleasure of serving with Senator Meyer on the Environment Committee. Senator Meyer is the Senate Chair. I am the Senate ranking member and I just wanted to ask through you, Madam President, to Senator Meyer, if he has had a chance to see the public hearing agenda for the Environment Committee on Friday for our meeting this Friday. Through you, Madam President, to Senator Meyer.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

I think -- through you, Madam President, I think I saw it a few days ago, but I don't remember it.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

And asked question, Madam President, because on our agenda for a public hearing on Friday is Senate Bill Number 211, AN ACT CONCERNING MUNICIPALITIES AND SOLID WASTE MANAGEMENT. Through you, Madam President. to Senator Meyer, is he familiar with that bill?

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Yeah, I have reviewed that bill, but I cannot recall right now the core of it.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

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And I'm not -- I'm not trying to play hide the button with Senator Meyer. What the bill says is that nothing in the law would be construed to limit the right of a municipalities to regulate land use and solid waste disposal, including, but not limited to the right of a municipality to approve or deny certain solid waste management practices or sites. And through you, Madam President to Senator Meyer, does he know why the Environment Committee raised this bill?

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

The Environment Committee like most of our committees raises a lot of bills in order to get public comment on them and it is not -- they are raised without prejudice to how we might actually vote on them. So that is particularly true and you know Senator Roraback from your long experience in the Environment Committee, we raise many concepts that are controversial, some of which probably should not become law, but do deserve discussion.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Madam President.

And the point I'm trying to make is that it seems regrettable that on Wednesday the Legislature seems poised to be passing a bill which will make a public hearing on Friday somewhat irrelevant. So first, the verdict and then the trial. And I, for one, am uncomfortable issuing a verdict before we have the trial. I think it runs counter to principles which should guide this General Assembly and for that reason I'll be voting against the bill.

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Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark further? Will you remark further?

Since I don't think this is going on consent,  
Mr. Clerk, will you please call for a roll call vote  
and the machine is open.

THE CLERK:

Immediate roll call has been ordered in the Senate.  
Members to the chamber, please. Immediate roll call  
ordered in the Senate. Will all Senators please  
report to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted,  
the machine will be closed.

Mr. Clerk, will you please --

THE CLERK:

Total Number voting	34
Necessary for adoption	17
Those voting Yea	22
Those voting Nay	12
Those absent and not voting	2

THE CHAIR:

The Emergency Certified bill is passed.

Mr. Majority Leader.

SENATOR LOONEY: