



General Assembly

**Substitute Bill No. 6402**

*January Session, 2003*

**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2 repealed and the following is substituted in lieu thereof (*Effective July*  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 of the  
88 general statutes is amended by adding subdivision (3) as follows  
89 (*Effective July 1, 2003*):

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

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98 statutes are repealed and the following is substituted in lieu thereof  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

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

104 (b) The Commissioner of Economic and Community Development,  
105 in consultation with the Commissioner of Environmental Protection,  
106 shall establish the priority of sites for evaluation and remediation  
107 based upon the following factors: (1) The estimated cost of evaluating  
108 and remediating the site, if known; (2) the anticipated complexity of an  
109 evaluation of the site; (3) the estimated schedule for completing an  
110 evaluation; (4) the potential economic development benefits of the site  
111 to the state of Connecticut; [and] (5) whether the site would not  
112 otherwise be remediated without the assistance of this program; and  
113 (6) any other factors which the commissioners deem relevant. No real  
114 property shall be eligible for evaluation or remediation under this  
115 section unless [: (A) The] the Commissioner of Economic and  
116 Community Development finds that the state owns the site or

117 otherwise has or obtains the power to approve the type of  
118 development which first occurs on the site after remediation. ] and (B)  
119 the Commissioner of Environmental Protection is unable to determine  
120 the responsible party for the pollution or the cleanup of the site, or the  
121 responsible party is not in timely compliance with orders issued by the  
122 commissioner to provide remedial action, or the commissioner has not  
123 issued a final decision on an order to a responsible party to provide  
124 remedial action because of (i) a request for a hearing on an order, or (ii)  
125 an order issued is subject to an appeal pending before a court.] Except  
126 for any site proposed for acquisition under subsection (e) of this  
127 section, no real property shall be eligible for evaluation or remediation  
128 under this section unless the site is located in a distressed  
129 municipality, as defined in section 32-9p, or a targeted investment  
130 community, as defined in section 32-222. For purposes of this section,  
131 "responsible party" means any person, as defined in section 22a-2, who  
132 created a source of pollution on the site or an owner of the site during  
133 the investigation or remediation funded pursuant to this section.

134 Sec. 4. Subsection (h) of section 22a-133m of the general statutes is  
135 repealed and the following is substituted in lieu thereof (*Effective July*  
136 *1, 2003*):

137 (h) The Commissioner of Environmental Protection and the  
138 Commissioner of Economic and Community Development shall jointly  
139 identify urban community sites known to have, or suspected to have,  
140 environmental contamination which, if remediated and developed,  
141 will improve the urban environment. The Commissioner of  
142 Environmental Protection and the Commissioner of Economic and  
143 Community Development shall jointly establish the priority of such  
144 sites for evaluation and remediation based upon the following factors:  
145 (1) The potential benefits of remediation to the environment; (2) the  
146 estimated cost of evaluating and remediating the site, if known; (3) the  
147 potential benefits to the local community of such site; (4) community  
148 support for remediation and redevelopment of such site; (5) the  
149 commitment from investors or the municipality to redevelop the site;  
150 and (6) any other factors which the commissioners deem relevant. No

151 real property shall be eligible for evaluation and remediation under  
152 this subsection unless [:(A) The Commissioner of Environmental  
153 Protection is unable to determine the responsible party, or the  
154 responsible party is not in timely compliance with orders issued by the  
155 commissioner to provide remedial action, or the commissioner has not  
156 issued a final decision on an order to a responsible party to provide  
157 remedial action because of a request for a hearing on an order or an  
158 issued order is subject to an appeal pending before a court; (B)] (A) the  
159 site is located in a distressed municipality, as defined in section 32-9p,  
160 a targeted investment community, as defined in section 32-222, or an  
161 enterprise corridor zone, as defined in section 32-80, or in such other  
162 municipality as the Commissioner of Economic and Community  
163 Development may designate, [;] and [(C)] (B) the site is not undergoing  
164 evaluation or remediation under subsections (a) to (g), inclusive, of  
165 this section.

166 Sec. 5. Subdivision (1) of section 22a-134 of the general statutes is  
167 repealed and the following is substituted in lieu thereof (*Effective July*  
168 *1, 2003*):

169 (1) "Transfer of establishment" means any transaction or proceeding  
170 through which an establishment undergoes a change in ownership, but  
171 does not mean (A) conveyance or extinguishment of an easement, (B)  
172 conveyance of an establishment through a foreclosure, as defined in  
173 subsection (b) of section 22a-452f or foreclosure of a municipal tax lien,  
174 (C) conveyance of a deed in lieu of foreclosure to a lender, as defined  
175 in and that qualifies for the secured lender exemption pursuant to  
176 subsection (b) of section 22a-452f, (D) conveyance of a security interest,  
177 as defined in subdivision (7) of subsection (b) of section 22a-452f, (E)  
178 termination of a lease and conveyance, assignment or execution of a  
179 lease for a period less than ninety-nine years including conveyance,  
180 assignment or execution of a lease with options or similar terms that  
181 will extend the period of the leasehold to ninety-nine years, or from  
182 the commencement of the leasehold, ninety-nine years, including  
183 conveyance, assignment or execution of a lease with options or similar  
184 terms that will extend the period of the leasehold to ninety-nine years,

185 or from the [commence] commencement of the leasehold, (F) any  
186 change in ownership approved by the Probate Court, (G) devolution of  
187 title to a surviving joint tenant, or to a trustee, executor, or  
188 administrator under the terms of a testamentary trust or will, or by  
189 intestate succession, (H) corporate reorganization not substantially  
190 affecting the ownership of the establishment, (I) the issuance of stock  
191 or other securities of an entity which owns or operates an  
192 establishment, (J) the transfer of stock, securities or other ownership  
193 interests representing less than forty per cent of the ownership of the  
194 entity that owns or operates the establishment, (K) any conveyance of  
195 an interest in an establishment where the transferor is the sibling,  
196 spouse, child, parent, grandparent, child of a sibling or sibling of a  
197 parent of the transferee, (L) conveyance of an interest in an  
198 establishment to a trustee of an inter vivos trust created by the  
199 transferor solely for the benefit of one or more of the sibling, spouse,  
200 child, parent, grandchild, child of a sibling or sibling of a parent of the  
201 transferor, (M) any conveyance of a portion of a parcel upon which  
202 portion no establishment is or has been located and upon which there  
203 has not occurred a discharge, spillage, uncontrolled loss, seepage or  
204 filtration of hazardous waste or a hazardous substance, provided  
205 either the area of such portion is not greater than fifty per cent of the  
206 area of such parcel or written notice of such proposed conveyance and  
207 an environmental condition assessment form for such parcel is  
208 provided to the commissioner sixty days prior to such conveyance, (N)  
209 conveyance of a service station, as defined in subdivision (5) of this  
210 section, (O) any conveyance of an establishment which, prior to July 1,  
211 1997, had been developed solely for residential use and such use has  
212 not changed, (P) any conveyance of an establishment to any entity  
213 created or operating under chapter 130 or 132, or to an urban  
214 rehabilitation agency, as defined in section 8-292, or to a municipality  
215 under section 32-224, or to the Connecticut Development Authority or  
216 any subsidiary of the authority, (Q) any conveyance of a parcel in  
217 connection with the acquisition of properties to effectuate the  
218 development of the overall project, as defined in section 32-651, (R) the  
219 conversion of a general or limited partnership to a limited liability

220 company under section 34-199, (S) the transfer of general partnership  
221 property held in the names of all of its general partners to a general  
222 partnership which includes as general partners immediately after the  
223 transfer all of the same persons as were general partners immediately  
224 prior to the transfer, (T) the transfer of general partnership property  
225 held in the names of all of its general partners to a limited liability  
226 company which includes as members immediately after the transfer all  
227 of the same persons as were general partners immediately prior to the  
228 transfer, or (U) acquisition of an establishment by any governmental or  
229 quasi-governmental condemning authority.

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

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

247 (11) "Form II" means a written certification by the transferor of an  
248 establishment on a form prescribed and provided by the commissioner  
249 that the parcel has been investigated in accordance with prevailing  
250 standards and guidelines and that (A) any pollution caused by a  
251 discharge, spillage, uncontrolled loss, seepage or filtration of  
252 hazardous waste or a hazardous substance which has occurred from

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

269 Sec. 7. Subsection (d) of section 22a-134a of the general statutes is  
270 repealed and the following is substituted in lieu thereof (*Effective July*  
271 *1, 2003*):

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

283 Sec. 8. Subsection (i) of section 22a-134a of the general statutes is  
284 repealed and the following is substituted in lieu thereof (*Effective July*  
285 *1, 2003*):

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

303 Sec. 9. Subsection (m) of section 22a-134a of the general statutes is  
304 repealed and the following is substituted in lieu thereof (*Effective July*  
305 *1, 2003*):

306 (m) Failure of the commissioner to notify any party in accordance  
307 with the provisions of this section in no way limits the ability of the  
308 commissioner to enforce the provisions of sections 22a-134 to [22a-  
309 134f] 22a-134e, inclusive, as amended by this act.

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

312 As part of the state's implementation plan under the federal Clean  
313 Air Act, the Commissioner of Environmental Protection may establish  
314 a program to allow the sale, purchase and use of motor vehicles which  
315 comply with any regulations adopted by the commissioner which  
316 implement the California motor vehicles emissions standards for  
317 purposes of generating any emission reduction credits under said act.

318 Nothing in this section shall prohibit the Commissioner of  
319 Environmental Protection from establishing a program to require the  
320 sale, purchase and use of motor vehicles which comply with any  
321 regulations adopted by the commissioner which implement the  
322 California motor vehicle emissions standards. Such regulations may  
323 incorporate by reference the California motor vehicle emission  
324 standards set forth in final regulations issued by the California Air  
325 Resources Board pursuant to Title 13 of the California Code of  
326 Regulations and promulgated under the authority of Division 26 of the  
327 California Health and Safety Code, as may be amended from time to  
328 time.

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

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

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

342 (1) "Double walled underground storage tank" means an  
343 underground storage tank that is listed by Underwriters Laboratories,  
344 Incorporated and that is constructed using two complete shells to  
345 provide both primary and secondary containment, and having a  
346 continuous three-hundred-sixty degree interstitial space between the  
347 two shells which interstitial space shall be continuously monitored  
348 using inert gas or liquid, vacuum monitoring, electronic monitoring,  
349 mechanical monitoring or any other monitoring method approved in

350 writing by the commissioner before being installed or used;

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

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

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

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

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

372 (b) No person or municipality shall install, on or after October 1,  
373 2003, an underground storage tank system and no person or  
374 municipality shall operate or use, an underground storage tank system  
375 installed after October 1, 2003, unless such underground storage tank  
376 system is a double walled underground storage tank system. This  
377 section shall not apply to a residential underground storage tank  
378 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.*