



House of Representatives

General Assembly

File No. 486

January Session, 2003

Substitute House Bill No. 6402

House of Representatives, April 22, 2003

The Committee on Environment reported through REP. WIDLITZ of the 98th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO CERTAIN ENVIRONMENTAL QUALITY PROGRAMS.

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

1 Section 1. Subsection (c) of section 22a-478 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2003*):

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

12 (1) A nonpoint source pollution abatement project shall receive a

13 project grant of seventy-five per cent of the cost of the project
14 determined to be eligible by the commissioner.

15 (2) A combined sewer project shall receive [(1)] (A) a project grant of
16 fifty per cent of the cost of the project, [which cost shall be the cost the
17 federal Environmental Protection Agency uses in making grants
18 pursuant to Part 35 of the federal Construction Grant Regulations and
19 Titles II and VI of the federal Water Pollution Control Act, as amended;
20 and (2)] and (B) a loan for the remainder of the costs of the project, not
21 exceeding one hundred per cent of the eligible water quality project
22 costs.

23 (3) A construction contract eligible for financing awarded by a
24 municipality on or after July 1, 1999, as a project undertaken for
25 nitrogen removal shall receive a project grant of thirty per cent of the
26 cost of the project associated with nitrogen removal, a twenty per cent
27 grant for the balance of the cost of the project not related to nitrogen
28 removal, and a loan for the remainder of the costs of the project, not
29 exceeding one hundred per cent of the eligible water quality project
30 costs. Nitrogen removal projects under design or construction on July
31 1, 1999, and projects that have been constructed but have not received
32 permanent, clean water fund financing, on July 1, 1999, shall be eligible
33 to receive a project grant of thirty per cent [grant] of the cost of the
34 project associated with nitrogen removal, a twenty per cent grant for
35 the balance of the cost of the project not related to nitrogen removal,
36 and a loan for the remainder of the costs of the project, not exceeding
37 one hundred per cent of the eligible water quality project costs.

38 (4) If supplemental federal grant funds are available for Clean Water
39 Fund projects specifically related to the clean-up of Long Island Sound
40 that are funded on or after July 1, 2003, a distressed municipality, as
41 defined in section 32-9p, may receive a combination of state and
42 federal grants in an amount not to exceed fifty per cent of the cost of
43 the project associated with nitrogen removal, a twenty per cent grant
44 for the balance of the cost of the project not related to nitrogen
45 removal, and a loan for the remainder of the costs of the project, not

46 exceeding one hundred per cent of the allowable water quality project
47 costs.

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

57 (6) Any other eligible water quality project shall receive (A) a project
58 grant of twenty per cent of the eligible cost, [which cost shall be the
59 cost the federal Environmental Protection Agency uses for grants
60 pursuant to said Part 35 and said Titles II and VI,] and (B) a loan for
61 the remainder of the costs of the project, not exceeding one hundred
62 per cent of the eligible project cost.

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

67 (8) On or after July 1, 2006, all eligible water quality projects eligible
68 for funding shall receive a loan of one hundred per cent of the eligible
69 costs and shall not receive a project grant.

70 (9) On or after July 1, 2002, eligible water quality projects that
71 exclusively address sewer collection and conveyance system
72 improvements may receive a loan for one hundred per cent of the
73 eligible costs [and shall] provided such project does not receive a
74 project grant. Any such sewer collection and conveyance system
75 improvement project shall be rated, ranked, and funded separately
76 from other water pollution control projects and shall be considered
77 only if it is highly consistent with the state's conservation and

78 development plan, or is primarily needed as the most cost effective
79 solution to an existing area-wide pollution problem and incorporates
80 minimal capacity for growth.

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

87 Sec. 2. Subsection (e) of section 22a-478 of the general statutes is
88 amended by adding subdivision (3) as follows (*Effective July 1, 2003*):

89 (NEW) (3) If supplemental federal grant funds are available for
90 Clean Water Fund projects specifically related to the clean-up of Long
91 Island Sound that are funded on or after July 1, 2003, a distressed
92 municipality, as defined in section 32-9p, may receive a combination of
93 state and federal grants in an amount not to exceed one hundred per
94 cent of the cost, approved by the commissioner, for the planning phase
95 of an eligible water quality project for nitrogen removal.

96 Sec. 3. Subsections (a) and (b) of section 22a-133m of the general
97 statutes are repealed and the following is substituted in lieu thereof
98 (*Effective July 1, 2003*):

99 (a) An urban sites remedial action program is established to
100 identify, evaluate, plan for and undertake the remediation of polluted
101 real property. [which is deemed vital to the economic development
102 needs of the state.]

103 (b) The Commissioner of Economic and Community Development,
104 in consultation with the Commissioner of Environmental Protection,
105 shall establish the priority of sites for evaluation and remediation
106 based upon the following factors: (1) The estimated cost of evaluating
107 and remediating the site, if known; (2) the anticipated complexity of an
108 evaluation of the site; (3) the estimated schedule for completing an

109 evaluation; (4) the potential economic development benefits of the site
110 to the state of Connecticut; [and] (5) whether the site would not
111 otherwise be remediated without the assistance of this program; and
112 (6) any other factors which the commissioners deem relevant. No real
113 property shall be eligible for evaluation or remediation under this
114 section unless [:(A) The] the Commissioner of Economic and
115 Community Development finds that the state owns the site or
116 otherwise has or obtains the power to approve the type of
117 development which first occurs on the site after remediation. [; and (B)
118 the Commissioner of Environmental Protection is unable to determine
119 the responsible party for the pollution or the cleanup of the site, or the
120 responsible party is not in timely compliance with orders issued by the
121 commissioner to provide remedial action, or the commissioner has not
122 issued a final decision on an order to a responsible party to provide
123 remedial action because of (i) a request for a hearing on an order, or (ii)
124 an order issued is subject to an appeal pending before a court.] Except
125 for any site proposed for acquisition under subsection (e) of this
126 section, no real property shall be eligible for evaluation or remediation
127 under this section unless the site is located in a distressed
128 municipality, as defined in section 32-9p, or a targeted investment
129 community, as defined in section 32-222. For purposes of this section,
130 "responsible party" means any person, as defined in section 22a-2, who
131 created a source of pollution on the site or an owner of the site during
132 the investigation or remediation funded pursuant to this section.

133 Sec. 4. Subsection (h) of section 22a-133m of the general statutes is
134 repealed and the following is substituted in lieu thereof (*Effective July*
135 *1, 2003*):

136 (h) The Commissioner of Environmental Protection and the
137 Commissioner of Economic and Community Development shall jointly
138 identify urban community sites known to have, or suspected to have,
139 environmental contamination which, if remediated and developed,
140 will improve the urban environment. The Commissioner of
141 Environmental Protection and the Commissioner of Economic and
142 Community Development shall jointly establish the priority of such

143 sites for evaluation and remediation based upon the following factors:
144 (1) The potential benefits of remediation to the environment; (2) the
145 estimated cost of evaluating and remediating the site, if known; (3) the
146 potential benefits to the local community of such site; (4) community
147 support for remediation and redevelopment of such site; (5) the
148 commitment from investors or the municipality to redevelop the site;
149 and (6) any other factors which the commissioners deem relevant. No
150 real property shall be eligible for evaluation and remediation under
151 this subsection unless [:(A) The Commissioner of Environmental
152 Protection is unable to determine the responsible party, or the
153 responsible party is not in timely compliance with orders issued by the
154 commissioner to provide remedial action, or the commissioner has not
155 issued a final decision on an order to a responsible party to provide
156 remedial action because of a request for a hearing on an order or an
157 issued order is subject to an appeal pending before a court; (B)] (A) the
158 site is located in a distressed municipality, as defined in section 32-9p,
159 a targeted investment community, as defined in section 32-222, or an
160 enterprise corridor zone, as defined in section 32-80, or in such other
161 municipality as the Commissioner of Economic and Community
162 Development may designate, [;] and [(C)] (B) the site is not undergoing
163 evaluation or remediation under subsections (a) to (g), inclusive, of
164 this section.

165 Sec. 5. Subdivision (1) of section 22a-134 of the general statutes is
166 repealed and the following is substituted in lieu thereof (*Effective July*
167 *1, 2003*):

168 (1) "Transfer of establishment" means any transaction or proceeding
169 through which an establishment undergoes a change in ownership, but
170 does not mean (A) conveyance or extinguishment of an easement, (B)
171 conveyance of an establishment through a foreclosure, as defined in
172 subsection (b) of section 22a-452f or foreclosure of a municipal tax lien,
173 (C) conveyance of a deed in lieu of foreclosure to a lender, as defined
174 in and that qualifies for the secured lender exemption pursuant to
175 subsection (b) of section 22a-452f, (D) conveyance of a security interest,
176 as defined in subdivision (7) of subsection (b) of section 22a-452f, (E)

177 termination of a lease and conveyance, assignment or execution of a
178 lease for a period less than ninety-nine years including conveyance,
179 assignment or execution of a lease with options or similar terms that
180 will extend the period of the leasehold to ninety-nine years, or from
181 the commencement of the leasehold, ninety-nine years, including
182 conveyance, assignment or execution of a lease with options or similar
183 terms that will extend the period of the leasehold to ninety-nine years,
184 or from the [commence] commencement of the leasehold, (F) any
185 change in ownership approved by the Probate Court, (G) devolution of
186 title to a surviving joint tenant, or to a trustee, executor, or
187 administrator under the terms of a testamentary trust or will, or by
188 intestate succession, (H) corporate reorganization not substantially
189 affecting the ownership of the establishment, (I) the issuance of stock
190 or other securities of an entity which owns or operates an
191 establishment, (J) the transfer of stock, securities or other ownership
192 interests representing less than forty per cent of the ownership of the
193 entity that owns or operates the establishment, (K) any conveyance of
194 an interest in an establishment where the transferor is the sibling,
195 spouse, child, parent, grandparent, child of a sibling or sibling of a
196 parent of the transferee, (L) conveyance of an interest in an
197 establishment to a trustee of an inter vivos trust created by the
198 transferor solely for the benefit of one or more of the sibling, spouse,
199 child, parent, grandchild, child of a sibling or sibling of a parent of the
200 transferor, (M) any conveyance of a portion of a parcel upon which
201 portion no establishment is or has been located and upon which there
202 has not occurred a discharge, spillage, uncontrolled loss, seepage or
203 filtration of hazardous waste or a hazardous substance, provided
204 either the area of such portion is not greater than fifty per cent of the
205 area of such parcel or written notice of such proposed conveyance and
206 an environmental condition assessment form for such parcel is
207 provided to the commissioner sixty days prior to such conveyance, (N)
208 conveyance of a service station, as defined in subdivision (5) of this
209 section, (O) any conveyance of an establishment which, prior to July 1,
210 1997, had been developed solely for residential use and such use has
211 not changed, (P) any conveyance of an establishment to any entity

212 created or operating under chapter 130 or 132, or to an urban
213 rehabilitation agency, as defined in section 8-292, or to a municipality
214 under section 32-224, or to the Connecticut Development Authority or
215 any subsidiary of the authority, (Q) any conveyance of a parcel in
216 connection with the acquisition of properties to effectuate the
217 development of the overall project, as defined in section 32-651, (R) the
218 conversion of a general or limited partnership to a limited liability
219 company under section 34-199, (S) the transfer of general partnership
220 property held in the names of all of its general partners to a general
221 partnership which includes as general partners immediately after the
222 transfer all of the same persons as were general partners immediately
223 prior to the transfer, (T) the transfer of general partnership property
224 held in the names of all of its general partners to a limited liability
225 company which includes as members immediately after the transfer all
226 of the same persons as were general partners immediately prior to the
227 transfer, or (U) acquisition of an establishment by any governmental or
228 quasi-governmental condemning authority.

229 Sec. 6. Subdivisions (10) and (11) of section 22a-134 of the general
230 statutes are repealed and the following is substituted in lieu thereof
231 (*Effective July 1, 2003*):

232 (10) "Form I" means a written certification by the transferor of an
233 establishment on a form prescribed and provided by the commissioner
234 that: (A) No discharge, spillage, uncontrolled loss, seepage or filtration
235 of hazardous waste or a hazardous substance has occurred at the
236 establishment which certification is based on an investigation of the
237 parcel in accordance with prevailing standards and guidelines, or (B)
238 no discharge spillage, uncontrolled loss, seepage or filtration of
239 hazardous waste has occurred at the establishment based upon an
240 investigation of the parcel in accordance with the prevailing standards
241 and guidelines and the commissioner has determined, in writing, or a
242 licensed environmental professional has verified that any discharge,
243 spillage, uncontrolled loss, seepage or filtration of a hazardous
244 substance has been remediated in accordance with the remediation
245 standards;

246 (11) "Form II" means a written certification by the transferor of an
247 establishment on a form prescribed and provided by the commissioner
248 that the parcel has been investigated in accordance with prevailing
249 standards and guidelines and that (A) any pollution caused by a
250 discharge, spillage, uncontrolled loss, seepage or filtration of
251 hazardous waste or a hazardous substance which has occurred from
252 the establishment has been remediated in accordance with the
253 remediation standards and that the remediation has been approved in
254 writing by the commissioner or has been verified pursuant to section
255 22a-133x or section 22a-134a, as amended by this act, in [a] writing
256 attached to such form by a licensed environmental professional to have
257 been performed in accordance with the remediation standards, (B) the
258 commissioner has determined in writing or a licensed environmental
259 professional has verified pursuant to section 22a-133x or section
260 22a-134a, as amended by this act, in [a] writing attached to the form
261 that no remediation is necessary to achieve compliance with the
262 remediation standards, or (C) a Form IV verification previously
263 submitted to the commissioner and since the date of the submission of
264 [said] the Form IV, no discharge, spillage, uncontrolled loss, seepage or
265 filtration of hazardous waste or a hazardous substance has occurred at
266 the establishment, which certification is based on an investigation of
267 the parcel in accordance with prevailing standards and guidelines.

268 Sec. 7. Subsection (d) of section 22a-134a of the general statutes is
269 repealed and the following is substituted in lieu thereof (*Effective July*
270 *1, 2003*):

271 (d) The certifying party to a Form I, Form II, Form III or Form IV
272 shall (1) upon receipt of a written request from the commissioner,
273 provide to the commissioner copies of all technical plans, reports and
274 other supporting documentation relating to the investigation of the
275 parcel or remediation of the establishment as specified in the
276 commissioner's written request, and (2) simultaneously submit with
277 the submission of a Form I, [Form II,] Form III or Form IV to the
278 commissioner a complete environmental condition assessment form
279 and shall certify to the commissioner, in writing, that the information

280 contained in such form is correct and accurate to the best of the
281 certifying party's knowledge and belief.

282 Sec. 8. Subsection (i) of section 22a-134a of the general statutes is
283 repealed and the following is substituted in lieu thereof (*Effective July*
284 *1, 2003*):

285 (i) The certifying party to a Form III or Form IV shall (1) publish
286 notice of the remediation, in accordance with the schedule submitted
287 pursuant to this section, in a newspaper having a substantial
288 circulation in the area affected by the establishment, (2) notify the
289 director of health of the municipality where the establishment is
290 located of the remediation, and (3) either (A) erect and maintain for at
291 least thirty days in a legible condition a sign not less than six feet by
292 four feet on the establishment, which sign shall be clearly visible from
293 the public highway, and shall include the words "ENVIRONMENTAL
294 CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER
295 INFORMATION CONTACT:" and include a telephone number for an
296 office from which any interested person may obtain additional
297 information about the remediation, or (B) mail notice of the
298 remediation to each owner of record of property which abuts the
299 [establishment] parcel, at the address for such property on the last-
300 completed grand list of the municipality where the establishment is
301 located.

302 Sec. 9. Subsection (m) of section 22a-134a of the general statutes is
303 repealed and the following is substituted in lieu thereof (*Effective July*
304 *1, 2003*):

305 (m) Failure of the commissioner to notify any party in accordance
306 with the provisions of this section in no way limits the ability of the
307 commissioner to enforce the provisions of sections 22a-134 to [22a-
308 134f] 22a-134e, inclusive, as amended by this act.

309 Sec. 10. Section 22a-174g of the general statutes is repealed and the
310 following is substituted in lieu thereof (*Effective July 1, 2003*):

311 As part of the state's implementation plan under the federal Clean
312 Air Act, the Commissioner of Environmental Protection may establish
313 a program to allow the sale, purchase and use of motor vehicles which
314 comply with any regulations adopted by the commissioner which
315 implement the California motor vehicles emissions standards for
316 purposes of generating any emission reduction credits under said act.
317 Nothing in this section shall prohibit the Commissioner of
318 Environmental Protection from establishing a program to require the
319 sale, purchase and use of motor vehicles which comply with any
320 regulations adopted by the commissioner which implement the
321 California motor vehicle emissions standards. Such regulations may
322 incorporate by reference the California motor vehicle emission
323 standards set forth in final regulations issued by the California Air
324 Resources Board pursuant to Title 13 of the California Code of
325 Regulations and promulgated under the authority of Division 26 of the
326 California Health and Safety Code, as may be amended from time to
327 time.

328 Sec. 11. Section 23-8b of the general statutes is amended by adding
329 subsection (f) as follows (*Effective July 1, 2003*):

330 (NEW) (f) Notwithstanding any provision of the general statutes,
331 special police officers for utility companies, appointed by the
332 Commissioner of Public Safety pursuant to section 29-19, and
333 conservation officers and special conservation officers and patrolmen,
334 appointed by the Commissioner of Environmental Protection pursuant
335 to section 26-5, shall have jurisdiction over any land purchased by the
336 state under the terms of any such contract and said officers shall have
337 the same authority to make arrests on such lands as they have under
338 section 29-18 for lands owned by the Department of Environmental
339 Protection.

340 Sec. 12. (NEW) (*Effective October 1, 2003*) (a) As used in this section:

341 (1) "Double walled underground storage tank" means an
342 underground storage tank that is listed by Underwriters Laboratories,
343 Incorporated and that is constructed using two complete shells to

344 provide both primary and secondary containment, and having a
345 continuous three-hundred-sixty degree interstitial space between the
346 two shells which interstitial space shall be continuously monitored
347 using inert gas or liquid, vacuum monitoring, electronic monitoring,
348 mechanical monitoring or any other monitoring method approved in
349 writing by the commissioner before being installed or used;

350 (2) "Double walled underground storage tank system" means one or
351 more double walled underground storage tanks connected by double
352 walled piping and utilizing double walled piping to connect the
353 underground storage tank to any associated equipment;

354 (3) "Hazardous substance" means a substance defined in Section
355 101(14) of the Comprehensive Environmental Response,
356 Compensation and Liability Act of 1980, but does not include any
357 substance regulated as a hazardous waste under subsection (c) of
358 section 22a-449 of the general statutes or any mixture of such
359 substances and petroleum;

360 (4) "Petroleum" means crude oil, crude oil fractions and refined
361 petroleum fractions, including gasoline, kerosene, heating oils and
362 diesel fuels;

363 (5) "Underground storage tank" means a tank or combination of
364 tanks, including underground pipes connected thereto, used to contain
365 an accumulation of petroleum or hazardous substances, whose volume
366 is ten per cent or more beneath the surface of the ground, including the
367 volume of underground pipes connected thereto; and

368 (6) "Underground storage tank system" means an underground
369 storage tank and any associated ancillary equipment and containment
370 system.

371 (b) No person or municipality shall install, on or after October 1,
372 2003, an underground storage tank system and no person or
373 municipality shall operate or use, an underground storage tank system
374 installed after October 1, 2003, unless such underground storage tank

375 system is a double walled underground storage tank system. This
376 section shall not apply to a residential underground storage tank
377 system, as defined in section 22a-449a of the general statutes.

This act shall take effect as follows:	
Section 1	<i>July 1, 2003</i>
Sec. 2	<i>July 1, 2003</i>
Sec. 3	<i>July 1, 2003</i>
Sec. 4	<i>July 1, 2003</i>
Sec. 5	<i>July 1, 2003</i>
Sec. 6	<i>July 1, 2003</i>
Sec. 7	<i>July 1, 2003</i>
Sec. 8	<i>July 1, 2003</i>
Sec. 9	<i>July 1, 2003</i>
Sec. 10	<i>July 1, 2003</i>
Sec. 11	<i>July 1, 2003</i>
Sec. 12	<i>October 1, 2003</i>

ENV *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Department of Environmental Protection	GO Bond Funds - Cost	See Below	See Below
	Environmental Quality/Clean Air Account - Savings	See Below	See Below

Municipal Impact:

Municipalities	Effect	FY 04 \$	FY 05 \$
Various Municipalities	Savings	Potential Significant	Potential Significant

Explanation

The bill makes a series of changes to the funding provisions of the Clean Water Fund. Under existing law, small community water pollution control projects are eligible for a grant of 20% of eligible costs. The bill increases these grants to 25%, resulting in a savings to various municipalities. According to the Department of Environmental Protection, approximately 17 small community projects are anticipated over the next ten years and grant funding is estimated at \$2-\$3 million per year. This amount would increase, by approximately 20% (\$400,000-\$600,000), the effective increase of going from a 20% to 25% grant.

The legislation also enables distressed municipalities to receive a combination of state and federal grants of up to 50% of the cost of a project associated with nitrogen removal, a 20% grant for the balance of the project not related to nitrogen removal, and a loan for the

remainder of project costs, only if supplemental federal funds are available. In addition, if the federal funds are available, the municipality may receive a combination of state and federal funds in an amount not to exceed 100% of cost for the planning phase of a nitrogen removal project. This could result in a significant savings to various municipalities through the use of the potential increase in federal funds. Making certain towns eligible to receive a 20% grant for the cost of the water quality project balance not related to nitrogen removal will increase state costs and result in a savings to municipalities. The increased costs would vary by project but are estimated at 7% to 8% of the total project cost.

Providing that project agreements entered into after July 1, 2003 can allow for costs for more capacity than is needed to serve existing needs, will increase funds to recipient municipalities.

All of the changes in the bill increasing clean water project costs to the state, and therefore the potential need for additional bond authorizations, would increase costs for debt service in future years. The unallocated GO bond fund balance under this program is approximately \$66 million and the Revenue Bond balance is \$282 million as of the March 2003 Bond Commission meeting.

The bill also allows for a site to be eligible under the urban sites remedial action program without requiring the DEP to first issue orders to the parties responsible for the contamination. This change is anticipated to result in a minimal workload savings due to elimination of the need to issue an order to a defunct party. The unallocated GO bond fund balance under this program is approximately \$7.4 million as of the March 2003 Bond Commission meeting.

Changes made to the Transfer Act exemptions and forms are not anticipated to result in a change in workload to the DEP and not result in a fiscal impact.

Authorizing the DEP to incorporate, by reference, the California motor vehicle emission standards into Connecticut regulations is

anticipated to result in a savings of approximately \$50,000 in man-hours, or approximately one-half of a full-time employee.

Requiring, as of October 1, 2003, that for all new commercial underground storage tanks (UST) people and municipalities can only install double-walled UST systems, will increase costs to towns installing tanks. To the extent that municipalities are not currently installing these tanks they will incur additional costs. The double-walled tanks are estimated to cost approximately 10% more than other tanks. This is based on an average cost for a 10,000-gallon single-wall tank with installation of \$47,200 and a double-wall tank costing \$52,000. The installation of these tanks is anticipated to provide protection against potential future costs to remediate spills.

Allowing for conservation officers, special conservation officers, special police officers and the patrolmen appointed by the Commissioner of the DEP to have joint jurisdiction over the KELDA lands will provide for a more efficient mechanism for enforcement.

OLR Bill Analysis

sHB 6402

AN ACT CONCERNING REVISIONS TO CERTAIN ENVIRONMENTAL QUALITY PROGRAMS

SUMMARY:

This bill:

1. changes the funding allotment for various water quality projects;
2. makes additional polluted property eligible for assessment and remediation under the Urban Sites Remedial Action Program and changes the conditions under which the commissioner may remediate particular properties;
3. excludes from Transfer Act requirements the conveyance of an establishment through foreclosure of a municipal tax lien and certain property on which no leak of a hazardous substance has occurred;
4. requires that all new commercial underground storage tanks other than residential storage tanks be of double-walled construction;
5. authorizes the environmental protection commissioner to incorporate California vehicle emissions standards by reference; and
6. gives certain utility company special police officers, conservation officers, special conservation officers, and patrolmen joint jurisdiction over the Kelda lands.

The bill also makes technical changes.

EFFECTIVE DATE: July 1, 2003 except for the double-walled underground storage system requirements, which takes effect October 1, 2003.

WATER QUALITY PROJECT FUNDING

The bill makes a number of changes in the way the state funds various water quality projects.

Nitrogen Removal

By law, municipalities that awarded contracts for nitrogen removal on or after July 1, 1999 are eligible for grants for 30% of the cost associated with nitrogen removal and a loan for the remainder, not exceeding 100% of the eligible project cost. The bill also makes these towns eligible for a grant of 20% of the project cost balance unrelated to nitrogen removal.

Municipalities whose nitrogen removal projects were in the design or construction phase on July 1, 1999, and projects which had not received Clean Water Fund financing by that date are by law eligible for a 30% project grant. The bill makes these towns instead eligible for a (1) 30% grant for the costs associated with nitrogen removal; (2) 20% grant for the project costs unrelated to nitrogen removal; and (3) loan for the remainder of the project costs, not to exceed 100% of the eligible costs.

For certain projects, the bill makes distressed municipalities eligible for (1) combined state and federal grants of up to 50% of the cost of nitrogen removal; (2) a 20% grant for the project balance not related to nitrogen removal; and (3) a loan for the remainder of the project costs, not to exceed 100% of the allowable project costs. Distressed municipalities are eligible for these grants and loans only if supplemental federal grant funds are available for Clean Water Fund projects specifically related to the clean up of Long Island Sound funded on or after July 1, 2003. If such money is available, a distressed municipality also may receive combined state and federal grants for up to 100% of the cost, as approved by the Department of Environmental Protection (DEP) commissioner, of the planning phase of a nitrogen removal project.

Combined Sewer Projects

By law, combined sewer projects are eligible for grants for 50% of the cost of the project and a loan for the remainder, not to exceed 100% of the eligible project cost. Project cost is determined by a federal grant-making formula. The bill eliminates the reference to the federal grant-

making formula thus, project cost will be determined by state regulations.

Water Pollution Control Projects

The bill makes certain towns with water pollution control projects built on or after July 1, 2003 eligible for a grant for 25% of the design and construction phase of eligible projects costs, and a loan for the remainder of the project costs, up to 100% of the eligible water quality project cost. This applies to towns that (1) have a population of 5,000 or less, or (2) include a population of less than 5,000 living in an area that is not adjoining an existing sewer system.

Other Water Quality Projects

By law, other eligible water quality projects receive grants for 20% of their cost and a loan for the remainder. The bill determines eligible project costs according to state regulations instead of by a federal formula.

Allowance of Reserve Capacity

By law, all agreements to fund eligible projects with Clean Water Fund grants must deduct from the grant the cost of building in more capacity than is needed to serve existing needs. The bill requires that all such agreements entered into after July 1, 2003 allow such costs.

Sewer Collection and Conveyance Systems

By law, eligible water quality projects that exclusively address sewer collection and conveyance system improvements may receive loans, but not grants, for their eligible costs. The bill allows projects to receive grants if they do not also receive loans.

REMEDICATION OF URBAN COMMUNITY SITES

Under current law, the commissioners of the Department of Economic and Community Development (DECD) and DEP cannot evaluate and remediate certain contaminated property whose remediation will benefit the state under the Urban Sites Remedial Action Program (USRAP) unless the DECD commissioner finds the state owns the site or has the authority to approve the type of development that first occurs on the site after remediation, and (1) the DEP commissioner is

unable to determine who is responsible for the contamination, (2) the responsible party has not complied with a remediation order, or (3) a remediation order is being appealed or a hearing has been requested. The bill allows for the evaluation and remediation of property regardless of these last three factors.

The bill also deletes these three factors from barring an evaluation and remediation in a similar program where the DEP and DECD commissioners identify urban community sites whose remediation can benefit a local community. By law, USRAP sites with state significance must be located in a distressed municipality or targeted investment community while those with local significance can also be in an enterprise corridor zone.

The bill removes a requirement that a property be deemed vital to the economic development of the state for it to be included in the USRAP. It also adds to the list of factors the DECD commissioner must consider in establishing whether the site would be remediated without the program's assistance.

TRANSFER ACT

The Transfer Act regulates the sale or other conveyance of any real property or business operation where (1) more than 100 kilograms of hazardous waste was generated in any one month; (2) hazardous waste was recycled, reclaimed, reused, stored, handled, treated, transported, or disposed of; or (3) dry cleaning, furniture stripping, or vehicle body repair took place. (A hazardous waste is any waste material that may pose a present or potential hazard to human health or the environment when improperly disposed of, treated, stored, transported, or otherwise managed.)

The act requires the parties involved in the transfer to certify that the property (1) has not been contaminated by hazardous wastes; (2) has been contaminated but has been cleaned up to the satisfaction of the DEP or a licensed environmental professional (LEP); (3) has been contaminated and not cleaned up, but they accept the liability for a clean up; or (4) has been contaminated and partially remediated but they accept liability for further remediation.

Among other exclusions, current law excludes from the Transfer Act's requirements the conveyance of a portion of real property where no

establishment exists or has existed, and on which no leak of a hazardous waste has occurred, as long as the portion of land in question is less than half the area of the entire parcel, or the DEP commissioner received written notice of the conveyance and an assessment of its environmental condition at least 60 days before its conveyance. The bill expands this exemption to the transfer of such property where there has been no leak of a hazardous substance. The bill also excludes from the act's requirements the conveyance of an establishment through foreclosure of a municipal tax lien.

Transfer Act Forms

The law requires transferors to complete one or more of four different forms, depending on the presence of hazardous waste or hazardous substances, and the status of investigations and remediation. The transferor files a "Form I" when, (1) based on an investigation according to prevailing standards and guidelines, there has been no release of a hazardous waste or hazardous substance, or (2) there has been no hazardous waste spill and the commissioner has issued a written determination, or an LEP has verified, that any hazardous substance spill has been properly cleaned up. The bill requires, in the second instance, that the parcel be investigated according to prevailing standards and guidelines.

By law, a transferor files a "Form II" when the parcel has been investigated according to prevailing standards and guidelines and been properly attested to by the commissioner or an LEP and (1) the commissioner or LEP determined that no remediation is needed, (2) the commissioner determined in writing or an LEP verified that any discharge has been properly remediated, or (3) the commissioner received a "Form IV" and no discharge or spill of a hazardous waste or hazardous substance has occurred since. (A Form IV certifies that the property was contaminated and has been remediated except for post-remediation monitoring DEP requires. The person signing the Form IV must agree to conduct post-remediation monitoring according to law.) The bill requires that, in the third instance, an LEP verify in writing that he has investigated the site according to prevailing standards and guidelines and that the establishment has been remediated in accordance with the remediation standards.

The law requires certifying parties (see BACKGROUND) to a Form I, Form III, or Form IV to provide the commissioner with certain

documents at his request. The bill requires this of a party filing a Form II as well. The bill excuses parties filing a Form II request from the requirement they submit a complete environmental condition assessment to the commissioner but applies the requirement to those submitting a Form III. It also requires anyone filing a Form III or Form IV to notify people whose property abuts the parcel where the remediation occurred, rather than the establishment.

MOTOR VEHICLE EMISSIONS

By law, the DEP commissioner may create a program to allow the sale, purchase, and use of motor vehicles that comply with California emissions standards for the purpose of generating emission reduction credits. The bill authorizes him to incorporate specific California emission standards by reference.

KELDA LANDS

The bill gives utility company special police officers, appointed by the public safety commissioner, conservation officers, special conservation officers, and patrolmen appointed by the DEP commissioner joint jurisdiction over property the state and the Nature Conservancy purchased for conservation purposes in 2001 (the Kelda lands). The officers will have the same authority to make arrests on the Kelda lands as they do on DEP-owned lands.

UNDERGROUND STORAGE TANKS

The bill requires, as of October 1, 2003, that people and municipalities install only underground storage tank systems that are double-walled, and prohibits the operation and use of other types of underground storage tanks that are installed after that date. It exempts residential underground storage tanks. It defines double walled tanks as tanks that are (1) listed by the Underwriters' Laboratories, Inc. and (2) built using two complete shells with a continuous 360-degree space between them. The interstitial space must be continuously monitored using inert gas or liquid, or vacuum, electronic, mechanical, or another approved monitoring method. A double walled underground storage tank system is one or more double walled underground storage tanks connected by double walled piping and using such piping to connect to any associated equipment.

BACKGROUND

Distressed Municipalities

The DECD commissioner designates distressed municipalities annually based on demographic and economic indicators. The 25 towns with the highest scores are considered distressed.

Urban Sites Remedial Action Program

This program provides for expedited remediation of polluted property that has potential economic development benefits for the state. Eligible sites must be located in either a distressed community or a target investment community. It also allows the remediation of sites, which, if cleaned up and developed, will improve the urban environment.

Transfer Act Certifying Parties

“Certifying party” means, in the case of a Form III or Form IV, a person associated with the transfer of an establishment who signs a Form III or Form IV and who agrees to investigate the parcel in accordance with prevailing standards and guidelines and to remediate pollution caused by any release at the establishment in accordance with the remediation standards and, in the case of a Form I or Form II, a transferor of an establishment who signs the certification.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 0