



# Senate

General Assembly

**File No. 535**

February Session, 2006

Substitute Senate Bill No. 700

*Senate, April 18, 2006*

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING LAND RECORD FEES PAID BY A MUNICIPALITY, THE PROPERTY DESCRIPTION OF A DISTRICT IN REDDING, TAX CREDITS FOR BUSINESS EMPLOYMENT EXPANSION PROJECTS AND THE FILING DEADLINE FOR CERTAIN TAX EXEMPTIONS.***

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

1 Section 1. Subsection (e) of section 7-34a of the 2006 supplement to  
2 the general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective from passage*):

4 (e) In addition to the fees for recording a document under  
5 subsection (a) of this section, town clerks shall receive a fee of thirty  
6 dollars for each document recorded in the land records of the  
7 municipality. The town clerk shall retain one dollar of any fee paid  
8 pursuant to this subsection and three dollars of such fee shall become  
9 part of the general revenue of the municipality and used to pay for  
10 local capital improvement projects, as defined in section 7-536. Not  
11 later than the fifteenth day of each month, town clerks shall remit

12 twenty-six dollars of the fees paid pursuant to this subsection during  
13 the previous calendar month to the State Treasurer. Upon deposit in  
14 the General Fund, such amount shall be credited to the land  
15 protection, affordable housing and historic preservation account  
16 established pursuant to section 4-66aa. The provisions of this  
17 subsection shall not apply to any document recorded on the land  
18 records by an employee of the state or of a municipality in conjunction  
19 with said employee's official duties. As used in this subsection,  
20 "municipality" includes each town, consolidated town and city, city,  
21 consolidated town and borough, borough, district, as defined in  
22 chapter 105 or 105a, any municipal corporation or department thereof  
23 created by a special act of the General Assembly, and each municipal  
24 board, commission and taxing district not previously mentioned.

25 Sec. 2. Section 1 of special act 05-14 is amended to read as follows  
26 (*Effective from passage*):

27 For purposes of this section:

28 (1) "District" means certain real property, situated in the town of  
29 Redding, County of Fairfield and State of Connecticut shown and  
30 designated as Parcel D on "Property survey for The Gilbert & Bennett  
31 Mfg. Co. in Georgetown Redding, Connecticut Sheet 3 of 3" and dated  
32 September 20, 1987, which map is on file in the Redding town clerk's  
33 office as Map 3436, excepting, however, so much of such property as  
34 has previously been conveyed to other, including, but not limited to,  
35 (A) the premises described in a certain deed to the town of Wilton,  
36 dated September 22, 1999, and recorded in the Wilton Land Records at  
37 volume 1193, page 183, (B) the premises described in a certain deed to  
38 the town of Redding, dated November 4, 1999, and recorded in the  
39 Redding Land Records at volume 235, page 33, and (C) the premises  
40 described in a certain deed to the town of Redding dated November 4,  
41 1999, and recorded in the Redding Land Records at volume 267, page  
42 240; except upon action on or after the effective date of this section by  
43 the voters, as provided in section 7-325 of the general statutes, to  
44 enlarge the district, "district" shall include all those certain pieces or

45 parcels of land, with the improvements thereon, situated in the Town  
46 of Redding, County of Fairfield and State of Connecticut, being shown  
47 as: "Parcel A (Assessor's No. 32-1, 2, 3) Acres = 41.4822"; "Parcel B  
48 (Assessor's No. 34-1) Acres = 1.4529"; "Parcel C (Assessor's No. 35-1)  
49 Acres = 1.8746"; all as shown on "Property Survey for THE GILBERT &  
50 BENNETT MFG. Co.", sheets 1, 2 and 3, on file in the Redding Town  
51 Clerk's Office as Map Nos. 3434, 3435 and 3436; together with that  
52 certain parcel of land (Redding Assessor's Map 103, Block 35, Lot 4)  
53 being shown as "Total Area = 0.765 AC." on "Map Prepared for Gilbert  
54 & Bennett Manufacturing Co. Redding, Connecticut" dated July 18,  
55 1988 and on file in the Redding Town Clerk's Office as Map No. 3626;

56 (2) "Voter" means (A) any person who is an elector of the district, (B)  
57 any citizen of the United States of the age of eighteen years or more  
58 who, jointly or severally, is liable to the district for taxes assessed  
59 against such citizen on an assessment of not less than one thousand  
60 dollars on the last-completed grand list of such district, or who would  
61 be so liable if not entitled to an exemption under subdivision (17), (19),  
62 (22), (23), (25) or (26) of section 12-81 of the general statutes, or (C)  
63 holders of record of interest in real property within such district; and

64 (3) "Qualified green building and sustainable design project" shall  
65 have the same meaning as in 26 USC 142.

66 Sec. 3. (NEW) *(Effective from passage and applicable to projects with a*  
67 *commencement date on or after the effective date of this section)* (a) As used  
68 in this section:

69 (1) "Approved employment expansion project" means an  
70 employment expansion project approved by the commissioner  
71 pursuant to subsection (e) of this section.

72 (2) "Commencement date" means the commencement date of the  
73 approved employment expansion project as provided in the certificate  
74 of eligibility issued by the commissioner pursuant to subsection (f) of  
75 this section.

76 (3) "Commissioner" means the Commissioner of Economic and  
77 Community Development.

78 (4) "Constituent corporation" means any corporation that holds or  
79 has held an interest in the sponsor of an approved employment  
80 expansion project (A) as a general partner, limited partner, member or  
81 otherwise, and (B) is subject to tax under chapter 208 of the general  
82 statutes either directly or by virtue of holding an interest in such  
83 sponsor.

84 (5) "Employment expansion project" means a project: (A) That will  
85 result in the creation of at least four hundred new jobs in this state over  
86 a period of not more than five full income years following the income  
87 year in which the commencement date occurs; (B) for which the  
88 allowance to the constituent corporations of credits under this section  
89 will be necessary to attract the project to this state; (C) that will be  
90 economically viable and will generate direct and indirect economic  
91 benefits to the state; and (D) that is, in the judgment of the  
92 commissioner, consistent with the strategic economic development  
93 priorities of the state and the municipality or municipalities in which  
94 the new jobs are to be created.

95 (6) "Income year" shall have the same meaning as in subdivision (5)  
96 of subsection (a) of section 12-213 of the 2006 supplement to the  
97 general statutes.

98 (7) "New employee" means a person hired or assigned by a sponsor  
99 or a constituent corporation to fill a new job in this state. The aggregate  
100 number of new employees at the end of any income year shall be equal  
101 to the excess, if any, of the aggregate number of employees employed  
102 in this state by the sponsor and constituent corporations at the end of  
103 any income year, not including the aggregate number of employees  
104 employed in this state by the sponsor and constituent corporations on  
105 the commencement date. A person shall be deemed to be a "new  
106 employee" only if the duties of such person for the sponsor or a  
107 constituent corporation are on a regular, full time or equivalent  
108 thereof, and permanent basis.

109 (8) "New job" means a job in this state in the business of the sponsor  
110 or a constituent corporation that did not exist prior to the  
111 commencement date and that is filled by a new employee, not  
112 including a job created when an employee is shifted from an existing  
113 location in this state of the sponsor or any constituent corporation to  
114 such job.

115 (9) "Sponsor" means a partnership, limited partnership, limited  
116 liability company or other entity that (A) is treated as a pass-through  
117 entity for federal income tax purposes, and (B) will be the direct or  
118 indirect employer of some or all of the new employees.

119 (b) (1) There shall be allowed to each constituent corporation such  
120 credits that the constituent corporation otherwise would have been  
121 allowed under chapter 208 of the general statutes had such constituent  
122 corporation itself conducted its pro rata share of the business  
123 conducted by the sponsor during any relevant income year.

124 (2) Credits shall be allowable under this section for those income  
125 years commencing on or after the effective date of this section for  
126 which a certificate of eligibility has been issued by the Commissioner  
127 of Economic and Community Development.

128 (c) (1) For the purposes of chapter 208 of the general statutes, each  
129 constituent corporation shall be deemed to have itself conducted its  
130 pro rata share of the business conducted by the sponsor.

131 (2) The pro rata share of the business conducted by the sponsor that  
132 shall be deemed to have been conducted by each constituent  
133 corporation shall be the same percentage as such constituent  
134 corporation's distributive share of the profit or loss of the sponsor for  
135 any relevant income year.

136 (3) The limitation of section 12-217zz of the general statutes shall be  
137 applied on the return of each constituent corporation or on the  
138 combined return filed by two or more constituent corporations.

139 (d) Any sponsor of an employment expansion project may submit

140 an application for a certificate of eligibility to the commissioner in  
141 accordance with the provisions of this section. The application shall  
142 contain sufficient information to establish that the project is an  
143 employment expansion project, and shall include information  
144 concerning (1) the location or locations of the new jobs, (2) the number  
145 of new jobs to be created, (3) the physical infrastructure that might be  
146 created, renovated or expanded, (4) feasibility studies or business  
147 plans for the project, and (5) such other information the commissioner  
148 determines is necessary to demonstrate the financial viability of the  
149 employment expansion project. The commissioner may impose a fee  
150 for such application as the commissioner deems appropriate.

151 (e) (1) The commissioner, upon consideration of the application and  
152 any additional information that the commissioner requires concerning  
153 a proposed employment expansion project, may approve the project if  
154 the commissioner finds that the project is an employment expansion  
155 project. If the commissioner rejects an application, the commissioner  
156 shall specifically identify the defects in the application and specifically  
157 explain the reasons for such rejection. The commissioner shall render a  
158 decision on an application not later than ninety days after its receipt by  
159 the commissioner.

160 (2) The approval of an employment expansion project by the  
161 commissioner may be combined with the exercise of any of the other  
162 powers of the commissioner, including, but not limited to, the  
163 provision of financial assistance.

164 (3) The commissioner shall require the applicant to reimburse the  
165 commissioner for all or any part of the cost of any activities performed  
166 in the exercise of due diligence reviewing an application pursuant to  
167 this subsection.

168 (f) Upon approving an employment expansion project, the  
169 commissioner shall issue a certificate of eligibility certifying that the  
170 applicant has complied with the provisions of this section. The  
171 certificate of eligibility shall set forth the commencement date, as well  
172 as any other requirements the commissioner deems appropriate.

173 (g) Each constituent corporation claiming a credit or credits allowed  
174 under this section shall retain a copy of the certificate of eligibility  
175 issued under subsection (f) of this section for each income year for  
176 which a credit is claimed for at least as long as such income year  
177 would otherwise be subject to audit.

178 (h) The credits allowed under this section may be used by  
179 constituent corporations joining in a combined corporation business  
180 tax return under section 12-223a of the general statutes.

181 (i) Any constituent corporation allowed a credit under this section  
182 may assign such credit to another constituent corporation, provided  
183 such other constituent corporation may claim such credit only with  
184 respect to an income year for which the assigning constituent  
185 corporation would have been eligible to claim such credit and such  
186 other constituent corporation or constituent corporations may not  
187 further assign such credit.

188 (j) (1) The determination of whether the aggregate number of new  
189 jobs has been created shall be made as of the end of each of the six  
190 income years ending after the commencement date. Not later than the  
191 first day of the fourth month of each of the six income years following  
192 the commencement date, the commissioner shall require the sponsor to  
193 certify the aggregate number of new jobs created by the end of the  
194 preceding income year. Not later than the first day of the seventh  
195 month in each of the six income years following the commencement  
196 date, the commissioner shall review such certification and, if the  
197 aggregate number of new jobs at the end of any such income year is at  
198 least ninety per cent of the aggregate number of such new jobs set forth  
199 in the certificate of eligibility for such income year, shall issue a  
200 certificate of eligibility for the income year just concluded.

201 (2) If the aggregate number of new jobs at the end of any such  
202 income year is less than ninety per cent of the aggregate number of  
203 such new jobs set forth in the certificate of eligibility for such income  
204 year, no credits attributable to the activities of the sponsor during such  
205 income year shall be allowed to the constituent corporations. The

206 failure to achieve ninety per cent of the aggregate number of new jobs  
207 by the end of any applicable income year shall not preclude the  
208 allowance to the constituent corporations of credits from any prior or  
209 subsequent income year otherwise available under this section.

210       Sec. 4. (*Effective from passage*) Notwithstanding the time limit set  
211 forth in subsection (d) of section 12-120b of the general statutes, any  
212 person in the town of Wallingford who failed to file a written request  
213 for a reconsideration of the decision by the Secretary of the Office of  
214 Policy and Management to modify or deny an exemption granted by  
215 the assessor of said town, under the provisions of subdivision (72) of  
216 section 12-81 of the 2006 supplement to the general statutes, for the  
217 assessment year commencing October 1, 2000, may file a request for  
218 such reconsideration provided (1) such request is filed not later than  
219 thirty days after the effective date of this section, and (2) is  
220 accompanied by all documentation and information specified in the  
221 secretary's letter of modification or denial dated October 1, 2002. Said  
222 secretary shall, not later than thirty days following receipt of such  
223 person's request and the required supporting documentation and  
224 information, reconsider the decision to modify or deny said  
225 exemption, and shall send a written determination with respect thereto  
226 to such person. If aggrieved by the secretary's determination, such  
227 person may request a hearing before said secretary, in accordance with  
228 the provisions of subsection (d) of said section 12-120b. If said  
229 secretary determines that such person is eligible for the exemption  
230 claimed for the assessment year commencing October 1, 2000, under  
231 the provisions of subdivision (72) of said section 12-81, said secretary  
232 shall notify such person and the assessor of the town of Wallingford of  
233 such approval and shall include reimbursement with respect thereto in  
234 the next certification said secretary makes to the Comptroller under the  
235 provisions of section 12-94b of the general statutes. If taxes have been  
236 paid on the machinery and equipment for which such exemption is  
237 approved by said secretary, the town of Wallingford shall reimburse  
238 the person who made such payment in an amount equal to the  
239 reimbursement issued by the Treasurer with respect to such exempt  
240 machinery and equipment.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	7-34a(e)
Sec. 2	<i>from passage</i>	SA 05-14, Sec. 1
Sec. 3	<i>from passage and applicable to projects with a commencement date on or after the effective date of this section</i>	New section
Sec. 4	<i>from passage</i>	New section

**FIN**      *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 and OLR Bill Analysis**

**sSB-700**

**AN ACT CONCERNING LAND RECORD FEES PAID BY A MUNICIPALITY, THE PROPERTY DESCRIPTION OF A DISTRICT IN REDDING, TAX CREDITS FOR BUSINESS EMPLOYMENT EXPANSION PROJECTS AND THE FILING DEADLINE FOR CERTAIN TAX EXEMPTIONS.**

**OFA SUMMARY IMPACT:**

**State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Department of Revenue Services	GF - Revenue Loss	None	\$1,000,000 - \$3,000,000
Various State Agencies	SF - Revenue Loss	121,000	121,000

Note: GF=General Fund; SF=Special Fund (Non-appropriated)

**Municipal Impact:**

Municipalities	Effect	FY 07 \$	FY 08 \$
Various Municipalities	Revenue Loss	See Below	See Below
Wallingford	Revenue Gain	See Below	See Below
Various Municipalities	Revenue Loss	19,000	19,000

**OLR SUMMARY:**

This bill:

- allows a business entity that is not a corporation but that has corporations as general or limited partners or members to pass through to those corporations the corporation tax credits it would otherwise be entitled to by virtue of its activities, if it sponsors a project that creates at least 400 new jobs in Connecticut over five years;

2. exempts the Metropolitan District Commission and other municipal corporations created by General Assembly special acts from the \$30 fee for filing documents on land records;
3. changes the legal description of property included in a special taxing district in Redding, if the voters, as defined in the special act that created the district, approve; and
4. waives the deadline for a Wallingford person to ask the Office of Policy and Management (OPM) secretary to reconsider the secretary's denial or modification of a property tax exemption for new manufacturing machinery and equipment for the October 1, 2000 assessment year.

EFFECTIVE DATE: Various, see below.

## **§ 1 – EXEMPTION FROM DOCUMENT RECORDING FEE**

### **OFA Fiscal Impact**

Beginning in FY 07, the bill is anticipated to result annual revenue loss of: (1) \$19,000/yr to municipalities that are members of the MDC, and (2) \$121,000/yr to the land protection, affordable housing, and historic preservation account.

Currently, the revenue generated by the \$30 surcharge is distributed as follows: (1) \$4 is retained by the town and (2) \$26 is transferred to the land protection, affordable housing, and historic preservation account.

### **OLR Analysis**

The bill exempts employees of municipal corporations created by special acts of the legislature, and their departments, from having to pay the \$30 fee for each document filed on the municipal land records, if the employees are filing the documents as part of their official duties. The bill's exemption includes the Metropolitan District Commission and the Pomperaug Valley Water Authority. Most other municipalities and municipal entities are already exempt under current law. The recording fee funds farmland preservation, affordable housing, open

space acquisition, and historic preservation programs, among other things.

EFFECTIVE DATE: Upon passage

## **§ 2 – REDDING SPECIAL TAXING DISTRICT**

### **OFA Fiscal Impact**

This section has no fiscal impact.

### **OLR Analysis**

The bill changes the legal description of property included in a special taxing district within the town of Redding, once the voters, as defined in Special Act 05-214 that created the district, approve enlarging it. These voters are those who meet any of the following criteria: (1) are electors in the district, (2) hold real property interests in it, or (3) are over age 18, U.S. citizens, and either liable for at least \$1,000 in property taxes to the district on the previous year's grand list or would be liable if they did not qualify for state property tax exemptions for veterans and blind people.

EFFECTIVE DATE: Upon passage

## **§ 3 – CORPORATION TAX CREDIT PASS-THROUGH**

### **OFA Fiscal Impact**

The bill is anticipated to result in a revenue loss to the corporation business tax of between \$1 and \$3 million per year beginning in FY 08. This estimate assumes that a very limited number of companies would meet the qualifications established by the bill.

### **OLR Analysis**

#### ***Authorization to Pass-Through Corporation Tax Credits***

If it sponsors a qualifying "employment expansion project," this bill allows a partnership, limited partnership, limited liability company, or other type of pass-through business in which one or more corporations have or had an interest as general or limited partners, members, or otherwise, to pass through to these constituent corporations any

corporation tax credits for which the pass-through business (“sponsor”) would qualify if it were a corporation.

### ***Employment Expansion Project***

An employment expansion project under the bill is one that (1) will create at least 400 permanent, full-time jobs new to Connecticut over a maximum of five income years following a commencement date approved by the Department of Economic and Community Development (DECD) commissioner in an eligibility certification; (2) needs the corporation tax credit pass-through to locate in Connecticut; (3) will be economically viable and provide direct and indirect economic benefits to the state; and (4) is, in the commissioner’s judgment, consistent with the state’s strategic economic development priorities and those of any town where the jobs are to be created.

### ***New Jobs***

Under the bill, a new job is one that did not exist in the state before the project and that is filled by someone hired or assigned by either the project’s sponsor or one of its constituent corporations. Jobs shifted from a sponsor’s or constituent corporation’s other Connecticut locations do not count. Jobs must be regular, full-time or equivalent to full-time, and permanent.

### ***Annual Job Targets***

To be eligible for the pass-through credits in any particular year, the project must meet annual job targets. The number of new jobs the project creates must be determined at the end of each of the six income years after its commencement date by subtracting the aggregate number people employed on the project commencement date from the number employed at the end of each income year. New jobs at the sponsor and all its constituent corporations are counted.

Although the bill requires the aggregate five-year job increase to be at least 400, the sponsor may qualify to pass through credits for any given income year if the project creates at least 90% of the annual number of new jobs called for in the DECD eligibility certificate for

that year. If the project misses this target, the sponsor cannot pass through any credits attributable to its activities for that year, but it is still eligible to pass through credits for prior or subsequent years for which it meets the annual targets. (It is not clear if the annual job targets are set in the initial DECD eligibility certificate that establishes the project commencement date or in the annual tax credit eligibility certificate.)

By the first day of the fourth month of each income year, the sponsor must certify the aggregate number of new jobs created as of the end of the preceding year to the DECD commissioner. By the first day of the seventh month, the commissioner must review the certification and issue an eligibility certificate for that year, if the sponsor has met at least 90% of its annual target.

### ***Application Procedure***

Sponsors must apply to the DECD commissioner to approve an employment expansion project. The application must have enough information about the project to show that it meets the bill's requirements for such a project, as well as information about (1) where the new jobs will be located; (2) the number of new jobs the project will create; (3) any physical infrastructure the project might create, renovate, or expand; (4) feasibility studies or business plans; and (5) whatever other information the commissioner needs to judge the project's financial viability. The bill allows the commissioner to charge an appropriate application fee and requires the sponsor to reimburse him for some or all of his costs for reviewing the application.

The commissioner must act on the application within 90 days of receiving it. If he rejects it, he must explain why and identify its defects. The commissioner may combine approval of the application with the exercise of his other powers, including providing other financial assistance. Upon approval, the commissioner must issue an eligibility certificate that includes a project commencement date and any other requirements he considers appropriate.

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**Credit Allocation Among Constituent Corporations**

If the sponsor qualifies, its constituent corporations are entitled to share the corporation tax credits attributable to its activities on a pro rata basis according to their distributive shares of the sponsor's profit or loss for the income year. Pass-through credits are subject to the aggregate corporation tax credit limit of 70% of tax liability without credits. They can be used by companies joining a combined corporate return. One constituent corporation may assign its share of pass-through credits to another corporate constituent of the same sponsor. But, the assignee can use the credits only in same the income year that the assigning corporation could have used them and cannot assign them further. Each constituent corporation that claims pass-through credits for any income year must retain a copy of the DECD commissioner's eligibility certificate for that year for as long as its return is subject to audit.

EFFECTIVE DATE: Upon passage and applicable to projects with commencement dates on or after the bill's passage.

**§ 4 – TAX EXEMPTION RECONSIDERATION FILING WAIVER****OFA Fiscal Impact**

The bill will result in an increase in the Payment-in-Lieu of Taxes for Manufacturing Machinery and Equipment (PILOT MME) to Wallingford. Since the FY 07 budget, as favorably reported by the Appropriations Committee on March 30, 2006, contains funds sufficient to fully fund the PILOT MME grant under current law, there is no impact on other towns receiving grants. However, if the appropriation is insufficient to fully fund the grants, all grants are reduced on a pro rata basis. Therefore making Wallingford eligible to receive a payment under PILOT MME would result in a revenue loss to all other towns, and a revenue increase to Wallingford.

**OLR Analysis**

The bill allows an eligible person in Wallingford to file a written request with the OPM secretary to reconsider his modification or denial of a property tax exemption for new manufacturing machinery

and equipment for the October 1, 2000 assessment year, despite the person's failure to meet the 30-day deadline for filing such a request. The person must file the request within 30 days after the bill's passage, along with all the supporting documentation the secretary requested in a letter dated October 1, 2002.

The bill requires the secretary to reconsider his decision within 30 days after receiving the request and documentation. If the person is aggrieved by the result, the bill allows him to ask for a hearing before the secretary. If the secretary grants the exemption, he must notify both the requestor and the Wallingford assessor of his approval and include reimbursement for the exemption in the next payment in lieu of taxes to the town. If the person has already paid the taxes on the exempt property, the town must reimburse him.

EFFECTIVE DATE: Upon passage

## **BACKGROUND**

### ***Related Court Case***

On April 4, 2005, the Connecticut Supreme Court ruled that a cellular telephone partnership called Cellco was ineligible for a corporation tax credit for personal property taxes paid on electronic data equipment because it is not a corporation. Because of this ineligibility, Cellco could not pass the credit through to its two corporate general partners, Bell Atlantic and NYNEX (*Bell Atlantic NYNEX Mobile, Inc., et. al. v. Commissioner of Revenue Services* (273 Conn. 240)).

### **The Out Years**

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

## **COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 48 Nay 1 (04/03/2006)