



Senate

General Assembly

File No. 228

February Session, 2006

Substitute Senate Bill No. 42

Senate, March 30, 2006

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT PROMOTING TRANSIT ORIENTED DEVELOPMENT.

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

1 Section 1. Section 7-339n of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 A special services district shall constitute a body politic and
4 corporate and the ordinance establishing such a district shall confer
5 upon such district such of the following powers as are provided in the
6 ordinance: (a) To sue and be sued; (b) to acquire, hold and convey any
7 estate, real or personal; (c) to contract; (d) to borrow money, provided
8 any obligation incurred for this purpose shall be discharged not more
9 than one year after it was incurred, and such district may pledge any
10 revenues to be received pursuant to section 7-339r against any such
11 obligation; (e) to recommend to the legislative body of the municipality
12 in which such district is located the imposition of a levy upon the
13 taxable interests in real property within such district, the revenues
14 from which may be used in carrying out any of the powers of such

15 district; (f) to construct, own, operate and maintain public
16 improvements, including improvements for transit oriented
17 development; and (g) to provide, within such district, some or all of
18 the other services which such municipality is authorized to provide
19 therein, except that no such ordinance may confer upon any such
20 district the power to provide elementary or secondary public
21 education services, and provided further no such ordinance may
22 confer upon any such district the power to provide services which are
23 then being provided within any portion of the area included in such
24 district by any multitown body or authority. As used in this chapter
25 and section 2 of this act, "transit oriented development" means mixed-
26 use development within walking distance of a transit stop that mixes
27 residential, retail, office, open space and public uses in a way that is
28 convenient to travel on foot or by public transportation instead of by
29 car.

30 Sec. 2. (NEW) (*Effective October 1, 2006*) For the purpose of carrying
31 out or administering a transit oriented development improvement, a
32 municipality, acting by and through its special services district, is
33 authorized under this section, subject only to the limitations and
34 procedures set forth in this section, to issue from time to time bonds of
35 the municipality which are payable solely from and secured by: (1) A
36 pledge of and lien upon any or all of the income, proceeds, revenues
37 and property of transit oriented development projects, including the
38 proceeds of grants, loans, advances or contributions from the federal
39 government, the state or other source; (2) taxes or payments in lieu of
40 taxes, or both, in whole or in part, allocated to and paid into a special
41 fund of the special services district; or (3) any combination of the
42 methods in subdivisions (1) and (2) of this section. For the purposes of
43 a specified project only, the Connecticut Development Authority may,
44 upon a resolution with respect to such project adopted by the
45 legislative body of the special services district, issue and administer
46 bonds which are payable solely or in part from and secured by the
47 pledge and security provided for in this section subject to the general
48 terms and provisions of law applicable to the issuance of bonds by the
49 Connecticut Development Authority, except that the provisions of

50 subsection (b) of section 32-23j of the general statutes shall not apply.
51 Any bonds payable and secured as provided in this section shall be
52 authorized by a resolution adopted by the legislative body of the
53 special services district, notwithstanding the provisions of any other
54 statute, local law or charter governing the authorization and issuance
55 of bonds generally by the municipality. No such resolution shall be
56 adopted until after a public hearing has been held upon such
57 authorization. Notice of such hearing shall be published not less than
58 five days prior to such hearing in a newspaper having a general
59 circulation in the municipality. Such bonds shall be issued and sold in
60 such manner; bear interest at such rate or rates, including variable
61 rates to be determined in such manner as set forth in the proceedings
62 authorizing the issuance of the bonds; provide for the payment of
63 interest on such dates, whether before or at maturity; be issued at,
64 above or below par; mature at such time or times not exceeding forty
65 years from their date in the case of bonds issued to finance housing
66 and facilities related thereto or thirty years from their date in all other
67 cases; have such rank or priority; be payable in such medium of
68 payment; be issued in such form, including, without limitation,
69 registered or book-entry form, carry such registration and transfer
70 privileges and be made subject to purchase or redemption before
71 maturity at such price or prices and under such terms and conditions,
72 including the condition that such bonds be subject to purchase or
73 redemption on the demand of the owner thereof; and contain such
74 other terms and particulars as the legislative body of the municipality
75 or the officers delegated such authority by the legislative body of the
76 municipality body shall determine. The proceedings under which
77 bonds are authorized to be issued may, subject to the provisions of the
78 general statutes, contain any or all of the following: (A) Provisions
79 respecting custody of the proceeds from the sale of the bonds and any
80 bond anticipation notes, including any requirements that such
81 proceeds be held separate from or not be commingled with other funds
82 of the municipality; (B) provisions for the investment and reinvestment
83 of bond proceeds until such proceeds are used to pay project costs and
84 for the disposition of any excess bond proceeds or investment earnings

85 thereon; (C) provisions for the execution of reimbursement
86 agreements, or similar agreements, in connection with credit facilities,
87 including, but not limited to, letters of credit or policies of bond
88 insurance, remarketing agreements and agreements for the purpose of
89 moderating interest rate fluctuations; (D) provisions for the collection,
90 custody, investment, reinvestment and use of the pledged revenues or
91 other receipts, funds or moneys pledged for payment of bonds as
92 provided in this section; (E) provisions regarding the establishment
93 and maintenance of reserves, sinking funds and any other funds and
94 accounts as shall be approved by the legislative body of the
95 municipality in such amounts as may be established by the legislative
96 body of the municipality and the regulation and disposition thereof,
97 including requirements that any such funds and accounts be held
98 separate from or not be commingled with other funds of the
99 municipality; (F) covenants for the establishment of maintenance
100 requirements with respect to facilities and properties; (G) provisions
101 for the issuance of additional bonds on a parity with bonds issued
102 prior to the issuance of such additional bonds, including establishment
103 of coverage requirements with respect to such bonds as herein
104 provided; (H) provisions regarding the rights and remedies available
105 to the bond owners, note owners or any trustee under any contract,
106 loan agreement, document, instrument or trust indenture in case of a
107 default, including the right to appoint a trustee to represent their
108 interests upon occurrence of any event of default, as defined in any
109 such default proceedings, provided that if any bonds or bond
110 anticipation notes are secured by a trust indenture, the respective
111 owners of such bonds or notes shall have no authority except as set
112 forth in such trust indenture to appoint a separate trustee to represent
113 them; and (I) other provisions or covenants of like or different
114 character from the foregoing which are consistent with this section and
115 which the legislative body of the municipality determines in such
116 proceedings are necessary, convenient or desirable in order to better
117 secure the bonds or bond anticipation notes, or will tend to make the
118 bonds or bond anticipation notes more marketable, and which are in
119 the best interests of the municipality. Any provisions which may be

120 included in proceedings authorizing the issuance of bonds under this
121 section may be included in an indenture of trust duly approved in
122 accordance with this section which secures the bonds and any notes
123 issued in anticipation thereof, and in such case the provisions of such
124 indenture shall be deemed to be a part of such proceedings as though
125 they were expressly included therein. Any pledge made by the
126 municipality shall be valid and binding from the time when the pledge
127 is made, and any revenues or other receipts, funds or moneys so
128 pledged and thereafter received by the municipality shall be subject
129 immediately to the lien of such pledge without any physical delivery
130 thereof or further act. The lien of any such pledge shall be valid and
131 binding as against all parties having claims of any kind in tort, contract
132 or otherwise against the municipality, irrespective of whether such
133 parties have notice of such lien. Neither the resolution nor any other
134 instrument by which a pledge is created need be recorded. The
135 legislative body of the municipality may enter into a trust indenture by
136 and between the municipality and a corporate trustee, which may be
137 any trust company or bank having the powers of a trust company
138 within or without the municipality. Such trust indenture may contain
139 such provisions for protecting and enforcing the rights and remedies
140 of the bond owners and note owners as may be reasonable and proper
141 and not in violation of law, including covenants setting forth the duties
142 of the municipality in relation to the exercise of its powers pursuant to
143 this section and the custody, safeguarding and application of all
144 moneys. The municipality may provide by such trust indenture for the
145 payment of the pledged revenues or other receipts, funds or moneys to
146 the trustee under such trust indenture or to any other depository, and
147 for the method of disbursement thereof, with such safeguards and
148 restrictions as it may determine. All expenses incurred in carrying out
149 such trust indenture may be treated as project costs. Such bonds shall
150 not be included in computing the aggregate indebtedness of the
151 municipality, provided, if such bonds are made payable, in whole or in
152 part, from funds contracted to be advanced by the municipality, the
153 aggregate amount of such funds not yet appropriated to such purpose
154 shall be included in computing the aggregate indebtedness of the

155 municipality. As used in this section, "bonds" means any bonds,
156 including refunding bonds, notes, interim certificates, debentures or
157 other obligations. For purposes of this section and section 8-134a of the
158 general statutes, references to the Connecticut Development Authority
159 shall include any subsidiary of the Connecticut Development
160 Authority established pursuant to subsection (l) of section 32-11a of the
161 general statutes.

162 Sec. 3. (NEW) (*Effective October 1, 2006*) (a) Any municipality may,
163 by charter or ordinance, and any two or more municipalities may, by
164 concurrent ordinances of their legislative bodies, adopt the provisions
165 of this section and designate any existing board, commission or
166 agency, or create a new board, commission or regional authority to be
167 designated as its municipal or transit development authority for transit
168 oriented development projects. Such ordinance shall contain a brief
169 statement of the purpose of the authority and shall include the
170 following: (1) Establishment of a process to plan and implement transit
171 oriented projects, which shall include public participation; (2) the
172 name of the authority and address of its principal office and where
173 applicable, a statement that the authority is constituted as a
174 departmental unit of such municipality or that an existing municipal
175 department is designated as such authority; (3) a statement that the
176 authority is created as a municipal or regional transit development
177 authority under this section; (4) the names, addresses and terms of
178 office of the first members of the authority, except in the case where
179 the authority is constituted a departmental unit or an existing
180 municipal department is designated as such authority, in which case
181 the name of such department and its office address shall be given. As
182 used in this section, "transit oriented development" means mixed-use
183 development within walking distance of a transit stop that mixes
184 residential, retail, office, open space and public uses in a way that is
185 convenient to travel on foot or by public transportation instead of by
186 car.

187 (b) If a new board or commission is created by a municipality, the
188 municipality shall, by ordinance, determine the number of members

189 thereof, their compensation, if any, the method of their appointment
190 and removal and their terms of office, which shall be so arranged that
191 not more than one-half of such terms shall expire within any one year.

192 (c) If a regional authority is created, the member municipalities
193 shall, by concurrent ordinances, determine the number of members
194 thereof, the number of votes to be cast by each member, the method of
195 determining the members' compensation, if any, the method of their
196 appointment and removal and their terms of office, which shall be so
197 arranged that not more than one-half of such terms shall expire within
198 any one year.

199 (d) Adoption of such charter or of such ordinance or ordinances by
200 the legislative body or bodies shall constitute the authority created
201 thereby a public body politic and corporate of the state, except where
202 the authority is or becomes a departmental unit of such municipality
203 as herein provided, and any such authority shall be a political
204 subdivision of the state established and created for the performance of
205 an essential public and governmental function.

206 (e) Any municipality may become a member of an existing authority
207 upon such terms and conditions as the authority may determine. Any
208 municipality which is a member of an existing authority may, by vote
209 of its legislative body, elect to withdraw from such authority. Such
210 withdrawal shall be effective only upon such terms and conditions as
211 the authority may require and after compliance with the terms and
212 conditions contained in any contracts between such municipality and
213 the authority or the holders of any bonds of the authority. No such
214 withdrawal shall relieve such municipality of any liability,
215 responsibility or obligation incurred by it as a member of the authority
216 or as a user of any of its projects.

217 Sec. 4. Subsection (c) of section 32-223 of the general statutes is
218 repealed and the following is substituted in lieu thereof (*Effective*
219 *October 1, 2006*):

220 (c) No financial assistance shall be given to an eligible applicant and

221 no participation interest in a loan made by the Connecticut
222 Development Authority for the benefit of an eligible applicant shall be
223 purchased by the department until the commissioner has approved the
224 application submitted in accordance with subsection (a) of this section.
225 Notwithstanding any other provision of this section, in the event that
226 the financial assistance requested is the purchase by the department of
227 a participation interest in a loan made by the Connecticut
228 Development Authority, such authority may submit such application
229 and other information as is required of eligible applicants under
230 subsection (a) of this section on behalf of such eligible applicant and no
231 further application shall be required of such eligible applicant. No
232 financial assistance shall exceed: (1) Except as otherwise provided in
233 subdivisions (2) to (5), inclusive, of this subsection, fifty per cent of the
234 total project cost, (2) in the case of financial assistance to any project in
235 a targeted investment community, ninety per cent of the project cost,
236 (3) when two or more municipalities which are not targeted
237 investment communities jointly initiate a municipal development
238 project in accordance with the provisions of subsection (e) of section
239 32-224, seventy-five per cent of the total project cost, (4) in the case of a
240 municipal development project jointly initiated by two or more
241 municipalities at least one of which is a targeted investment
242 community, the sum of: (A) Seventy-five per cent of the portion of the
243 total project cost allocable to the participation of the municipality or
244 municipalities which are not targeted investment communities and (B)
245 ninety per cent of the portion of the total project cost allocable to the
246 participation of any targeted investment community or communities,
247 [and] (5) in the case of a defense diversification project, ninety per cent
248 of the total project cost if the project involves a municipal development
249 project or the acquisition or development, or both, of real property for
250 an unspecified occupant, and one hundred per cent in the case of any
251 other defense diversification project, and (6) in the case of a transit
252 oriented development project, one hundred per cent. A municipality's
253 share of the total project cost, if any, may, with the approval of the
254 commissioner, be satisfied entirely or partially from noncash
255 contributions, including contributions of real property, from private

256 sources, or, to the extent permitted by federal law, from moneys
257 received by the municipality under any federal grant program.

258 Sec. 5. (NEW) (*Effective October 1, 2006*) Notwithstanding the
259 provisions of the general statutes, any transit oriented development
260 project of a transit development authority established under section 3
261 of this act or a special services district, established under chapter 105a
262 of the general statutes shall be eligible for financial assistance under
263 sections 32-220 to 32-234, inclusive, of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	7-339n
Sec. 2	<i>October 1, 2006</i>	New section
Sec. 3	<i>October 1, 2006</i>	New section
Sec. 4	<i>October 1, 2006</i>	32-223(c)
Sec. 5	<i>October 1, 2006</i>	New section

PD *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-Effect	FY 07 \$	FY 08 \$
CT. Development Auth. (quasi-public)	See Below	See Below	See Below
Department of Economic & Community Development	GF - Cost	See Below	See Below
Treasurer, Debt Serv.	GF - Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 07 \$	FY 08 \$
Various Municipalities	Future Cost	See Below	See Below

Explanation

Permitting municipalities to issue bonds to support transit-oriented development activities will not have any fiscal implications for the state because such bonds are not a direct or indirect responsibility of the State of Connecticut.

The bill makes transit oriented development projects eligible for Connecticut Development Authority (CDA) financing. The increase in workload or costs to the CDA is anticipated to be within resources since the bill is permissive. To the degree that increasing the purposes of a variety of Department of Economic and Community Development general obligation (GO) bond fund programs causes the funds to be expended more rapidly than they otherwise would have been, there will be an increase in debt service costs in future years.

The bill is anticipated to result in additional minimal administrative costs to municipalities that choose to establish transit oriented development authorities.

Since the bill is permissive, it will result in debt service costs for towns that choose to issue bonds to pursue transit oriented development projects. These costs cannot be determined because the amount of bonds issued, the interest rate and the number of years for which they would be issued is not known at this time.

The Out Years

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

OLR Bill Analysis**sSB 42*****AN ACT PROMOTING TRANSIT ORIENTED DEVELOPMENT.*****SUMMARY:**

This bill allows one or more municipalities to establish authorities to encourage transit-oriented developments. Under the bill, a “transit oriented development” is a mixed-use development within walking distance of a transit stop that mixes residential, retail, office, open space, and public uses in a way that is convenient to travel on foot or by public transportation instead of by car. The bill specifies how such authorities may be formed and how municipalities can join and leave them.

By law, special districts can be formed for a variety of purposes, including the construction, ownership, operation, and maintenance of public improvements. The bill specifically authorizes the creation of such districts for transit-oriented developments. It allows municipalities, through such districts, to issue bonds for transit-oriented development improvements. It allows the Connecticut Development Authority (CDA) to administer bonds for specific projects, subject to the laws governing CDA.

The bill also makes transit-oriented development projects eligible for 100% financing from CDA under the Manufacturing Assistance Act.

EFFECTIVE DATE: October 1, 2006

AUTHORITIES***Formation***

Under the bill, one or more municipalities can, by ordinance or

charter adopted by their legislative bodies, form a transit-oriented development authority. The municipality or municipalities can designate an existing body as the authority or create a new body. If a new body is created, the municipality must, by ordinance, determine the number of members, their compensation (if any), their terms of office, and how members are appointed and removed. The terms must be arranged so that no more than one half of the member's terms expire in one year. If a regional authority is created, the member municipalities must, specify these matters by concurrent ordinances.

The ordinance creating an authority must state its purposes. It must also include:

1. a process to plan and implement transit-oriented projects, which must include public participation;
2. the authority's name and address of its principal office and, where applicable, a statement that the authority is constituted as a departmental unit of such municipality or that an existing department is designated as the authority;
3. a statement that the authority is created as a municipal or regional transit development authority under the bill; and
4. the names, addresses and terms of office of the authority's first members, unless the authority is a departmental unit or an existing municipal department, in which case the department's name and address must be provided.

Joining and Leaving an Authority

A municipality can join an existing authority on terms and conditions the authority specifies.

A municipality can leave an authority by vote of its legislative body. The withdrawal only goes into effect (1) on terms and conditions the authority requires and (2) after the municipality complies with the terms and conditions or the authority and its bondholders. A

withdrawal does not relieve the municipality of any liability, responsibility, or obligation it incurred while a member or a user of the authority's projects.

SPECIAL DISTRICTS BONDS

The bill allows municipalities, acting through transit-oriented projects special districts, to issue bonds to help carry out or administer such projects. The bonds can be funded by:

1. a pledge of the project's income, proceeds, revenue, and property, including the proceeds of federal and state grants, loans, advances, or contributions;
2. taxes or payments in lieu of taxes, allocated to and paid into a special fund of the district; or
3. a combination of these sources.

The bonds must be authorized by a resolution adopted by the district's legislative body after a newspaper notice and a public hearing. Bonds for housing and related facilities can have a term of up to 40 years; bonds for other projects can have a term of up to 30 years. Standard provisions regarding bond issuance procedures, reserves, trust indentures, and bondholders rights apply.

Upon a resolution of the district's legislative body, CDA or its subsidiaries can issue and administer bonds for a specific project. CDA is subject to the laws that otherwise govern its issuance of bonds, other than the ability to establish special capital reserve funds for these projects, which would make the state contingently liable for the bonds.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute
Yea 17 Nay 0 (03/17/2006)