November 7, 2017

Connecticut Has a Budget! Key Environmental Provisions

The Connecticut General Assembly adjourned in June and now – 123 days later – Governor Dannel Malloy last Tuesday signed into law a two-year state budget. The governor did not adopt the budget, as passed overwhelmingly by both houses of the General Assembly, in its entirety. He exercised his line-item veto authority to eliminate appropriations in support of a proposed hospital tax. Other programs were not directly affected by the governor's line-item veto. Budget provisions of significance on the environmental front include:

Brownfields

The budget creates a new program supporting the remediation and reuse of properties meeting the definition of a brownfield. The newly created 7/7 Brownfields program, housed within the Connecticut Department of Economic and Community Development (DECD), will provide tax incentives for participating businesses that develop designated brownfields and other abandoned Connecticut properties. Participation in the program requires various state certifications and approvals, including the certification that the property is a qualifying brownfield or it has been underutilized or abandoned for at least 10 years. Additionally, the participating owner must commit to hiring at least 30 percent of its workforce from students enrolled in programs of study at area high schools and regional-community technical schools that were developed in response to the owner's plan identifying anticipated workforce needs and workforce training requirements. Once accepted into the 7/7 Brownfields program and following the completion of remediation, a participating owner will be eligible for tax benefits set forth in the legislation. The legislation directs DECD to adopt regulations applicable to the 7/7 Brownfields program, in consultation with the Connecticut Department of Revenue Services.

Permit Streamlining

The budget legislation requires that the Connecticut Department of Energy & Environmental Protection (DEEP) review and take final action on various types of permits and authorizations within 90 days of application. If final action is not taken within this 90 days, the application will be deemed approved. Applications and authorizations listed in the legislation include, among others:

- air permits for the temporary use of diagnostic and therapeutic x-ray or radioactive materials and industrial devices
- aquifer protection and aquifer protection registration
- coastal management consistency form for federal authorization
- certificate of permission
- emergency authorization to discharge to groundwater to remediate pollution
- disposal of special waste
- pesticides in state waters
- waste transportation
- e-waste: covered recycler
- emergency discharge authorization
- pesticide certification licensing and registration

- solid-waste facility operator

Budget Transfers/Allocations Impacting Environmental and Energy Program Funding

Budget provisions direct to the General Fund more than $175 million in funds otherwise earmarked for environmental and energy programs.

- For each of the 2018 and 2019 fiscal years, $10 million will be transferred from the Regional Greenhouse Gas account to the General Fund.
- For each of the 2018 and 2019 fiscal years, $14 million will be transferred from the Clean Energy Fund to the General Fund.
- For each of the 2018 and 2019 fiscal years, $63.5 million will be transferred from the Energy Conservation and Load Management Fund to the General Fund.
- For the 2018 fiscal year, $2.5 million will be transferred from the Consumer Counsel and Public Utility Control Fund to the General Fund.

The budget creates certain bonding authorization caps, in one instance reducing proceeds from the sale of bonds potentially available to the Connecticut Green Bank for purposes of the Green Connecticut Loan Guaranty Fund program.

All of the above-mentioned provisions became effective from passage. This includes the 7/7 Brownfields program, which is applicable to taxable and income years commencing on or after January 1, 2017. Should you have any questions regarding the budget provisions discussed above, please feel free to contact any of the attorneys listed in the sidebar.

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