



# House of Representatives

General Assembly

**File No. 360**

February Session, 2006

Substitute House Bill No. 5626

*House of Representatives, April 4, 2006*

The Committee on Environment reported through REP. ROY of the 119th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING BROWNFIELDS.**

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

1 Section 1. (*Effective October 1, 2006*) Not later than December 31,  
2 2007, the Commissioner of Environmental Protection shall enter into a  
3 memorandum of understanding with the United States Environmental  
4 Protection Agency to foster the remediation of contaminated sites in  
5 the state. Said memorandum shall require that any owner that  
6 successfully completes the remediation of a property in accordance  
7 with the requirements of title 22a of the general statutes shall be  
8 deemed to have satisfied all remediation obligations administered by  
9 the United States Environmental Protection Agency pursuant to the  
10 Toxic Substances Control Act, the Solid Waste Disposal Act, and the  
11 Comprehensive Environmental Responsibility, Compensation and  
12 Liability Act.

13 Sec. 2. (NEW) (*Effective October 1, 2006*) (a) For purposes of this  
14 section, "brownfield" means brownfield, as defined in 42 USC 9601.

15 (b) There is established a Connecticut Brownfields Authority, which  
16 shall consist of the Commissioner of Environmental Protection, the  
17 Commissioner of Economic and Community Development and the  
18 Commissioner of Health, or their respective designees, and a  
19 representative of the Connecticut Development Authority. The  
20 Connecticut Brownfields Authority shall work to ensure the prompt  
21 remediation of brownfields in the state, including providing funding  
22 for such remediation as necessary.

23 (c) The Connecticut Brownfields Authority shall actively seek  
24 brownfield grant funds from the United States Environmental  
25 Protection Agency to be used for brownfield remediation in the state.

26 (d) Connecticut Brownfields Authority may designate funds to be  
27 used for brownfield remediation. Such funds shall be distributed by  
28 the authority to owners remediating brownfields as either grants or  
29 low interest loans. Said authority may provide such funds to existing  
30 owners of brownfields, provided such owners can demonstrate to the  
31 authority's satisfaction that they did not cause the release of any  
32 hazardous substances or petroleum at the brownfield, or provided the  
33 owner can demonstrate the following:

34 (1) That it utilized reasonable disposal practices of hazardous  
35 substances or petroleum, taking into account the disposal practices  
36 that were commonly used by similar entities at the time of disposal;

37 (2) That it did not knowingly cause injury to human health or the  
38 environment as a result of its disposal of hazardous substances or  
39 petroleum; and

40 (3) That it has never been found guilty of a knowing or wilful  
41 violation of an environmental law.

42 (e) In determining what funds shall be made available for  
43 brownfield remediation, the Connecticut Brownfields Authority shall  
44 consider a owner's ability to pay some, or all, of the costs of  
45 remediation. Said authority shall give preference to owners that

46 demonstrate a limited ability to pay for such remediation.

47 (f) In providing funds pursuant to this section, the Connecticut  
48 Brownfields Authority may impose the following conditions:

49 (1) A requirement that the owner receiving the funds not transfer  
50 title of the property for a set period of time of not more than ten years;

51 (2) A requirement that the owner receiving funds reimburse the  
52 state for such funds in the event that it receives funds for remediation  
53 from other sources; or

54 (3) A requirement that the owner receiving funds continue to  
55 employ residents of the state for a set period of time of not more than  
56 ten years.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	New section
Sec. 2	October 1, 2006	New section

**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:

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### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 07 \$</b>	<b>FY 08 \$</b>
Department of Environmental Protection	GF - Cost	See Below	See Below
Various State Agencies	Various - None	None	None

Note: GF=General Fund

#### **Municipal Impact:** None

#### **Explanation**

It is anticipated that the Department of Environmental Protection (DEP) will require additional legal assistance at a cost of approximately \$150,000 or more over FY 07 and FY 08 to enter into a memorandum of understanding required in the bill.

The creation of a Connecticut Brownfields Authority to provide grants or low interest loans will increase costs to the state. The bill provides that the Authority actively seek funds for this purpose and it is unknown whether such funds will be received. The legislation also provides that the Authority designate funds for grants or loans, currently no additional funds are provided for this purpose. Any funds used would be diverted from current programs. It is anticipated that the DEP would require an Environmental Analyst at a cost of \$50,000 in FY 07 plus fringe benefits<sup>1</sup> to make the

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<sup>1</sup> The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate as a percentage of payroll is 23.6%, effective July 1, 2005. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2005-06 fringe benefit rate is 34.7%, which when combined with the non pension fringe benefit rate would total 58.3%.

determinations required in the legislation. Additional staff could be required depending upon the number of sites seeking funding through the Authority.

It is anticipated that the workload increase associated with the Brownfields Authority to the Departments of Public Health, Economic and Community Development and the Connecticut Development Authority could be handled within existing resources.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis  
sHB 5626****AN ACT CONCERNING BROWNFIELDS.****SUMMARY:**

This bill creates a Connecticut Brownfields Authority to provide grants or low-interest loans to property owners remediating property that is or may be contaminated. It requires the Department of Environmental Protection (DEP) commissioner, by December 31, 2007, to enter into a memorandum of understanding with the U.S. Environmental Protection Agency (EPA) requiring that EPA deem an owner who successfully remediates his property according to state environmental laws and regulations to have satisfied his obligations under the federal (1) Toxic Substances Control Act, (2) Solid Waste Disposal Act, and (3) Comprehensive Environmental Responsibility, Compensation and Liability Act.

EFFECTIVE DATE: October 1, 2006.

**CONNECTICUT BROWNFIELDS AUTHORITY*****Responsibilities***

The authority must actively seek brownfield grant funds from the EPA, and distribute them as grants or low-interest loans to owners remediating brownfields. The authority may provide these grants or loans to a brownfield owner who can show that he (1) did not cause the release of any hazardous substance or oil at the site or (2) (a) used reasonable disposal practices, considering the practices in common use at the time the disposal occurred, (b) did not knowingly cause injury to human health or the environment, and (c) has never been found guilty of a knowing or willful violation of an environmental law.

In deciding what funds to make available, the authority must

consider an owner's ability to pay some or all of the remediation costs, and must give preference to an owner with a limited ability to pay for remediation. In providing grants and low-interest loans, the authority may require that the owner:

1. refrain from transferring title to the property for up to 10 years,
2. reimburse the state if he receives remediation funds from other sources, and
3. continue to employ state residents for up to 10 years.

### ***Membership***

The authority must include the commissioners of environmental protection, economic and community development, and public health, or their designees, and a representative of the Connecticut Development Authority.

## **BACKGROUND**

### ***Related Bill***

sHB 5685, An Act Concerning Brownfields, establishes an office to help clean up and redevelop brownfields and appropriates \$15 million in FY 07 for its projects.

### ***Brownfields***

A brownfield site generally refers to real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

### ***Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)***

CERCLA, commonly known as Superfund, was enacted by Congress in 1980. It created a tax on the chemical and petroleum industries and provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment.

***Toxic Substances Control Act***

Congress enacted this act in 1976 to give EPA the ability to track the 75,000 industrial chemicals currently produced or imported into the United States. EPA can require reporting or testing of those that may pose an environmental or human-health hazard, and can ban the manufacture and import of those chemicals that pose an unreasonable risk.

***Solid Waste Disposal Act***

This act regulates the treatment, storage, or disposal of solid waste, both non-hazardous and hazardous.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 27    Nay 0    (03/20/2006)