
OLR Bill Analysis

SB 289

AN ACT CONCERNING THE AUTHORITY OF THE DEPARTMENTS OF ENERGY AND ENVIRONMENTAL PROTECTION AND TRANSPORTATION OVER VEGETATION MANAGEMENT.

SUMMARY

This bill creates an 11-member Beneficial Arbor Retention Commission that must exercise care, custody, and control of all trees, shrubs, and vegetation in state parks and campgrounds (§ 1). It places the commission within the Department of Energy and Environmental Protection (DEEP) for administrative purposes.

The bill requires the commission to appoint a DEEP-licensed arborist for each state park and campground. It establishes standards and processes that the commission must follow before authorizing any tree or shrub removal or pruning, including public notice of proposed work unless a tree's or shrub's condition constitutes a public hazard, in which case it may be removed or pruned immediately.

The bill also requires DEEP to work with the commission to implement the tree replanting demonstration project at Housatonic Meadows State Park that is required under existing law. Under the bill, DEEP must report to the Environment Committee by December 1, 2024, on the project and any associated funding needs (§ 2).

Lastly, the bill requires the owner, lessor, or operator of land clearing or grinding machinery or equipment used for vegetation management or removal at a Department of Transportation (DOT) maintenance or construction project to get a Certificate of Limited Effects for Arbor Non-Retainment from DEEP within 30 days before using the machinery or equipment at the project (§ 3). The bill outlines what DEEP may consider when deciding to issue a certificate, and allows DEEP to place conditions on the machinery's or equipment's use (e.g., to lower

greenhouse gas emissions and manage invasive species). The bill requires that work done under a certificate must be performed during daylight hours.

EFFECTIVE DATE: July 1, 2024, except for the provisions related to the Housatonic Meadows State Park tree replanting project, which take effect October 1, 2024.

§ 1 — BENEFICIAL ARBOR RETENTION COMMISSION

Commission Membership

Under the bill, the governor, legislative leaders, and DEEP commissioner must appoint the commission's members, most of whom must meet specified qualifications. The appointing authorities must fill any vacancies. The appointments are as shown in the below table.

Table: Beneficial Arbor Retention Commission Members

| <i>Appointing Authority</i> | <i>Appointee Qualifications</i> |
|------------------------------------|--|
| Governor (2) | One Connecticut Agricultural Experiment Station representative One environmental justice community resident |
| House speaker (2) | One with expertise in tree management, maintenance, and removal of dead or diseased trees One with landscape architecture expertise |
| Senate president pro tempore (2) | One licensed arborist One representative of a nonprofit with the primary mission of supporting the state's parks and preserving and retaining the state's tree canopy |
| House majority leader (1) | One with expertise in carbon sink methods |
| Senate majority leader (1) | One state parks patron |
| House minority leader (1) | One with premises liability expertise |
| Senate minority leader (1) | One with Connecticut tree law expertise |
| DEEP commissioner (1) | None specified |

Members must (1) serve without compensation for a term that is coterminous with their appointing authority and (2) designate a member to be chairperson, who can call meetings. The commission must meet at least once quarterly. Six members constitute a quorum to conduct business.

Commission Duties

The bill requires the commission to set up a website, hosted on DEEP's website, by January 1, 2025. The commission must also appoint a DEEP-licensed arborist for each state park and campground and, by January 31 annually, post the assignments on its website. The bill establishes standards and processes that the commission must follow before authorizing any tree or shrub removal or pruning (see below).

Annually, beginning by December 1, 2025, the commission must report to the Environment Committee on its (1) state park and campground tree and shrub retention and hazardous tree mitigation efforts and (2) funding needs.

Authorizing Work; Public Notice and Hearing

Beginning October 1, 2024, before the commission authorizes any tree or shrub removal or pruning in a state park or campground, it must consult with the assigned arborist for the area. If the tree's or shrub's condition is an immediate public hazard in the arborist's opinion based on specified criteria (see below), the commission may have the tree or shrub removed or pruned immediately after consulting with the arborist.

If not an immediate public hazard, the commission must post on each affected tree or shrub, at least 10 days before the proposed work, the intention to remove or prune it. If anyone objects to the proposed work, they may petition the commission in writing on a commission-prescribed form, in which case the commission must suspend the proposed work and hold a public hearing under the Uniform Administrative Procedure Act. The commission must (1) give at least 10 days' notice of the hearing date and time to anyone the commission knows is interested in the petition and (2) post the hearing notice on each affected tree or shrub.

Within 10 days after the hearing, the commission must give notice of its decision about the removal or pruning to anyone it knows is interested in the petition.

Arborist Considerations for Public Hazard Determination

When determining if a tree or shrub is an immediate public hazard, the bill requires that the assigned arborist for the state park or campground consider the:

1. tree's or shrub's proximity to the public's use of the park or campground, and if physical changes to their use could reasonably change the determination of an immediate public hazard;
2. feasibility of pruning or applying pesticide instead of removing a tree or shrub; and
3. tree's or shrub's age and history to determine if it has social or scenic value.

Public Hazard Tree or Shrub Removal Records

The bill requires the commission to record the (1) date and location of each tree or shrub removed based on the arborist's decision that it was an immediate public hazard and (2) arborist's specific determination after considering the above factors. The commission must post this record on its website within three days after the tree or shrub removal.

§ 3 — CERTIFICATE OF LIMITED EFFECTS FOR ARBOR NON-RETAINMENT

The bill requires the owner, lessor, or operator of land clearing or grinding machinery or equipment used for vegetation management or removal at a DOT maintenance or construction project to get a certificate from DEEP within 30 days before using the machinery or equipment at the project.

Under the bill, DEEP may consider the following when deciding to issue a certificate:

1. if use of the machinery or equipment is consistent with the state's greenhouse gas emissions goals;

2. the effects of any particulate matter connected with operating or using the machinery or equipment, including any disproportionate effects on environmental justice communities; and
3. the likelihood of spreading invasive plants from one project site to another from the use and reuse of the machinery or equipment.

The bill allows DEEP to set conditions for the use of the machinery or equipment under a certificate, including the following:

1. hourly limits for the use of the machinery or equipment (as long as all work is done during daylight hours);
2. the use of alternative machinery or equipment that results in lower greenhouse gas emissions or particulate matter;
3. implementing best practices for the removal and disposal of invasive species from the machinery or equipment; and
4. inspection of the proposed work site by a licensed arborist.

The bill also prohibits DEEP from issuing any certificate before DOT's maintenance and engineering divisions submit their vegetation management guidelines to the Environment and Transportation committees. (PA 23-135, § 33, required DOT to develop, and revise as needed, guidelines for tree and vegetation management, removal, and replacement along state highways for employees and contractors to use for maintenance and construction projects. The guidelines were due to the committees by January 1, 2024. DOT submitted them on March 8, 2024.)

BACKGROUND

Related Bill

HB 5484, favorably reported by the Transportation Committee, requires DOT to submit its vegetation management guidelines to the Environment and Transportation committees for approval (or deemed approval if no committee action is taken within 30 days) before the

guidelines can take effect. It also prohibits DOT from removing any trees or vegetation during maintenance or construction projects until the guidelines are approved, unless removal is needed for public safety or due to a weather-related civil preparedness emergency.

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 33 Nay 1 (03/20/2024)