



Substitute House Bill No. 5609

Public Act No. 02-95

AN ACT CONCERNING THE PROTECTION OF LONG ISLAND SOUND.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective from passage*) Notwithstanding any other provision of the general statutes, no state agency, including, but not limited to, the Department of Environmental Protection and the Connecticut Siting Council, shall consider or render a final decision for any applications relating to electric power line crossings, gas pipeline crossings or telecommunications crossings of Long Island Sound including, but not limited to, electrical power line, gas pipeline or telecommunications applications that are pending or received after the effective date of this section for a period of one year after the effective date of this section. Such moratorium shall not apply to applications relating solely to the maintenance, repair or replacement necessary for repair of electrical power lines, gas pipelines or telecommunications facilities currently used to provide service to customers located on islands or peninsulas off the Connecticut coast or harbors, embayments, tidal rivers, streams or creeks. Nothing in this act shall be construed to affect the project in the corridor across Long Island Sound, from Norwalk to Northport, New York, to replace the existing electric cables that cross the sound. During such twelve-month moratorium on applications relating to crossings of Long Island Sound, the Institute of Sustainable Energy at the Eastern Connecticut State University shall chair and convene a task force of the parties described in section 3 of this act in order to undertake the tasks described in section 3 of this act.

Sec. 2. (NEW) (*Effective from passage*) (a) Notwithstanding any other provision of the general statutes, no state agency, including, but not limited to, the Department of Environmental Protection and the Connecticut Siting Council, shall render a final decision for any applications relating to electric transmission lines from Bethel to Norwalk including, but not limited to, applications that are pending or received on and after the effective date of this section until February 1, 2003. During such interim period, the Institute for Sustainable Energy shall chair and convene a working group comprised of: (1) Two representatives chosen by the chief elected officials of Bethel, Redding, Weston, Wilton and Norwalk, one of whom shall have environmental expertise and one of whom shall have energy expertise; (2) one representative of the Connecticut Fund for the Environment; (3) two representatives of the applicant company; and (4) one

representative of the New England Independent System Operator, Inc. and develop a comprehensive assessment and report on: (A) The economic considerations and environmental preferences and appropriateness of installing such transmission lines underground or overhead; (B) the feasibility of meeting all or part of the electric power needs of the region through distributive generation; and (C) the electric reliability, operational and safety concerns of the region's transmission system and the technical and economic feasibility of addressing those concerns with currently available electric transmission system equipment. The Institute for Sustainable Energy shall publish its report on or before January 1, 2003, and shall also include recommendations for any legislative changes deemed necessary as a result of such assessment. Any decision or opinion rendered on any application for an electric transmission line from Bethel to Norwalk by either the Department of Environmental Protection or the Connecticut Siting Council after the publication of such comprehensive assessment and report, shall be evaluated to determine such application's consistency with such assessment. Nothing in this section shall be construed to prevent routine maintenance and repair of such electric transmission lines.

(b) Any applicant that elects to proceed with its application for an electric transmission line from Bethel to Norwalk before any state agency, including, but not limited to, the Department of Environmental Protection and the Connecticut Siting Council, during the interim period described in subsection (a) of this section, shall accrue no legal rights or financial entitlements by proceeding with its application.

Sec. 3. (NEW) (*Effective from passage*) Not later than one year from the effective date of this section, a comprehensive environmental assessment and plan shall be completed under the direction of the Institute for Sustainable Energy. In conducting the comprehensive environmental assessment and plan, a task force shall work with the Institute of Sustainable Energy that consists of the task force members contained in Executive Order Number 26 of Governor John G. Rowland and a representative of: (1) The Bureau of Fisheries of the Department of Environmental Protection; (2) the Director of the Bureau of Aquaculture of the Department of Agriculture; (3) the Bureau of Aviation and Ports, Connecticut Coastline Port Authority of the Department of Transportation; (4) the Connecticut Seafood Council; (5) the Atlantic States Marine Fisheries; (6) Save the Sound, Inc. ; (7) the Connecticut Fund for the Environment, Inc. ; (8) the Long Island Soundkeeper; (9) the State Geologist; and (10) no more than one representative each from the holder of a permit for a merchant cable, one representative from an applicant for a gas pipeline, one representative from each local gas and electric distribution company and one representative from the telecommunications industry. Nothing in this section shall prohibit the task force from soliciting the participation of other persons in the development of the comprehensive environmental assessment and plan including, but not limited to, federal agencies regarding matters within such agency's jurisdiction. Such assessment and plan shall include, but not be limited to, a review and analysis of those criteria set forth in Executive Order Number 26 of Governor John G. Rowland in addition to the following: (A) In consultation with the Institute of Water Resources at The University of Connecticut and The University of Connecticut Cooperative Extension Service, a comprehensive inventory and mapping of all existing environmental data on the natural resources of Long Island Sound, including, but not

limited to: All coastal resources, as defined in section 22a-93 of the general statutes, all points of public access and public use, locations of rare and endangered species including the breeding and nesting areas for such rare and endangered species, locations of historically productive fishing grounds and locations of unusual and important submerged vegetation; (B) an evaluation of the relative importance and uniqueness of the natural resources and an identification of the most ecologically sensitive natural resources of Long Island Sound; (C) an assessment of the present status, future potential and environmental impacts on Long Island Sound of meeting the region's energy needs that do not require the laying of a power line or cable within Long Island Sound; (D) an evaluation of methods to minimize the numbers and impacts of electric power line crossings, gas pipeline crossings and telecommunications crossings within Long Island Sound, including an evaluation of the individual and cumulative environmental impacts of any such proposed crossings; (E) an inventory of current crossings of Long Island Sound and an evaluation of the current environmental status of those areas that have crossings; (F) an evaluation of the reliability and operational impacts to the state and region of proposed crossings of Long Island Sound and an evaluation of the impact on reliability by recommended limitations on such crossings; (G) recommendations for providing for regional energy needs while protecting Long Island Sound to the maximum extent possible; and (H) recommendations on natural resource performance bond levels to insure and reimburse the state in the event that future electric power line crossings, gas pipeline crossings or telecommunications crossings substantially damage the public trust in the natural resources of Long Island Sound. For the purposes of sections 1, 3, 4 and 5 of this act, "Long Island Sound" shall include its harbors, embayments, tidal rivers, streams and creeks to the extent that any such projects would impact such harbors, embayments, tidal rivers, streams and creeks.

Sec. 4. (NEW) (*Effective from passage*) Any application for an electric power line, gas pipeline or telecommunications crossing of Long Island Sound that is considered by any state agency, including, but not limited to, the Department of Environmental Protection or the Connecticut Siting Council, after the creation of the comprehensive environmental assessment and plan, described in section 3 of this act, shall additionally be evaluated for such application's: (1) Likelihood to impair the public trust in Long Island Sound based on, but not limited to, the information contained in the comprehensive environmental assessment and plan; (2) consistency with the recommendations of the comprehensive environmental assessment; and (3) environmental impact, both individual and cumulative, including but not limited to those impacts anticipated by the comprehensive environmental assessment and plan described in section 3 of this act.

Sec. 5. (NEW) (*Effective from passage*) Notwithstanding any provision of the general statutes, the Connecticut Siting Council, within fifteen days of the effective date of this section shall submit the state's advisory opinion to the Federal Energy Regulatory Commission requesting that, on behalf of the state, the Federal Energy Regulatory Commission not approve any new individual electric power line crossing, gas pipeline crossing or telecommunications crossing until the comprehensive environmental assessment and plan described in section 3 of this act is completed and that the Federal Energy Regulatory Commission avoid environmental damage to Long Island Sound to the greatest extent possible when licensing any future project by considering the

recommendations contained in the comprehensive environmental assessment and plan described in section 3 of this act. Notwithstanding the provisions of this act, if the Federal Energy Regulatory Commission proceeds with consideration of any such project, regardless of the Siting Council's request, the Connecticut Siting Council and any other state agency with jurisdiction over such project shall review such proposed project and recommend siting, construction procedures and environmental mitigation measures to the Federal Energy Regulatory Commission for such project that conform with the comprehensive environmental assessment and plan described in section 3 of this act, to the degree such assessment and plan information is available.

Approved June 3, 2002