



Substitute Senate Bill No. 1146

Public Act No. 23-196

**AN ACT CONCERNING REVISIONS TO VARIOUS PROGRAMS OF
THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL
PROTECTION.**

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

Section 1. Section 26-5 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The Commissioner of Energy and Environmental Protection shall appoint such number of conservation officers as may be necessary for the efficient execution of the duties of the department under section 26-6. The commissioner may supplement the regular conservation officer force by appointing as special conservation officer any employee of the department or any sworn federal law enforcement officer of the United States Fish and Wildlife Service or National Marine Fisheries Service, provided such federal officer shall not be considered an employee of the state and may only exercise such officer's authority pursuant to section 26-6 when working with a full-time conservation officer. The commissioner may also appoint any lake patrolman as a special conservation officer solely for the purpose of enforcing boating laws within such patrolman's jurisdiction, provided such patrolman shall not be considered an employee of the state, and further provided that such patrolman has completed a police training course at [the state police

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training school or an equivalent course approved by the Commissioner of Emergency Services and Public Protection] a Police Officer Standards and Training Council approved training academy. Notwithstanding the provisions of this section, no such lake patrolman shall carry a firearm while in the performance of [his or her] such patrolman's duties as a special conservation officer unless the board of selectmen of the town or towns in which the lake on which the lake patrolman serves is located approves such carrying of a firearm, or in the case of any town having no board of selectmen, the lake patrolman obtains the approval of the legislative body of such town or towns in which the lake is located. Each conservation officer [or special conservation officer] shall [complete a police training course at the state police training school or an equivalent course approved by the Commissioner of Emergency Services and Public Protection] be certified by the Police Officer Standards and Training Council in accordance with the provisions of section 7-294d not later than one year after appointment. Each special conservation officer shall be certified by the Police Officer Standards and Training Council in accordance with the provisions of section 7-294d or complete an equivalent course approved by the Commissioner of Emergency Services and Public Protection. Special conservation officers who are employees of the department shall be entitled to the same benefits to which conservation officers are entitled under the provisions of section 5-142, and such an appointment shall be deemed not to be in conflict with any of the provisions of chapter 67. In addition to their salaries, conservation officers and special conservation officers who are employees of the department shall be reimbursed for all expenses incurred in performance of official duty.

Sec. 2. Section 26-113 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Notice of such hearing shall be advertised in one or more newspapers having a general circulation in each of the counties of the state or in the

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locality where such waters are situated and shall be posted on the eRegulations System and on the Department of Energy and Environmental Protection's Internet web site. The Commissioner of Energy and Environmental Protection, or the commissioner's designee, shall provide a copy of such notice to each municipality where such waters are located for publication of such notice on the Internet web site of each such municipality. Such notice shall specify the time, not less than fourteen days thereafter, the agenda and the place designated by the commissioner at which such hearing shall be held, and at which persons having an interest therein will have an opportunity to be heard. The commissioner or [his] the commissioner's designated representative shall conduct such hearing and cause a record thereof to be made. After such notice and hearing the commissioner shall issue [his] such regulations based upon standards of sound fisheries management including the following: (a) Scientific and factual findings of a biological nature; (b) the availability of the species involved; (c) unusual weather conditions and special hazards; (d) the available supply of food and natural cover; (e) the general condition of the waters; (f) the control of the species; (g) the number of permits issued; (h) the area available; (i) the rights and privileges of sportsmen, landowners and the general public; (j) the problem of providing and perpetuating a sound program of fisheries management and a sound recreational program consistent with the availability of the species.

Sec. 3. Section 26-159c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Prior to the adoption of any regulation under subsection (g) of section 26-142a or section 26-159a, the commissioner or [his] the commissioner's designated representative shall conduct a public hearing or hearings in those coastal areas where persons substantially affected by such regulation and having an interest therein may be heard. The commissioner shall cause notice of such hearing or hearings to be

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published at least once not more than thirty days and not fewer than ten days before the date set for such hearing or hearings in a newspaper or newspapers having general circulation in those areas which may be affected by such regulation and shall be posted on the eRegulations System and on the Department of Energy and Environmental Protection's Internet web site not fewer than fourteen days prior to the date set for such hearing or hearings. The commissioner, or the commissioner's designee, shall provide a copy of such notice to all coastal municipalities with persons who may be substantially affected by such regulations for publication of such notice on the Internet web site of each such municipality.

Sec. 4. Section 26-102 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The commissioner may establish fish spawning areas and refuges on any waters; and [he] the commissioner may establish closed areas and safety zones on public lands and waters and, with the consent of the owner, on private lands and waters, and close any such area to fishing and trespassing. The commissioner shall have emergency authority to declare a closed season on any regulated species [of fish] threatened with undue depletion from any cause and, the provisions of section 26-116, as amended by this act, notwithstanding, if such cause is any person, firm or corporation engaged in commercial fishing activity, the commissioner shall have the additional emergency power to establish prescribed conditions for the operation of such commercial fishing activity, or suspend or prohibit the right of such person, firm or corporation to operate within such waters for such period of time as the commissioner deems necessary. The commissioner may, if [he] the commissioner deems it necessary, close any waters, or portions thereof, in the inland district to fishing for limited periods of time.

Sec. 5. Section 26-116 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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The provisions of sections [26-102 and] 26-111 to 26-117, inclusive, shall not apply to the taking of fish for commercial purposes and shall not affect any statute regulating fishing in any lake, pond or reservoir used for domestic water supply, nor shall any action be taken under the provisions of said sections which will unreasonably interfere with the proper management of a public water supply system.

Sec. 6. Section 26-137 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

No person shall take or attempt to take any fish [, with the exception of lamprey eels during the open season for the same,] within two hundred fifty feet of any fishway, except that the commissioner when [he] the commissioner deems necessary may extend or reduce such distance and shall indicate such other distance by posting.

Sec. 7. Section 26-142b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) For the purposes of this section, "active" with regard to a principal commercial fishing license, general commercial fishing license or commercial lobster pot fishing license means that the license has been renewed in the current year.

(b) Notwithstanding any other provision of law, the Commissioner of Energy and Environmental Protection may reissue an active principal commercial fishing license, general commercial fishing license or commercial lobster pot fishing license in the event the license holder is temporarily incapacitated and unable to operate a vessel or perform other necessary functions associated with commercial fishing or in the event a license holder is unable to conduct commercial fishing due to exigencies related to medical care of an immediate family member. Such temporary license may only be issued to a member of such [incapacitated] license holder's immediate family or to a member of such

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[incapacitated] license holder's crew, as designated by such license holder, for the duration of such license holder's incapacity or [twelve consecutive months, whichever is the shorter period] exigencies related to medical care of an immediate family member of such license holder. Such temporary license shall be subject to the provisions of section 26-142a. Landings during the period of such temporary license reissue may be used to satisfy the requirements for license transfer in subsection (c) of this section, provided the licensee met all such requirements for transfer at the time of such temporary reissue.

(c) The commissioner may authorize the transfer of an active principal commercial fishing license, general commercial fishing license or commercial lobster pot fishing license, issued pursuant to subsection (f) of section 26-142a, provided: (1) For purposes of an active resident-held principal or general commercial fishing license or commercial lobster pot fishing license: (A) The person receiving the license in such transfer is a resident of this state, and (B) the person transferring the license held the license and landed regulated species or owned a vessel that landed regulated species under the privilege of a quota-managed species endorsement associated with the license in at least five of the eight calendar years preceding the transfer request and [reported] such landings were reported to the commissioner, pursuant to section 26-157b, for not less than thirty fishing days in each year, or (2) for purposes of an active nonresident-held principal or general commercial fishing license or commercial lobster pot fishing license: The person transferring the license held the license and landed regulated species or owned a vessel that landed regulated species under the privilege of a quota-managed species endorsement associated with the license in at least five of the eight calendar years preceding the transfer request and [reported] such landings were reported to the commissioner, pursuant to section 26-157b, for not less than thirty fishing days in each year. Such landings shall be verified by seafood dealer reports submitted pursuant to section 26-157b. The recipient of a transferred commercial lobster pot

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fishing license or principal commercial fishing license shall be limited to the number of lobster pots allocated to such license, except a transferee who currently holds a commercial lobster pot fishing license, issued pursuant to subsection (f) of section 26-142a, shall be limited to the number of pots allocated to such person's currently held commercial lobster pot fishing license or principal commercial fishing license or to the transferred license, whichever is greater. The length of any commercial fishing vessel used by the recipient of a transferred license to fish with a trawl net in the waters of this state shall be not more than [ten] twenty per cent greater than the length of the largest vessel used by the person transferring the license during such qualifying period.

(d) (1) In the event of the death of the holder of an active principal commercial fishing license, general commercial fishing license or commercial lobster pot fishing license, the commissioner may authorize the transfer of such license pursuant to subsection (c) of this section, for a period of two years from the date of death of such license holder.

(2) If the deceased license holder held such license for a period of less than five complete calendar years, the commissioner may authorize the transfer of such license (A) subject to the provisions of this section, and (B) provided the deceased license holder landed regulated species or owned a vessel that landed regulated species under the privilege of a quota-managed species endorsement associated with the license in each calendar year during which the deceased license holder held the license for six months or longer, and (C) provided such landings were reported to the commissioner by the deceased license holder, pursuant to section 26-157b, for not less than thirty fishing days in each year.

(e) Upon transfer of a license, the original license holder shall become ineligible to obtain a renewal of that license. Such original license holder may acquire a new license through a subsequent license transfer.

(f) A transfer of a license under this section shall not be made while a

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commercial fishery license, registration or vessel permit held by the transferor or transferee is under suspension and a transfer shall not be authorized for any transferee who has had a commercial fishery license, registration or vessel permit revoked or suspended within the preceding twelve months.

Sec. 8. Subsection (a) of section 22a-6g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any person who submits an application to the Commissioner of Energy and Environmental Protection for any permit or other license pursuant to section 22a-32, 22a-39, 22a-174, 22a-208a, 22a-342, 22a-361, 22a-368, 22a-403 or 22a-430, subsection (b) or (c) of section 22a-449, section 22a-454 or Section 401 of the federal Water Pollution Control Act (33 USC 466 et seq.), except an application for authorization under a general permit shall: (1) Publish notice of such application in a newspaper of general circulation in the affected area and on the Internet web site used for local land use decisions in the municipality where such property is located. Such notice shall also be published on the Internet web site of the Department of Energy and Environmental Protection; (2) notify the chief elected official of the municipality in which the regulated activity is proposed; and (3) include with such application a copy of such notice as it appeared in the newspaper or municipal land use Internet web site and a signed statement certifying that the applicant notified the chief elected official of the municipality in which such regulated activity is proposed. Such notices shall include: (A) The name and mailing address of the applicant and the address of the location at which the proposed activity will take place; (B) the application number, if available; (C) the type of permit sought, including a reference to the applicable statute or regulation; (D) a description of the activity for which a permit is sought; (E) a description of the location of the proposed activity and any natural resources affected thereby; (F) the

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name, address and telephone number of any agent of the applicant from whom interested persons may obtain copies of the application; and (G) a statement that the application is available for inspection at the office of the Department of Energy and Environmental Protection. The commissioner shall not process an application until the applicant has submitted to the commissioner a copy of the notice and the signed statement required by this section. Any person who submits an application pursuant to section 22a-32 or 22a-361 shall additionally mail such notice to any land owner of record for any property that is located five hundred feet or less from the property line of the property on which such proposed activity will occur. The provisions of this section shall not apply to discharges exempted from the notice requirement by the commissioner pursuant to subsection (b) of section 22a-430, to hazardous waste transporter permits issued pursuant to section 22a-454 or to special waste authorizations issued pursuant to section 22a-209 and regulations adopted thereunder.

Sec. 9. Subsection (a) of section 22a-6h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Commissioner of Energy and Environmental Protection, at least thirty days before approving or denying an application under section 22a-32, 22a-39, 22a-174, 22a-208a, 22a-342, 22a-361, 22a-368, 22a-403 or 22a-430, subsection (b) or (c) of section 22a-449, section 22a-454 or Section 401 of the federal Water Pollution Control Act (33 USC 466 et seq.), shall publish or cause to be published, at the applicant's expense, once in a newspaper having a substantial circulation in the affected area and, if such application pertains to a single-family residential property, on the Internet web site used for local land use decisions in the municipality where such property is located and on the Internet web site of the Department of Energy and Environmental Protection notice of the commissioner's tentative determination regarding such

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application. Such notice shall include: (1) The name and mailing address of the applicant and the address of the location of the proposed activity; (2) the application number; (3) the tentative decision regarding the application; (4) the type of permit or other authorization sought, including a reference to the applicable statute or regulation; (5) a description of the location of the proposed activity and any natural resources affected thereby; (6) the name, address and telephone number of any agent of the applicant from whom interested persons may obtain copies of the application; (7) a brief description of all opportunities for public participation provided by statute or regulation, including the length of time available for submission of public comments to the commissioner on the application; and (8) such additional information as the commissioner deems necessary to comply with any provision of this title or regulations adopted hereunder, or with the federal Clean Air Act, federal Clean Water Act or federal Resource Conservation and Recovery Act. The commissioner shall further give notice of such determination to the chief elected official of the municipality in which the regulated activity is proposed. Nothing in this section shall preclude the commissioner from giving such additional notice as may be required by any other provision of this title or regulations adopted hereunder, or by the federal Clean Air Act, federal Clean Water Act or federal Resource Conservation and Recovery Act. The provisions of this section shall not apply to discharges exempted from the notice requirement by the commissioner pursuant to subsection (b) of section 22a-430, to hazardous waste transporter permits issued pursuant to section 22a-454 or to special waste authorizations issued pursuant to section 22a-209 and regulations adopted thereunder.

Sec. 10. Section 7-131g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Commissioner of Energy and Environmental Protection may make grants under the open space and watershed land acquisition

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program to: (1) Municipalities for acquisition of land for open space under subdivisions (1) to (6), inclusive, of subsection (b) of section 7-131d in an amount not to exceed sixty-five per cent of the fair market value of a parcel of land or interest in land proposed to be acquired; (2) municipalities for acquisition of land for class I and class II water supply protection under subdivision (5) of subsection (b) of said section 7-131d, as amended by this act, in an amount not to exceed sixty-five per cent of such value; (3) nonprofit land conservation organizations for acquisition of land for open space or watershed protection under subdivisions (1) to (6), inclusive, of subsection (b) of said section 7-131d, as amended by this act, in an amount not to exceed sixty-five per cent of such value; (4) water companies for acquisition of land under subdivision (7) of subsection (b) of said section 7-131d, as amended by this act, in an amount not to exceed sixty-five per cent of such value provided if such a company proposes in a grant application that it intends to allow access to such land for recreational uses, such company shall seek approval of the Commissioner of Public Health for such access; and (5) distressed municipalities or targeted investment communities, as defined in section 32-9p, or, with the approval of the chief elected official or governing legislative body of such a municipality or community, to a nonprofit land conservation organization or water company, for acquisition of land within that municipality or community, for open space under subdivisions (1) to (6), inclusive, of subsection (b) of said section 7-131d, as amended by this act, in an amount not to exceed seventy-five per cent of such value or for performance of work in the restoration, enhancement or protection of resources in an amount not to exceed fifty per cent of the cost of such work. Applicants for grants under the program shall provide a copy of the application to the chairperson of the review board established under section 7-131e. The board shall provide comments to the commissioner on pending applications as it deems necessary.

(b) For purposes of this subsection, the fair market value of land or

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interest in land shall be determined by one or more appraisals satisfactory to the commissioner and shall not include incidental costs, including, but not limited to, surveying, development or closing costs. The commissioner may consider a portion of the fair market value of a donation of land by an entity receiving a grant as a portion of the matching funds required under this subsection. A grantee may use funds made available by the state, pursuant to subsection (a) of this section, and the federal government to fund not more than ninety per cent of the fair market value of any project funded under the program, except the commissioner may authorize a grantee to use such state funds provided pursuant to subsection (a) of this section and any funds made available by the federal government to fund one hundred per cent of the fair market value of any project funded under said program if the commissioner determines that any of the following conditions exist: (1) The grantee committed or expended significant resources, including, but not limited to, payment of such incidental costs, toward the acquisition and preservation in perpetuity of such land; (2) that the grantee committed or expended significant resources for the care, maintenance or preservation of such land that was consistent with the intent of the open space and watershed land acquisition program, as described in section 7-131d, as amended by this act; (3) that such project will provide a significant recreational opportunity or natural resource protection for the state and is consistent with: (A) The criteria of subsections (b) and (c) of section 7-131d, as amended by this act; (B) the additional considerations set forth in subsection (a) of section 7-131e; and (C) any written guidelines developed by the commissioner pursuant to said subsection; or (4) that such project is located in an area of the state with a limited amount of land available for such recreational opportunity or natural resource protection and is consistent with: (A) The criteria of subsections (b) and (c) of section 7-131d, as amended by this act; (B) the additional considerations set forth in subsection (a) of section 7-131e, except equitable geographic distribution of such grants; and (C) any written guidelines developed by the commissioner

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pursuant to said subsection.

(c) Notwithstanding the provisions of subdivision (3) of subsection (c) of section 7-131d, as amended by this act, any land that is the subject of the execution or recording of a conservation easement or restriction that resulted from a federally funded land conservation program, municipal conservation grant program or a private conservation grant program, prior to the recording of a permanent conservation easement described in subsection (e) of section 7-131d, shall not be construed to constitute land that has already been committed for public use, provided:

(1) Such prior conservation easement or restriction is executed after the execution of the grant agreement for a grant to preserve such land under the provisions of this section, (2) at the time of the recording of the permanent conservation easement required pursuant to subsection (e) of section 7-131d, any nonfederal holder of any such prior easement subordinates such holder's interests in the land to the interests of the state, (3) such other federal funds, municipal grant funds or private grant funds are used as matching funds for a grant issued under this section, and (4) the Commissioner of Energy and Environmental Protection determines, based on all pertinent circumstances, that the conveyance of such other conservation easement or restriction, in combination with the acquisition of the state's interest under this section, constitutes one concurrent acquisition of property or interests therein.

[(c)] (d) To the extent there is a balance of bonds authorized but not allocated by the State Bond Commission on or after July 1, 1998, pursuant to any bond act for the purposes of (1) the recreation and natural heritage trust program established under sections 23-73 to 23-79, inclusive, and (2) the municipal open space grant program established under sections 7-131c to 7-131g, inclusive, as amended by this act, the State Bond Commission shall authorize the issuance of such

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balance only for the purposes described in section 23-74 and sections 23-75 and 7-131d, as amended by this act, and in two substantially equal installments one in each half of the fiscal year commencing with the fiscal year ending June 30, 1999.

Sec. 11. Subsection (c) of section 7-131d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) No grant may be made under the protected open space and watershed land acquisition grant program established under subsection (a) of this section or under the Charter Oak open space grant program established under section 7-131t for: (1) Land to be used for commercial purposes or for recreational purposes requiring intensive development, including, but not limited to, golf courses, driving ranges, tennis courts, ballfields, swimming pools and uses by motorized vehicles other than vehicles needed by water companies to carry out their purposes, provided trails or pathways for pedestrians, motorized wheelchairs or nonmotorized vehicles shall not be considered intensive development; (2) land with environmental contamination over a significant portion of the property provided grants for land requiring remediation of environmental contamination may be made if remediation will be completed before acquisition of the land or any interest in the land and an environmental assessment approved by the Commissioner of Energy and Environmental Protection has been completed and no environmental use restriction applies to the land; (3) land which has already been committed for public use, except as provided in subsection (c) of section 7-131g, as amended by this act; (4) development costs, including, but not limited to, construction of ballfields, tennis courts, parking lots or roadways; (5) land to be acquired by eminent domain; or (6) reimbursement of in-kind services or incidental expenses associated with the acquisition of land. This subsection shall not prohibit the continuation of agricultural activity, the activities of a water company

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for public water supply purposes or the selling of timber incidental to management of the land which management is in accordance with approved forest management practices provided any proceeds of such timber sales shall be used for management of the land. In the case of land acquired under this section which is designated as a state park, any fees charged by the state for use of such land shall be used by the state in accordance with the provisions of title 23.