

House Transcripts, May 5, 2004: Excerpt regarding Public Act 04-209 (sSB 445)

Would the Clerk please call Calendar 534?

THE CLERK:

On Page 14, Calendar 534, SUBST. SB 445, AN ACT CONCERNING JURISDICTION OF MUNICIPAL INLAND WETLANDS COMMISSIONS. Favorable report of the Committee on Planning and Development.

SPEAKER LYONS: Representative Pat Widlitz.

REP. WARD: (86th) Madam Speaker?

SPEAKER LYONS: Representative Bob Ward.

REP. WARD: (86th) Madam Speaker, I rise for the purpose of exempting myself for appearance of a possible conflict on this matter.

SPEAKER LYONS: Yes, sir. That will be correctly noted.

REP. WARD: (86th) Thank you.

SPEAKER LYONS: Representative Pat Widlitz.

REP. WIDLITZ: (98th) Thank you, Madam Speaker. I move acceptance of the joint committee's favorable report and passage of the bill in concurrence with the Senate.

SPEAKER LYONS: The question before the Chamber is on acceptance and passage. Will you remark?

REP. WIDLITZ: (98th)

Thank you, Madam Speaker. In Avalon Bay versus the Wilton Inland Wetlands Commission decision, the developer who was denied an inland wetlands permit by the Town of Wilton claimed that the Inland Wetlands and Watercourses Act protects wetlands from physical damage or intrusion but not wildlife that might rely on the wetlands for a portion of its life cycle. The Supreme Court agreed. Noting that statutory definitions are narrowly drawn and limited to physical characteristics, the court ruled that the Act protects the physical characteristics of wetlands and watercourses and not the wildlife, including wetland-obligate species or bio-diversity.

Madam Speaker, the Clerk has LCO 4578. Would he please call and I be allowed to summarize?

SPEAKER LYONS: The Clerk has in his possession LCO 4578, designated Senate "A". Would the Clerk please call? The lady has asked leave to summarize.

THE CLERK: LCO No. 4578, Senate "A", offered by Senators Williams and Fasano.

SPEAKER LYONS: Representative Pat Widlitz.

REP. WIDLITZ: (98th)

Thank you, Madam Speaker. This amendment is a compromise that corrects any confusion that was created by the Wilton decision and is a statement of what the legislature intends the inland wetlands law to cover. The new sub-section C establishes that impacts to aquatic, plant or animal life and habitats are legitimately considered by local Wetland Commissions when such impacts occur in the wetland or watercourse.

The new Section D states an activity's impact on aquatic, animal or plant life in upland areas cannot be regulated by local Wetland Commissions unless such upland activity has a likely impact on the physical characteristics of the wetland or watercourse.

I move adoption, Madam Speaker.

SPEAKER LYONS:

The question before the Chamber is on adoption. Will you remark? Will you remark on the amendment that is before us? If not, let me try your minds. All those in favor please signify by saying Aye?

VOICES: Aye.

SPEAKER LYONS: Those opposed, Nay? The Ayes have it. The amendment is adopted. Will you remark further on the legislation before us?

Representative Duff.

REP. DUFF: (137th) Thank you, Madam Speaker. Madam Speaker, a question to the proponent of the bill?

SPEAKER LYONS: Please frame your question.

REP. DUFF: (137th) Thank you, Madam Speaker. To establish legislative intent, would this bill apply to pending applications or only these applications which are filed after the effective date of this bill? Through you, Madam Speaker.

SPEAKER LYONS: Representative Pat Widlitz.

REP. WIDLITZ: (98th) Thank you, Madam Speaker. Through you, Madam Speaker. The application will -- the bill is effective upon passage. The date of -- the statute already states that the date of receipt of a petition, application or request for appeal shall be the day of the next regularly scheduled meeting of the agency.

If an application has already been officially received, then it would not fall under this bill. This would be going forward. Applications received from this point forward. Through you, Madam Speaker.

SPEAKER LYONS: Representative Duff.

REP. DUFF: (137th) Thank you, Madam Speaker.

SPEAKER LYONS:

Will you remark further on the legislation before us? If not, staff and guests come to the well. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber. The House is voting by Roll Call. Members to the Chamber please.

SPEAKER LYONS:

Would the Clerk -- have all the members voted? Have all the members voted? Would the members please check the board and make sure your vote is accurately recorded? If all the members have voted, the machine will be locked. The Clerk will take a tally.

The Clerk will please announce the tally.

THE CLERK: SB 445, as amended by Senate "A", in concurrence with the Senate, Total number voting, 148; Necessary for passage, 75; Those voting Yea, 147; Those voting Nay, 1; Absent, not voting, 3.

SPEAKER LYONS: The bill as amended passes.