



General Assembly

Substitute Bill No. 1240

January Session, 2001

AN ACT TO PERMIT THE BRISTOL RESOURCE RECOVERY FACILITY OPERATING COMMITTEE TO FINANCE PROJECTS AND REFUND PREVIOUSLY ISSUED BONDS.

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

1 Section 1. Section 1 of special act 92-25 is amended to read as
2 follows:

3 As used in [this act] special act 92-25, as amended by this act:

4 (1) "Bonds" means bonds, notes or other obligations, including, but
5 not limited to, refunding bonds.

6 (2) "Inter-community agreement" means the agreement dated as of
7 August 1, 1985, by and among the towns and cities of Bristol and New
8 Britain and the towns of Berlin, Burlington, Plainville, Plymouth,
9 Southington and Washington, as such agreement has been amended to
10 include the towns of Wolcott, Warren, Hartland, Branford, Seymour
11 and Prospect and as such agreement may be further amended from
12 time to time.

13 (3) "Original bonds" means the seventy-three million five hundred
14 twenty thousand dollars face amount of Connecticut Development
15 Authority Solid Waste and Electric Revenue Bonds, Ogden Martin
16 Systems of Bristol, Inc. Project -1985 Series, issued September 18, 1985.

17 (4) "Original project agreements" means all agreements or contracts
18 and amendments thereto entered into with respect to the issuance of
19 the original bonds and the security therefor, including, but not limited
20 to, the loan agreement, security agreement, service agreement, project
21 agreement, inter-community agreement, reimbursement agreement
22 and guarantee.

23 (5) "Project" means the mass burn solid waste disposal, electric
24 power generating and resource recovery facility in the city of Bristol,
25 financed by the original bonds.

26 (6) "Refunding bonds" means bonds issued pursuant to this act to
27 refinance the project and to finance related cost of such refinancing
28 and to refinance any bonds issued by the committee.

29 (7) "Committee" means the resource recovery operating committee
30 created pursuant to [section 22a-221(c)] subsection (c) of section 22a-
31 221 and the inter-community agreement.

32 (8) "Landfill project" means activities required to provide landfill
33 services to the municipalities of the committee that include, but are not
34 limited to, the planning, acquiring, constructing, closing or expanding
35 the city of Bristol landfill; providing a new landfill or access to a new
36 landfill in any location; the payment of engineering and consulting
37 fees; site preparation; wetlands replication; storm water management;
38 landfill capping; monitoring, acquisition or transfer of real property or
39 interests therein; providing gas control mechanisms, equipment,
40 landscaping and all necessary and appropriate appurtenances thereto
41 or the financing of costs, including, but not limited to, legal, printing,
42 administrative, financing and related costs or the committee's share of
43 such costs pursuant to an agreement to provide, develop or operate a
44 landfill and share costs with other entities in connection with the
45 landfill project.

46 Sec. 2. Section 2 of special act 92-25 is amended to read as follows:

47 (a) The committee is authorized to issue (1) refunding bonds to

48 refinance all or any portion of the outstanding original bonds,
49 [including costs] (2) bonds to finance a project, and (3) refunding
50 bonds. Such bonds may include the cost of issuance, debt service
51 reserve, interest on the [refunding] bonds for a period not to exceed
52 five years, credit enhancement, call premium, fees and costs associated
53 with any contract entered into by the committee pursuant to this
54 section and notice of redemption of the original or prior bonds, and in
55 connection therewith to enter into [agreements for the purpose of
56 moderating interest rate fluctuations, including investment contracts,
57 funding agreements] forward purchase agreements and agreements to
58 issue bonds at a future date.

59 (b) In connection with or incidental to the carrying of bonds or in
60 connection with or incidental to the issuance of bonds, the committee
61 may enter into such contracts as it may determine to be necessary or
62 appropriate to place the obligations of the committee, as represented
63 by the bonds, in whole or in part, on such interest rate or cash flow
64 basis as the committee may determine, including, but not limited to,
65 interest rate swap agreements, insurance agreements, forward
66 payment conversion [and forward purchase agreements, agreements
67 to issue bonds at a future date, future] agreements, futures contracts,
68 contracts providing for payments based on levels of or changes in
69 interest rates, or market indices, contracts to [exchange cash flows or a
70 series of payments, contracts] manage interest rate risk, including
71 without limitation, [credit facilities authorized pursuant to section 7-
72 370b of the general statutes, remarketing, options, puts or calls to
73 hedge payment, rate, spread or similar exposure] interest rate floors or
74 caps, options, puts, calls and similar arrangements. Such contracts
75 shall contain such payment, security, default, remedy and other terms
76 and conditions as the committee may deem appropriate and shall be
77 entered into with such party or parties as the committee may select,
78 after giving due consideration, where applicable, to the
79 creditworthiness of the counter party or counter parties, including any
80 rating by a nationally recognized rating agency, the impact on any
81 rating of any outstanding bonds or any other criteria as the committee

82 may deem appropriate, provided the long-term obligations of the
83 counter party is rated the same or higher than the underlying rating of
84 the committee on the applicable bonds by at least one nationally
85 recognized rating agency. The committee may pledge the collateral
86 that secures the applicable bonds or notes to the committee's payment
87 obligations under any agreement entered into pursuant to this section.
88 As part of a contract between the committee and the parties to any
89 agreement entered into pursuant to this section appropriation of all
90 amounts necessary for the punctual payment of the obligations of the
91 committee under such agreement is hereby made and the committee
92 shall pay such amounts as the same become due.

93 (c) The committee may obtain from a commercial bank or an
94 insurance company authorized to do business within or without this
95 state a letter of credit, line of credit or other liquidity facility or credit
96 facility for the purpose of providing funds for the payment in respect
97 of bonds required by the holder thereof to be redeemed or repurchased
98 prior to maturity or for providing additional security for such bonds.
99 In connection therewith, the committee may enter into reimbursement
100 agreements, remarketing agreements, standby bond purchase
101 agreements or any other necessary or appropriate agreements. The
102 committee may pledge the collateral that secures the applicable bonds
103 for the committee's payment obligations under any agreement entered
104 into pursuant to this section. As part of the contract between the
105 committee and the parties to any agreement entered into pursuant to
106 this section, appropriation of all amounts necessary for the punctual
107 payment of the obligations of the committee under such agreement is
108 hereby made and the committee shall pay such amounts as the same
109 become due.

110 (d) Any pledge of collateral made pursuant to this section shall be in
111 effect until the obligation for which the pledge is made has been fully
112 paid or terminated, or provision has been made for such payment. Any
113 such pledge shall be valid and binding from the time when the pledge
114 is made; moneys or rents so pledged and thereafter received by the
115 committee shall immediately be subject to the lien of such pledge

116 without any physical delivery thereof or further act; and the lien of any
117 such pledge shall be valid and binding as against parties having claims
118 of any kind in tort, contract, or otherwise, against the committee,
119 irrespective of whether such parties have notice of such lien. Neither
120 the resolution, trust indenture pledge or security agreement nor any
121 other instrument by which a pledge is created need be recorded.

122 Sec. 3. Section 3 of special act 92-25, as amended by section 9 of
123 special act 93-40, is amended to read as follows:

124 The principal of and interest on [refunding] bonds issued by the
125 committee, and any agreement as set forth in section 2 of special act 92-
126 25, as amended by this act, may be secured by a pledge of any
127 revenues and receipts of the committee derived from the project and
128 may be additionally secured by the assignment of a lease of the project
129 or by an assignment of the revenues and receipts derived by the
130 committee from any such lease. The payment of principal and interest
131 on such [refunding] bonds may be additionally secured by a pledge of
132 any other property, revenues, moneys or funds available to the
133 committee for such purpose. The resolution authorizing the issuance of
134 [refunding] bonds and any such lease may contain or authorize
135 agreements and provisions respecting (1) the establishment of reserves
136 to secure such [refunding] bonds, (2) the maintenance and insurance of
137 the project covered thereby, (3) the fixing and collection of rents for
138 any portion thereof leased by the committee to others, (4) the creation
139 and maintenance of special funds from such revenues, (5) the rights
140 and remedies available in the event of default, (6) provision for a trust
141 agreement by and between the committee and a corporate trustee or
142 trustees which may be any trust company or bank having the powers
143 of a trust company within or without the state, which agreement may
144 provide for the pledge or assigning of any assets or income from assets
145 to which or in which the committee has rights or interest, the vesting
146 in such trustee or trustees of such property, rights, powers and duties
147 in trust as the committee may determine, which may include any or all
148 of the rights, powers and duties of any trustee appointed by the
149 holders of any [refunding] bonds and limiting or abrogating the right

150 of the holders of any [refunding] bonds to appoint a trustee or limiting
151 rights, powers and duties of such trustee, and may further provide for
152 such other rights and remedies exercisable by the trustee as may be
153 proper for the protection of the holders of any [refunding] bonds and
154 not otherwise in violation of law. Such trust agreement may provide
155 for the restriction of rights of any individual holder of [refunding]
156 bonds of the committee and may contain any provisions which are
157 reasonable to delineate further the respective rights, due safeguards,
158 responsibilities and liabilities of the committee, persons and collective
159 holders of [refunding] bonds of the committee and the trustee, (7)
160 covenants to do or refrain from doing acts and things as may be
161 necessary or convenient or desirable in order to better secure
162 [refunding] bonds of the committee, or which, in the discretion of the
163 committee, will tend to make any [refunding] bonds to be issued more
164 marketable, notwithstanding that such covenants or things may not be
165 enumerated in this act, [;] and (8) any other matters of like or different
166 character, which in any way affect the security or protection of the
167 [refunding] bonds, all as the committee shall deem advisable and not
168 in conflict with the provisions of this act. Each pledge, agreement or
169 assignment of lease made for the benefit or security of any [refunding]
170 bonds of the committee shall be in effect until the principal of and
171 interest on the [refunding] bonds for the benefit of which the same
172 were made have been fully paid, or until provision has been made for
173 the payment in the manner provided in the resolution or resolutions
174 authorizing the issuance. Any pledge made in respect of such
175 [refunding] bonds shall be valid and binding from the time when the
176 pledge is made; moneys or rents so pledged and thereafter received by
177 the committee shall immediately be subject to the lien of such pledge
178 without any physical delivery thereof or further act; and the lien of any
179 such pledge shall be valid and binding as against parties having claims
180 of any kind in tort, contract or otherwise against the committee,
181 irrespective of whether such parties have notice thereof. Neither the
182 resolution, trust indenture nor any other instrument by which a pledge
183 is created need be recorded. The committee may, without further
184 approval of the legislative bodies of the municipalities which are

185 parties to the original project agreements, assign, amend, reaffirm, or
186 terminate any or all of such original project agreements to secure the
187 [refunding] bonds and exercise the powers set forth in this act by vote
188 taken in accordance with the inter-community agreement. The
189 resolution authorizing the issuance of such [refunding] bonds may
190 provide for the enforcement of any such pledge or security in any
191 lawful manner.

192 Sec. 4. Section 4 of special act 92-25, as amended by section 12 of
193 special act 93-40, is amended to read as follows:

194 The exercise of the powers granted by this act constitutes the
195 performance of an essential governmental function and the committee
196 shall not be required to pay any taxes or assessments upon or in
197 respect of [the] any project, or any property or moneys of the
198 committee, levied by any municipality or political subdivision or
199 special district having taxing powers of the state, nor shall the
200 committee be required to pay state taxes of any kind, and the
201 committee, its projects, property and money and any [refunding]
202 bonds issued under the provisions of this act, their transfer and the
203 income therefrom, including revenues derived from the sale thereof,
204 shall at all times be free from taxation of every kind by the state except
205 for estate or succession taxes and by the municipalities and all other
206 political subdivisions or special districts having taxing powers of the
207 state, provided nothing herein shall prevent the committee from
208 entering into agreements to make payments in lieu of taxes with
209 respect to property acquired by it or by any person leasing a project
210 from the committee or operating or managing a project on behalf of the
211 committee and neither the committee nor its projects, properties,
212 money or [refunding] bonds shall be obligated, liable or subject to lien
213 of any kind for enforcement, collection or payment thereof. If and to
214 the extent the proceedings under which the [refunding] bonds
215 authorized to be issued under the provisions of this act so provide, the
216 committee may agree to cooperate with the lessee or operator of the
217 project in connection with any administrative or judicial proceedings
218 for determining the validity or amount of such payment and may

219 agree to appoint or designate and reserve the right in and for such
220 lessees or operators to take all action which the committee may
221 lawfully take in respect of such payments and all matters relating
222 thereto, and such agreement may provide such lessee or operator shall
223 bear and pay costs and expenses of the committee thereby incurred at
224 the request of such lessee or operator or by reason of any such action
225 taken by such lessee or operator in behalf of the committee. Any lessee
226 or operator of a project which has paid the amounts in lieu of taxes
227 permitted by this section to be paid shall not be required to pay any
228 such taxes in which a payment in lieu thereof has been made to the
229 state or to any such municipality or other political subdivision or
230 special district having taxing powers, any other statutes to the contrary
231 notwithstanding.

232 Sec. 5. Section 5 of special act 92-25, as amended by section 10 of
233 special act 93-40, is amended to read as follows:

234 (a) The [refunding] bonds may be issued in one or more series in
235 such aggregate principal amounts and bearing rate or rates of interest,
236 be executed by manual or facsimile signatures, be issued as term bonds
237 with mandatory deposit of sinking fund payments, at par, a discount
238 or an original issue discount, with or without redemption provisions,
239 with principal and interest payments at such times and in such
240 amounts, be sold at public sale or by negotiation at such price or prices
241 and at such time or times, and contain and be issued in accordance
242 with such other terms, details and particulars as determined by the
243 committee, or delegated by the committee to such committee members
244 as it shall determine.

245 (b) Any proceeds derived from the sale of the [refunding] bonds,
246 and revenues, receipts and income pledged to the [refunding] bonds,
247 or from the project, may be invested and reinvested in such
248 obligations, securities or other investments that are legal investments
249 for the state, and in such obligations, securities, and other investments,
250 including time deposits or certificates of deposit, as shall be provided
251 in the resolution or resolutions authorizing the issuance of the

252 [refunding] bonds.

253 (c) Whether or not the [refunding] bonds are of such form and
254 character as to be negotiable instruments under article eight of title 42a
255 of the general statutes, the [refunding] bonds shall be and are hereby
256 made negotiable instruments within the meaning of and for all the
257 purposes of article eight of said title 42a, subject only to the provisions
258 of the [refunding] bonds for registration.

259 (d) The committee may provide in any resolution authorizing the
260 issuance of [refunding] bonds for the time and manner of and
261 requisites for disbursements to be made with respect to such bonds.

262 (e) The committee is further authorized and empowered to issue
263 [refunding] bonds under this act the interest on which may be
264 includable in the gross income of the holder or holders thereof under
265 the Internal Revenue Code of 1986, or any subsequent corresponding
266 internal revenue code of the United States, as from time to time
267 amended.

268 Sec. 6. Section 6 of special act 92-25 is amended to read as follows:

269 [Refunding bonds] Bonds issued by the committee under the
270 provisions of this act are hereby made securities in which all public
271 officers and public bodies of the state and its political subdivisions, all
272 insurance companies, credit unions, building and loan associations,
273 investment companies, savings banks, banking associations, trust
274 companies, executors, administrators, trustees and other fiduciaries
275 and pension, profit-sharing and retirement funds may properly and
276 legally invest funds, including capital in their control or belonging to
277 them. Such [refunding] bonds are hereby made securities which may
278 properly and legally be deposited with and received by any state or
279 municipal officer or any agency or municipality of the state for any
280 purpose for which the deposit of bonds or obligations of the state is
281 now or may hereafter be authorized by law.

282 Sec. 7. Section 11 of special act 93-40 is amended to read as follows:

283 Bonds of the committee issued pursuant to special act 92-25, as
284 amended by this act, shall not be deemed to constitute a debt or
285 liability of the state or of any municipality thereof or a pledge of the
286 faith and credit of the state or of any such municipality, and shall not
287 constitute bonds or notes issued or guaranteed by the state within the
288 meaning of section 3-21 of the general statutes, but shall be payable
289 solely from the revenues and funds herein provided therefor. All such
290 bonds shall contain on the face thereof a statement to the effect that
291 neither the state of Connecticut nor any municipality thereof other
292 than the committee shall be obligated to pay the same or the interest
293 thereon and that neither the faith and credit nor the taxing power of
294 the state of Connecticut or of any such municipality is pledged to the
295 payment of the principal of or the interest on such [refunding] bonds.

296 Sec. 8. In the performance of its duties and purposes under the inter-
297 community agreement, the committee is granted the powers afforded
298 to municipal or regional resource recovery authorities under
299 subsection (a) of section 7-273bb of the general statutes in addition to
300 any other powers it may otherwise have under the general statutes or
301 any public or special act. It is the intention of this act that the
302 committee shall be granted all powers necessary to fulfill the purposes
303 of this act and to carry out its responsibilities and that the provisions of
304 this act are to be construed liberally.

305 Sec. 9. Sections 1 to 8, inclusive, of special act 93-40 are repealed.

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JOINT FAVORABLE SUBST. C/R

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