



House of Representatives

File No. 820

General Assembly

January Session, 2007

(Reprint of File No. 128)

House Bill No. 5927
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 11, 2007

***AN ACT CONCERNING THE CONNECTICUT SITING COUNCIL AND
CELLULAR TOWERS.***

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

1 Section 1. (NEW) (*Effective from passage*) (a) On or before January 1,
2 2008, the Connecticut Siting Council, upon the request of a
3 municipality, shall develop a local telecommunications coverage
4 assessment for that municipality. Such assessment shall identify
5 locations within said municipality that provide inconsistent or
6 nonexistent telecommunications coverage and shall contain an analysis
7 of existing and projected demands for telecommunications coverage
8 within said municipality.

9 (b) On or before January 1, 2008, each provider of
10 telecommunications services, upon the request of the Connecticut
11 Siting Council, shall submit to said council all information concerning
12 (1) locations within a particular municipality that provide inconsistent
13 or nonexistent telecommunications coverage, and (2) said provider's
14 existing and projected demands for telecommunications coverage
15 within said municipality. Such information shall be used solely to

16 prepare the assessment required under subsection (a) of this section.

17 Sec. 2. (NEW) (*Effective from passage*) When notifying a municipality
18 pursuant to section 16-50l of the general statutes of an application for a
19 telecommunications tower in said municipality, the Connecticut Siting
20 Council shall request that the municipality provide to said council,
21 within thirty days, any location preferences or criteria for the siting of
22 said telecommunications tower.

23 Sec. 3. Subsection (a) of section 16-50x of the general statutes is
24 repealed and the following is substituted in lieu thereof (*Effective from*
25 *passage*):

26 (a) Notwithstanding any other provision of the general statutes, [to
27 the contrary,] except as provided in section 16-243, the council shall
28 have exclusive jurisdiction over the location and type of facilities and
29 over the location and type of modifications of facilities subject to the
30 provisions of subsection (d) of this section. When evaluating an
31 application for a telecommunication tower within a particular
32 municipality, the council shall consider any location preferences or
33 criteria (1) provided to the council pursuant to section 2 of this act, or
34 (2) that may exist in the zoning regulations of said municipality as of
35 the submission date of the application to the council. In ruling on
36 applications for certificates or petitions for a declaratory ruling for
37 facilities and on requests for shared use of facilities, the council shall
38 give such consideration to other state laws and municipal regulations
39 as it shall deem appropriate. Whenever the council certifies a facility
40 pursuant to this chapter, such certification shall satisfy and be in lieu of
41 all certifications, approvals and other requirements of state and
42 municipal agencies in regard to any questions of public need,
43 convenience and necessity for such facility.

44 Sec. 4. (NEW) (*Effective from passage*) As part of its supervision of
45 construction activity in connection with any transmission line project,
46 the Connecticut Siting Council may order such restoration or
47 revegetation of the right-of-way occupied by the overhead

48 transmission facilities approved with any transmission line project as it
49 deems necessary to promote the long-term restoration of vegetation in
50 portions of the right-of-way in residential areas where there has been a
51 significant and material loss of screening as a result of clearing
52 activities. Such restoration or revegetation orders shall be consistent
53 with all standards regarding required clearances between energized
54 conductors and vegetation and all standards regarding minimum
55 work distances for those working in proximity to conductors.

56 Sec. 5. Subdivision (1) of subsection (b) of section 16-50v of the
57 general statutes is repealed and the following is substituted in lieu
58 thereof (*Effective from passage*):

59 (b) (1) Before December thirty-first of each year, the council shall
60 review the anticipated amount of expenses attributable to energy
61 facilities for the next fiscal year, excluding expenses under subsection
62 (c), (d), (e), (g) or (h) of this section at a public meeting, notice of which
63 shall be given to each person subject to assessment under this
64 subsection, and at which interested persons shall be heard. After the
65 meeting, the council shall determine the anticipated amount of such
66 expenses and submit its determination to the joint standing committee
67 of the General Assembly having cognizance of appropriations and the
68 budgets of state agencies. After the committee completes its review,
69 the council shall apportion and assess the anticipated amount of
70 expenses among those persons having gross revenue from the sale of
71 electric power at retail in the state in excess of one hundred thousand
72 dollars during the preceding calendar year, in the proportion which
73 the gross revenue of each such person bears to the aggregate gross
74 revenues of all such persons. Each such person shall pay the
75 assessment in three equal installments on or before July thirty-first,
76 October thirty-first, and January thirty-first of the fiscal year. During
77 the fiscal year the council may further apportion and assess the
78 additional amount of such expenses as could not reasonably have been
79 anticipated prior to the fiscal year, apportioned in the same manner
80 after notice and hearing in the same manner. The total of such
81 assessments for any fiscal year shall not exceed one million five

82 hundred thousand dollars. No proceeds from any assessment under
83 this subsection may be used by the council after June 30, 1984, for any
84 proceedings concerning hazardous waste facilities.

85 Sec. 6. Subdivision (2) of subsection (b) of section 16-50v of the
86 general statutes is repealed and the following is substituted in lieu
87 thereof (*Effective from passage and applicable to the assessment period*
88 *commencing on or after July 1, 2006*):

89 (2) As used in this subdivision, "communications services" means
90 services involving transmitting or receiving signals in the
91 electromagnetic spectrum for a public or commercial purpose
92 pursuant to a Federal Communications Commission license. Before
93 December thirty-first of each year, the council shall review the
94 anticipated amount of administrative expenses attributable to facilities
95 used for providing communications services for the next fiscal year,
96 excluding expenses under subsection (c), (d), (e), (g) or (h) of this
97 section, at a public meeting, notice of which shall be given to each
98 person subject to assessment under this subsection, and at which
99 interested persons shall be heard. After the meeting, the council shall
100 determine the anticipated amount of such expenses and submit its
101 determination to the joint standing committee of the General Assembly
102 having cognizance of matters relating to appropriations and the
103 budgets of state agencies. The council shall apportion and assess the
104 anticipated amount of expenses equitably in proportion to the
105 [frequency of appearance, the degree of regulation required and the]
106 percentage of the council's [workload] direct costs, among those
107 persons [which] who (1) provide communications services or have
108 provided communications services facilities, and (2) have come before
109 the council in the preceding calendar year. Each such person shall pay
110 the assessment and submit a return, on a form prescribed by the
111 council, to the council in four equal installments, on or before July 1,
112 1994, and July thirty-first of each year thereafter, October 31, 1994, and
113 October thirty-first of each year thereafter, January 31, 1995, and
114 January thirty-first of each year thereafter, and April 30, 1995, and
115 April thirtieth of each year thereafter. The council shall transfer all

116 payments received pursuant to this section to the Treasurer who shall
117 credit such payments to the Siting Council Fund. Such payments shall
118 be considered administrative expenses recovered from
119 communications services providers.

120 Sec. 7. Section 16-50v of the general statutes is amended by adding
121 subsection (i) as follows (*Effective from passage*):

122 (NEW) (i) On and after January 1, 2008, with regard to any
123 assessment or other charge billed by the council pursuant to this
124 chapter, the council shall charge late fees or penalties at the rate of one
125 and one-half per cent per month against invoiced amounts not
126 received by the council within thirty days after the due date shown on
127 the council's invoice.

128 Sec. 8. Subsection (f) of section 16-50j of the general statutes is
129 repealed and the following is substituted in lieu thereof (*Effective July*
130 *1, 2007*):

131 (f) The public members of the council, including the chairman, the
132 members appointed by the speaker of the House and president pro
133 tempore of the Senate and the four ad hoc members specified in
134 subsection (c) of this section, shall be compensated for their attendance
135 at public hearings, executive sessions, or other council business as may
136 require their attendance at the rate of [one hundred fifty] two hundred
137 dollars, provided in no case shall the daily compensation exceed [one
138 hundred fifty] two hundred dollars. [The annual compensation for any
139 member for attending such hearings shall not exceed twelve thousand
140 dollars a year.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	16-50x(a)
Sec. 4	<i>from passage</i>	New section

Sec. 5	<i>from passage</i>	16-50v(b)(1)
Sec. 6	<i>from passage and applicable to the assessment period commencing on or after July 1, 2006</i>	16-50v(b)(2)
Sec. 7	<i>from passage</i>	16-50v
Sec. 8	<i>July 1, 2007</i>	16-50j(f)

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Siting Council, CT	SCF - Revenue Gain	Potential Minimal	Potential Minimal
Siting Council, CT	SCF - Cost	25,000	25,000

Note: SCF=Siting Council Fund

Municipal Impact: None

Explanation

The bill could result in a minimal revenue gain to the Siting Council Fund as a result of a new late fee (1.5% per month) which would be assessed to the company involved.

The bill also increases the per diem rate for Council members, from \$150 to \$200 per day, when performing Council business. This would result in a cost of \$25,000 per year to the Siting Council.

House "A" added the potential minimal revenue gain, described above, as well as the cost associated with the per diem increase.

The Out Years

The annualized ongoing minimal revenue gain identified above would be dependent upon the amount of late fees assessed. The cost impact identified above would remain constant, as the per diem rate is a static amount.

OLR Bill Analysis**HB 5927 (as amended by House "A")*****AN ACT CONCERNING CELLULAR TOWERS IN RESIDENTIAL ZONES.****SUMMARY:**

This bill requires the Siting Council, by January 1, 2008, to develop a telecommunications coverage assessment for a municipality upon its request. The assessment must (1) identify locations in the municipality that do not have coverage or have inconsistent coverage and (2) analyze existing and projected demands for coverage in the municipality.

The bill requires each telecommunications services provider, by January 1, 2008, to submit to the council, at its request, all information on (1) locations in the municipality that do not have coverage or have inconsistent coverage and (2) the provider's existing and projected demand for coverage in the municipality. This information can be used only to prepare the assessment.

The bill requires the council to request a municipality that is the proposed site of a tower to submit its location preferences or criteria to the council within 30 days after a tower application is filed with the council. The council must consider the location criteria and preferences that the municipality submits or those that were in its zoning regulations as of the date of the application.

The bill allows the Siting Council to order the restoration of vegetation in overhead transmission line rights-of-way (ROW).

The bill (1) modifies how the Siting Council's assessment of telecommunications companies is calculated, (2) increases the

maximum assessment on electric retailers from \$1 million to \$1.5 million, and (3) imposes penalties on late assessments. It increases the per diem that council members receive for attending council hearings and other council business from \$150 to \$200 and eliminates the \$12,000 annual cap on the per diem.

*House Amendment "A":

1. adds the provisions on restoring transmission line rights-of-way, the Siting Council assessment, and compensation of Siting Council members;
2. deletes a provision exempting the information provided by telecommunications providers from the Freedom of Information Act; and
3. makes minor and technical changes.

EFFECTIVE DATE: Upon passage, with the assessment changes applicable to assessment period beginning on or after July 1, 2007.

RESTORING TRANSMISSION LINE RIGHTS-OF-WAY

The bill allows the Siting Council, as part of its supervision of any transmission line construction project, to order restoration or revegetation of the ROW of an overhead transmission line as it considers necessary to promote the long-term restoration of vegetation in those parts of the ROW in residential areas where there has been a significant and material loss of screening as a result of clearing activities. The order must be consistent with all standards for (1) required clearances between the transmission conductors that have been energized and vegetation and (2) minimum work distances for those working in proximity to conductors.

SITING COUNCIL ASSESSMENTS

By law, the Siting Council receives part of its funding from an assessment on the electric and telecommunications companies over which it has jurisdiction. The bill increases, from \$1 million to \$1.5

million, the maximum annual assessment on companies that have retail electric sales in excess of \$100,000.

Under current law, the assessment applies to telecommunications companies that provide communications services and that have come before the council in the previous calendar year. The bill additionally assesses companies that have provided communications service facilities (e.g., cell tower builders) that have come before the council in the previous calendar year. The bill requires the assessment to be based on the share of the council's direct costs they are responsible for, rather than on (1) frequency of appearances, (2) degree of regulation required, and (3) percent of the council's workload.

The bill requires the council to charge a 1.5% late fee each month on any assessment or other council charge that is 30 or more days overdue.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 22 Nay 0 (03/08/2007)

Planning and Development Committee

Joint Favorable

Yea 18 Nay 0 (04/04/2007)

Government Administration and Elections Committee

Joint Favorable

Yea 10 Nay 0 (04/25/2007)