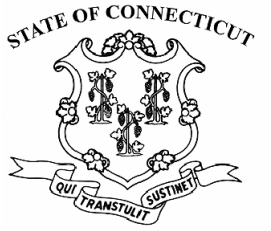

Substitute Senate Bill No. 440

Public Act No. 12-155

AN ACT CONCERNING PHOSPHOROUS REDUCTION IN STATE WATERS.

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

Section 1. (*Effective from passage*) The Commissioner of Energy and Environmental Protection, or the commissioner's designee and the chief elected officials of the cities of Danbury, Meriden and Waterbury and the towns of Cheshire, Southington and Wallingford, and the chief elected official of any other municipality impacted by the state-wide strategy to reduce phosphorus, or such chief elected officials' designees, shall collaboratively evaluate and make recommendations regarding a state-wide strategy to reduce phosphorus loading in inland nontidal waters in order to comply with standards established by the United States Environmental Protection Agency. Such evaluation and recommendations shall include (1) a state-wide response to address phosphorus nonpoint source pollution, (2) approaches for municipalities to use in order to comply with standards established by the United States Environmental Protection Agency for phosphorus, including guidance for treatment and potential plant upgrades, and (3) the proper scientific methods by which to measure current phosphorous levels in inland nontidal waters and to make future projections of phosphorous levels in such waters.

Sec. 2. (NEW) (*Effective January 1, 2013*) (a) For the purposes of this section:

(1) "Established lawn" means any area of ground that is covered with any species of grass for two or more growing seasons and that is customarily kept mowed;

(2) "Golf course" means an area solely designated for the play or practice of the game of golf, including, but not limited to, surrounding grounds, trees and ornamental beds; and

(3) "Impervious surface" means any structure, surface or improvement that reduces or prevents absorption of stormwater into land, including, but not limited to, porous paving, paver blocks, gravel, crushed stone, decks, patios and elevated structures.

(b) Notwithstanding chapter 427a of the general statutes, no person shall apply fertilizer, as defined in section 22-111b of the general statutes, any soil amendment, as defined in section 22-111aa of the general statutes, or any compost that contains phosphate to an established lawn, except when: (1) A soil testing method approved by the Commissioner of Agriculture and performed within the previous two years indicates the soil is lacking in phosphorus and fertilizer, soil amendments or compost containing phosphate is needed for the growth of such lawn, or (2) such fertilizer, soil amendment or compost containing phosphate is used for establishing new grass or repairing such lawn with seed or sod.

(c) The provisions of this section shall not apply to: (1) Property classified as agricultural land, as defined in section 22-26bb of the general statutes, or (2) a golf course.

(d) Notwithstanding subsection (b) of this section, no person shall apply any fertilizer, as defined in section 22-111b of the general statutes, soil amendment, as defined in section 22-111aa of the general

statutes, or compost that contains phosphate to any lawn during the period beginning December first and ending March fifteenth of the following year.

(e) Notwithstanding chapters 427a and 441 of the general statutes and subsections (b) and (d) of this section, no person shall apply any fertilizer, as defined in section 22-111b of the general statutes, soil amendment, as defined in section 22-111aa of the general statutes, or compost that contains phosphate to any portion of a lawn that is located twenty feet or less from any brook, stream, river, lake, pond, sound or any other body of water, except if such fertilizer, soil amendment or compost is applied with the use of a drop spreader, rotary spreader with a deflector or targeted spray liquid, such application may occur on any portion of lawn that is located not less than fifteen feet from any such brook, stream, river, lake, pond, sound or any other body of water.

(f) No person shall apply any fertilizer, as defined in section 22-111b of the general statutes, soil amendment, as defined in section 22-111aa of the general statutes, or compost that contains phosphate to any impervious surface.

(g) For use by the general public or posting and distribution at retail points of sale, the Commissioner of Agriculture may approve consumer information on use restrictions and best practices for fertilizer, soil amendments and compost that contain phosphate.

(h) The Commissioner of Agriculture may adopt regulations, in accordance with chapter 54 of the general statutes, to implement the provisions of this section.

(i) Any person who violates subsection (b), (d), (e), (f) or (g) of this section shall be assessed a civil penalty by the Commissioner of Agriculture of five hundred dollars.

(j) Nothing in this section shall be construed to prohibit the use of any fertilizer, soil amendment or compost that contains 0.67 per cent or less phosphate.

Sec. 3. Subsection (c) of section 22a-478 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) The funding of an eligible water quality project shall be pursuant to a project funding agreement between the state, acting by and through the commissioner, and the municipality undertaking such project and shall be evidenced by a project fund obligation or grant account loan obligation, or both, or an interim funding obligation of such municipality issued in accordance with section 22a-479. A project funding agreement shall be in a form prescribed by the commissioner. Eligible water quality projects shall be funded as follows:

(1) A nonpoint source pollution abatement project shall receive a project grant of seventy-five per cent of the cost of the project determined to be eligible by the commissioner.

(2) A combined sewer project shall receive (A) a project grant of fifty per cent of the cost of the project, and (B) a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs.

(3) A construction contract eligible for financing awarded by a municipality on or after July 1, **[**1999**]** 2012, as a project undertaken for **[**nitrogen**]** nutrient removal shall receive a project grant of thirty per cent of the cost of the project associated with **[**nitrogen**]** nutrient removal, a twenty per cent grant for the balance of the cost of the project not related to **[**nitrogen**]** nutrient removal, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs. **[**Nitrogen**]** Nutrient

removal projects under design or construction on July 1, **[**1999**]** 2012, and projects that have been constructed but have not received permanent, Clean Water Fund financing, on July 1, **[**1999**]** 2012, shall be eligible to receive a project grant of thirty per cent of the cost of the project associated with **[**nitrogen**]** nutrient removal, a twenty per cent grant for the balance of the cost of the project not related to **[**nitrogen**]** nutrient removal, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs.

(4) If supplemental federal grant funds are available for Clean Water Fund projects specifically related to the clean-up of Long Island Sound that are funded on or after July 1, **[**2003**]** 2012, a distressed municipality, as defined in section 32-9p, may receive a combination of state and federal grants in an amount not to exceed fifty per cent of the cost of the project associated with **[**nitrogen**]** nutrient removal, a twenty per cent grant for the balance of the cost of the project not related to **[**nitrogen**]** nutrient removal, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the allowable water quality project costs.

(5) A municipality with a water pollution control project, the construction of which began on or after July 1, 2003, which has (A) a population of five thousand or less, or (B) a population of greater than five thousand which has a discrete area containing a population of less than five thousand that is not contiguous with the existing sewerage system, shall be eligible to receive a grant in the amount of twenty-five per cent of the design and construction phase of eligible project costs, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs.

(6) Any other eligible water quality project shall receive (A) a project grant of twenty per cent of the eligible cost, and (B) a loan for the remainder of the costs of the project, not exceeding one hundred per

cent of the eligible project cost.

(7) Project agreements to fund eligible project costs with grants from the Clean Water Fund that were executed during or after the fiscal year beginning July 1, 2003, shall not be reduced according to the provisions of the regulations adopted under section 22a-482.

(8) On or after July 1, 2002, an eligible water quality project that exclusively addresses sewer collection and conveyance system improvements may receive a loan for one hundred per cent of the eligible costs provided such project does not receive a project grant. Any such sewer collection and conveyance system improvement project shall be rated, ranked, and funded separately from other water pollution control projects and shall be considered only if it is highly consistent with the state's conservation and development plan, or is primarily needed as the most cost effective solution to an existing area-wide pollution problem and incorporates minimal capacity for growth.

(9) All loans made in accordance with the provisions of this section for an eligible water quality project shall bear an interest rate of two per cent per annum. The commissioner may allow any project fund obligation, grant account loan obligation or interim funding obligation for an eligible water quality project to be repaid by a borrowing municipality prior to maturity without penalty.

Approved June 15, 2012