



House of Representatives

General Assembly

File No. 340

January Session, 2007

Substitute House Bill No. 7369

House of Representatives, April 4, 2007

The Committee on Commerce reported through REP. BERGER of the 73rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE BROWNFIELDS TASK FORCE.

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

1 Section 1. Section 32-9cc of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2007*):

3 (a) There is established, within the Department of Economic and
4 Community Development, an Office of Brownfield Remediation and
5 Development. [that shall be within the Department of Economic and
6 Community Development for administrative purposes only.] Said
7 office shall be staffed, at a minimum, with a director and a project
8 manager, both of whom shall have backgrounds in environmental
9 planning, and an administrative support staff member. The director of
10 the office shall report directly to the Commissioner of Economic and
11 Community Development and the office shall be staffed with
12 professionals solely dedicated to brownfields initiatives.

13 (b) The office shall:

14 (1) Develop procedures and policies for streamlining the process for

15 brownfield remediation and development;

16 (2) Provide a single point of contact for financial and technical
17 assistance from the state and quasi-public agencies;

18 [(2)] (3) Identify existing [and create new] sources of funding for
19 brownfield development and remediation; [and] develop a common
20 application to be used by all state and quasi-public entities providing
21 financial assistance for brownfield assessment, remediation and
22 development; and establish procedures for expediting the application
23 for and release of such funds; [to municipalities or economic
24 development agencies;]

25 [(3)] (4) Establish a [place] central office where municipalities, [or]
26 economic development agencies, not-for-profits, existing property
27 owners or potential property owners may turn to for guidance and
28 assistance as to the state's funding programs; [may facilitate
29 compliance with state and federal clean up requirements and
30 qualification for state funds;]

31 [(4)] (5) Identify and prioritize brownfield development
32 opportunities state-wide;

33 [(5) Analyze any action taken by other states, particularly New
34 Jersey and Pennsylvania, regarding brownfield remediation and
35 liability; and]

36 (6) Maintain a web site for the dissemination of information
37 regarding the state's brownfield development programs;

38 [(6)] (7) Develop and execute [an] a communication and outreach
39 program to educate [property owners and] municipalities, economic
40 development agencies, not-for-profits, existing property owners,
41 potential property owners and other organizations and individuals
42 with regard to state policies and procedures for brownfield
43 remediation; and

44 (8) Work with the Department of Environmental Protection to allow

45 for their environmental review of proposed projects.

46 (c) The Office of Brownfield Remediation and Development shall
47 establish and operate a state-funded pilot program to identify
48 brownfield remediation economic opportunities in [four] six
49 Connecticut municipalities, one of which shall have a population of
50 less than twenty-five thousand, one of which shall have a population
51 of more than twenty-five thousand but less than fifty thousand, one of
52 which shall have a population of more than fifty thousand but less
53 than one hundred thousand, [and two] one of which shall have
54 [populations] a population of more than one hundred thousand but
55 less than one hundred fifteen thousand, and two of which shall have
56 populations of more than one hundred fifteen thousand.
57 Municipalities chosen for such pilot programs shall be targeted
58 investment communities or designated as a continuous municipal
59 zone, manufacturing zone, railroad zone, entertainment zone or a
60 defense plant zone. The Office of Brownfield Remediation and
61 Development shall designate [four] six pilot municipalities in which
62 untreated brownfields hinder economic development and shall make
63 grants under such pilot program to these municipalities or economic
64 development agencies associated with each of the [four] six
65 municipalities that are likely to produce significant economic
66 development benefit for the designated municipality.

67 (d) The Department of Environmental Protection, [and] the
68 Connecticut Development Authority, the Department of Public Health
69 and the Office of Responsible Growth shall each designate a [staff
70 member] manager to act as a liaison between their offices and the
71 Office of Brownfield Remediation and Development pursuant to the
72 memorandum of understanding in section 2 of this act. The Office of
73 Brownfield Remediation and Development [shall] may develop and
74 recruit two volunteers from the private sector, including a person from
75 the Connecticut chapter of the National Brownfield Association, with
76 experience in different aspects of brownfield remediation and
77 development. Said liaisons and volunteers [shall] may assist the Office
78 of Brownfield Remediation and Development in developing its

79 programs and achieving the goals of this section [and, together, shall
80 represent said office's response team] to assist in the development of
81 its programs.

82 (e) The Office of Brownfield Remediation and Development may
83 call upon any other department, board, commission or other agency of
84 the state to supply such reports, information and assistance as said
85 office determines is appropriate to carry out its duties and
86 responsibilities. Each officer or employee of such office, department,
87 board, commission or other agency of the state is authorized and
88 directed to cooperate with the Office of Brownfield Remediation and
89 Development and to furnish such reports, information and assistance.

90 (f) Brownfield sites identified for funding under the pilot program
91 established in subsection (c) of this section shall receive priority review
92 status from the Department of Environmental Protection. Each
93 property funded under this program shall be investigated, in
94 accordance with prevailing standards and practices, and remediated in
95 accordance with the regulations established in accordance with
96 prevailing standards and practices for the remediation of such sites
97 adopted by the Commissioner of Environmental Protection or
98 pursuant to section 22a-133k and under the supervision of the
99 department or in accordance with the voluntary remediation program
100 established in section 22a-133x. In either event, the department shall
101 determine that remediation of the property has been fully
102 implemented upon submission of a report indicating that remediation
103 has been verified by an environmental professional licensed in
104 accordance with section 22a-133v. Not later than ninety days after
105 submission of the verification report, [the] said commissioner shall
106 notify the municipality or economic development agency as to
107 whether the remediation has been performed and completed in
108 accordance with the remediation standards or whether any additional
109 remediation is warranted. For purposes of acknowledging that the
110 remediation is complete, the commissioner may indicate that all
111 actions to remediate any pollution caused by any release have been
112 taken in accordance with the remediation standards and that no

113 further remediation is necessary to achieve compliance except
114 postremediation monitoring, natural attenuation monitoring or the
115 recording of an environmental land use restriction.

116 (g) All relevant terms in this subsection, subsection (h) of this
117 section, sections 32-9dd to 32-9ff, inclusive, and section 11 of public act
118 06-184* shall be defined in accordance with the definitions in chapter
119 445. For purposes of subdivision (12) of subsection (a) of section 32-9t,
120 this subsection, subsection (h) of this section, sections 32-9dd to 32-9gg,
121 inclusive, and section 11 of public act 06-184*, "brownfields" means any
122 abandoned or underutilized site where redevelopment and reuse has
123 not occurred due to the presence of pollution in the soil or
124 groundwater that requires remediation prior to or in conjunction with
125 the restoration, redevelopment and reuse of the property.

126 (h) The Departments of Economic and Community Development
127 and Environmental Protection shall administer the provisions of
128 subdivision (1) of section 22a-134, section 32-1m, subdivision (12) of
129 subsection (a) of section 32-9t, sections 32-9cc to 32-9gg, inclusive, and
130 section 11 of public act 06-184* within available appropriations and
131 any funds allocated pursuant to sections 4-66c [,] and 22a-133t and tax
132 credits allocated pursuant to section 32-9t.

133 Sec. 2. (NEW) (*Effective July 1, 2007*) On or before January 1, 2008,
134 the Office of Brownfield Remediation and Development and the
135 Department of Economic and Community Development shall enter
136 into a memorandum of understanding with the Department of Public
137 Health, the Department of Environmental Protection, the Connecticut
138 Development Authority and the Office of Responsible Growth to
139 ensure that all brownfield remediation and development projects in
140 the state are coordinated through the Office of Brownfield
141 Remediation and Development. The memorandum of understanding
142 shall establish monthly meetings of senior managers of participating
143 offices and agencies. Such monthly meetings shall be used to (1)
144 coordinate the number of applications for brownfields funding
145 received by the state agencies or quasi-public agencies; (2) review the

146 status of the current projects, including determining which offices and
147 agencies have staff available to work on such projects and make
148 recommendations to the Commissioner of Economic and Community
149 Development and the Connecticut Development Authority as to which
150 projects should be funded through the state brownfields funding
151 programs established in sections 3 to 5, inclusive, of this act; (3)
152 critique and suggest changes to existing brownfields programs; and (4)
153 discuss and recommend regulatory or statutory changes to streamline
154 the brownfield development process. The memorandum of
155 understanding shall establish meetings among said senior managers
156 more often than monthly as such managers determine are necessary to
157 (A) administer the funding to the designated project recipients, (B)
158 evaluate and coordinate specific brownfield projects, (C) address
159 specific brownfields issues with stakeholders, (D) review case
160 management and coordination issues, and (E) develop and execute an
161 educational and outreach program.

162 Sec. 3. (NEW) (*Effective July 1, 2007*) (a) The Office of Brownfield
163 Remediation and Development shall establish a municipal and
164 regional economic and community grant program to provide
165 municipalities, economic development agencies, regional economic
166 development agencies or community based nonprofit organizations
167 with necessary funding to develop, investigate, remediate, reuse or sell
168 brownfield properties within their towns or regions. Eligible costs shall
169 include the cost of investigation, assessment, remediation, abatement,
170 hazardous materials or waste disposal, long term groundwater or
171 natural attenuation monitoring, costs associated with an
172 environmental land use restriction, planning, engineering and
173 environmental consulting costs and building and structural issues,
174 including demolition, asbestos abatement, PCB removal, contaminated
175 wood or lead paint removal and other infrastructure remedial
176 activities. Grants pursuant to this subsection may be used to remediate
177 property for manufacturing, retail, residential, municipal, educational,
178 parks, community centers or mixed-use.

179 (b) The office shall establish an annual competitive bid process for

180 awarding grants. Applications for such grants shall be in a form
181 prescribed by the Commissioner of Economic and Community
182 Development and filed on or before September first each year. The
183 office shall award grants not later than five months after the
184 application deadline. Grants awarded pursuant to this section shall not
185 exceed four million dollars per project.

186 (c) In addition to the costs set forth in subsection (a) of this section, a
187 grant may be applied to the cost of investigation, assessment,
188 remediation, abatement, hazardous materials or waste disposal, long
189 term groundwater or natural attenuation monitoring, costs associated
190 with an environmental land use restriction, planning, engineering and
191 environmental consulting costs and building and structural issues,
192 including demolition, asbestos abatement, PCB removal, contaminated
193 wood or lead paint removal and other infrastructure remedial
194 activities.

195 (d) The office shall adopt written procedures, in accordance with the
196 provisions of section 1-121 of the general statutes, to carry out the
197 provisions of this section.

198 Sec. 4. (NEW) (*Effective July 1, 2007*) (a) As used in this section, (1)
199 "eligible developers" means anyone who did not cause or contribute to
200 the discharge, spillage, uncontrolled loss, seepage or filtration of such
201 hazardous substance, material or waste and such person is not a
202 member, officer, manager, director, shareholder, subsidiary, successor
203 of, related to, or affiliated with, directly or indirectly, the person who is
204 otherwise liable pursuant to section 22a-432, 22a-433, 22a-451 or 22a-
205 452 of the general statutes; (2) "eligible property owner" means
206 property owners who are in good general standing with the
207 Department of Environmental Protection, demonstrate an inability to
208 obtain financing through traditional lending associations, and cannot
209 retain or expand jobs due to the expense associated with the
210 investigation and remediation of contamination of the property; and
211 (3) "eligible expenses" means the costs of investigation; assessment;
212 abatement; hazardous materials or waste disposal; long-term

213 groundwater or natural attenuation monitoring; costs associated with
214 an environmental land use restriction; planning, engineering and
215 environmental consulting costs; and building and structural issues,
216 including demolition, asbestos abatement, PCB removal, contaminated
217 wood or lead paint removal, and other infrastructure remedial
218 activities.

219 (b) There is established a revolving loan fund to be known as the
220 "Targeted Brownfield Development Loan Fund". Investment earnings
221 credited to the fund shall become part of the assets of the fund. Any
222 balance remaining in the fund at the end of any fiscal year shall be
223 carried forward in the fund for the next fiscal year. Payments of
224 principal or interest on a low interest loan made pursuant to this
225 section shall be paid to the State Treasurer for deposit in the Targeted
226 Brownfield Development Loan Fund. The fund shall be used to make
227 low interest loans pursuant to subsection (c) of this section and to pay
228 reasonable and necessary expenses incurred in administering loans
229 under this section. The Commissioner of Economic and Community
230 Development may enter into contracts with nonprofit corporations to
231 provide for the administration of the Targeted Brownfield
232 Development Loan Fund by such nonprofit corporations, provided no
233 low interest loan shall be made from the fund without the
234 authorization of the commissioner as provided in subsection (c) of this
235 section.

236 (c) The state, acting by and in the discretion of the Commissioner of
237 Economic and Community Development, may enter into contracts to
238 provide financial assistance in the form of low interest loans to eligible
239 owners or eligible developers for eligible costs for any type of
240 brownfields development. The office shall establish and publish
241 criteria for awarding loans pursuant to this section, including project
242 merit and viability, the economic and community development
243 opportunity, the projected contribution to the municipal tax base,
244 municipal support, number of jobs, number of housing units
245 developed to serve the needs of the first-time home buyer, track record
246 of the applicant, environmental compliance history of the applicant

247 and the applicant's ability to pay. To qualify for a loan, the applicant
248 shall agree to enter into a Department of Environmental Protection
249 remediation program. Applications for such loans shall be in a form
250 prescribed by the commissioner. Loans shall be awarded on a rolling
251 basis. Said loans shall not exceed two million dollars per year for two
252 years.

253 (d) The Commissioner of Economic and Community Development
254 may establish the terms and conditions for loans pursuant to this
255 section provided: (1) The principal amount of any loan and all
256 outstanding interest accruing shall be due upon the occurrence of any
257 one of the following events: (A) The sale or lease of the brownfield
258 property for which the loan was made; (B) the approval by the
259 Commissioner of Environmental Protection of a final remedial action
260 report regarding such brownfield property submitted in accordance
261 with section 22a-133y of the general statutes; and (C) an event of
262 default, after any applicable cure period, under the terms of the loan
263 agreement.

264 (2) The Commissioner of Economic and Community Development
265 may: (A) Amortize the repayment of the loan for a period not to exceed
266 five years from the date of sale or lease of such brownfield property or
267 the date of approval by the Commissioner of Environmental Protection
268 of the final remedial action report; (B) modify the loan to forgive the
269 repayment of a part or all of the principal amount of the loan
270 outstanding if completion of remediation of environmental pollution
271 at or on the property is economically infeasible due to the cost of such
272 remediation; (C) waive or vary the interest rate on any such loan; and
273 (D) require the borrower to provide appropriate security for such loan,
274 including, but not limited to, a letter of credit, a lien on real property or
275 a security interest in goods, equipment, machinery or other property of
276 any kind.

277 (e) The commissioner shall adopt written procedures, in accordance
278 with the provisions of section 1-121 of the general statutes, to carry out
279 the provisions of this section.

280 Sec. 5. (NEW) (*Effective July 1, 2007*) (a) The Office of Brownfield
281 Remediation and Development shall establish a small business grant
282 assistance program to provide funding to eligible start-up and small
283 business property owners otherwise unable to develop or retain jobs
284 due to the expense associated with the investigation and remediation
285 of contamination of the property. For purposes of this section, "eligible
286 start-up and small business property owners" means those companies
287 seeking to create or retain fifty jobs or less.

288 (b) Grants awarded pursuant to subsection (a) of this section shall
289 (1) not exceed fifty thousand dollars for site investigation and
290 assessment, and (2) not exceed three hundred thousand dollars for
291 total investigation and remediation. The Office of Brownfield
292 Remediation and Development shall award such grants on a rolling
293 basis. Grant recipients shall enter a Department of Environmental
294 Protection remediation program. Grants shall be used for any eligible
295 expenses as defined in section 4 of this act.

296 Sec. 6. Section 22a-133u of the general statutes is amended by
297 adding subsection (f) as follows (*Effective July 1, 2007*):

298 (NEW) (f) Notwithstanding any subsection of this section, the
299 Commissioner of Environmental Protection shall not accept any
300 applications for funds pursuant to subsection (a) of this section after
301 January 1, 2009.

302 Sec. 7. Subsection (h) of section 22a-133m of the general statutes is
303 repealed and the following is substituted in lieu thereof (*Effective July*
304 *1, 2007*):

305 (h) The Commissioner of Environmental Protection and the
306 Commissioner of Economic and Community Development shall jointly
307 identify urban community sites known to have, or suspected to have,
308 environmental contamination which, if remediated and developed,
309 will improve the urban environment. The Commissioner of
310 Environmental Protection and the Commissioner of Economic and
311 Community Development shall jointly establish the priority of such

312 sites for evaluation and remediation based upon the following factors:
313 (1) The potential benefits of remediation to the environment; (2) the
314 estimated cost of evaluating and remediating the site, if known; (3) the
315 potential benefits to the local community of such site; (4) community
316 support for remediation and redevelopment of such site; (5) the
317 commitment from investors or the municipality to redevelop the site;
318 and (6) any other factors which the commissioners deem relevant. No
319 real property shall be eligible for evaluation and remediation under
320 this subsection unless (A) the site is located in a distressed
321 municipality, as defined in section 32-9p, a targeted investment
322 community, as defined in section 32-222, or an enterprise corridor
323 zone, as defined in section 32-80, or in such other municipality as the
324 Commissioner of Economic and Community Development may
325 designate, [and] (B) the site is not undergoing evaluation or
326 remediation under subsections (a) to (g), inclusive, of this section, and
327 (C) the remediation project is estimated to cost more than ten million
328 dollars.

329 Sec. 8. Subsection (ii) of section 32-23d of the general statutes is
330 repealed and the following is substituted in lieu thereof (*Effective July*
331 *1, 2007*):

332 (ii) "Remediation project" means any project (1) involving the
333 development, redevelopment or productive reuse of real property
334 within this state that (A) has been subject to a spill, as defined in
335 section 22a-452c, (B) is an establishment, as defined in subdivision (3)
336 of section 22a-134, (C) is a facility, as defined in 42 USC 9601(9), or (D)
337 is eligible to be treated as polluted real property for purposes of
338 section 22a-133m or contaminated real property for purposes of section
339 22a-133aa or section 22a-133bb, provided the development,
340 redevelopment or productive reuse is undertaken pursuant to a
341 remediation plan meeting all applicable standards and requirements of
342 the Department of Environmental Protection, (2) that the authority
343 determines will add or support significant new economic activity or
344 employment in the municipality in which such project is located or
345 will otherwise materially contribute to the economic base of the state

346 or the municipality or will provide a residential or mixed use
347 development under chapter 828, and (3) for which assistance from the
348 authority will be needed to attract necessary private investment.

349 Sec. 9. (NEW) (*Effective July 1, 2007*) Notwithstanding the provisions
350 of section 47-204 of the general statutes, any common interest
351 community created pursuant to a remediation project for which bonds
352 have been issued under section 32-23zz of the general statutes, shall be
353 taxed and assessed as a whole, and no unit owner's interest shall be
354 separately taxed. The executive board shall pay such taxes as provided
355 in any proceedings authorizing the issuance of such bonds. The
356 executive board shall include an amount equal to such taxes in the
357 common expense liability of such common interest community, and
358 allocate such amount to each unit holder as provided in section 47-226
359 of the general statutes.

360 Sec. 10. (NEW) (*Effective July 1, 2007*) The Connecticut Development
361 Authority shall establish a loan guarantee program to provide
362 guarantees of not more than thirty per cent of the loan to lenders who
363 provide financing to eligible developers or eligible property owners as
364 defined in section 4 of this act.

365 Sec. 11. Section 11 of public act 06-184 is amended to read as follows
366 (*Effective July 1, 2007*):

367 (a) There is established a task force to study strategies for providing
368 long-term solutions for the state's brownfields.

369 (b) The task force shall consist of the following [nine] ten members,
370 each of whom shall have expertise in brownfield redevelopment either
371 in environmental law, engineering, finance, development, consulting,
372 insurance or other relevant experience:

373 (1) Two appointed by the Governor;

374 (2) One appointed by the president pro tempore of the Senate;

375 (3) One appointed by the speaker of the House of Representatives;

- 376 (4) One appointed by the majority leader of the Senate;
- 377 (5) One appointed by the majority leader of the House of
378 Representatives;
- 379 (6) One appointed by the minority leader of the Senate;
- 380 (7) One appointed by the minority leader of the House of
381 Representatives; [and]
- 382 (8) A representative of the Department of Economic and
383 Community Development, as appointed by the Commissioner of
384 Economic and Community Development; and
- 385 [(8)] (9) A representative of the Department of Environmental
386 Protection, as appointed by the Commissioner of Environmental
387 Protection.
- 388 (c) Any member of the task force appointed under subdivision (1),
389 (2), (3), (4), (5), (6) or (7) of subsection (b) of this section may be a
390 member of the General Assembly. At least one member shall be an
391 employee.
- 392 (d) All appointments to the task force shall be made no later than
393 thirty days after the effective date of this section. Any vacancy shall be
394 filled by the appointing authority.
- 395 (e) The speaker of the House of Representatives and the president
396 pro tempore of the Senate shall select the chairpersons of the task
397 force, from among the members of the task force. Such chairpersons
398 shall schedule the first meeting of the task force, which shall be held no
399 later than sixty days after the effective date of this section.
- 400 (f) Not later than [January 1, 2007] February 1, 2008, the task force
401 shall submit a report on its findings and recommendations to the joint
402 standing committees of the General Assembly having cognizance of
403 matters relating to environment and commerce, in accordance with the
404 provisions of section 11-4a of the general statutes. [The task force shall

405 terminate on the date that it submits such report or January 1, 2007,
406 whichever is later.]

407 (g) The administrative staff of the joint standing committee of the
408 General Assembly having cognizance of matters relating to commerce
409 shall serve as administrative staff of the task force.

410 Sec. 12. (*Effective July 1, 2007*) The sum of one million five hundred
411 thousand dollars is appropriated to the Department of Environmental
412 Protection, from the General Fund, for the fiscal year ending June 30,
413 2008, for staffing dedicated to Brownfields Programs pursuant to
414 section 32-9cc of the general statutes, as amended by this act, and
415 chapter 445 of the general statutes.

416 Sec. 13. (*Effective July 1, 2007*) The sum of one million five hundred
417 thousand dollars is appropriated to the Department of Economic and
418 Community Development, from the General Fund, for the fiscal year
419 ending June 30, 2008, for staffing and operating the Office of
420 Brownfield Remediation and Development.

421 Sec. 14. (*Effective July 1, 2007*) The sum of five hundred thousand
422 dollars is appropriated to the Department of Economic and
423 Community Development, from the General Fund, for the fiscal year
424 ending June 30, 2008, for marketing, education and outreach programs
425 pursuant to section 32-9cc of the general statutes, as amended by this
426 act.

427 Sec. 15. (*Effective July 1, 2007*) (a) The sum of seventy-five million
428 dollars is appropriated to the Department of Economic and
429 Community Development, from the General Fund, for the fiscal year
430 ending June 30, 2008, for the purposes of the funding of programs
431 established pursuant to sections 3 to 5, inclusive, of this act.

432 (b) For each of the fiscal years ending June 30, 2009, June 30, 2010,
433 June 30, 2011, June 30, 2012, and June 30, 2013, the sum of five million
434 dollars is appropriated to the Department of Economic and
435 Community Development, from the General Fund, for the purposes of

436 the funding programs established pursuant to sections 3 to 5, inclusive,
437 of this act.

438 Sec. 16. (*Effective July 1, 2007*) The sum of five million dollars is
439 appropriated to the Connecticut Development Authority, from the
440 General Fund, for the fiscal year ending June 30, 2008, for the purpose
441 of funding, supporting, underwriting and guaranteeing the programs
442 established pursuant to subsection (ii) of section 32-23d of the general
443 statutes, as amended by this act, and sections 9 and 10 of this act.

444 Sec. 17. (*Effective July 1, 2007*) The sum of twenty million dollars is
445 appropriated to the Department of Economic and Community
446 Development, from the General Fund, for the fiscal year ending June
447 30, 2008, for funding the pilot program established pursuant to section
448 32-9cc of the general statutes, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	32-9cc
Sec. 2	<i>July 1, 2007</i>	New section
Sec. 3	<i>July 1, 2007</i>	New section
Sec. 4	<i>July 1, 2007</i>	New section
Sec. 5	<i>July 1, 2007</i>	New section
Sec. 6	<i>July 1, 2007</i>	22a-133u
Sec. 7	<i>July 1, 2007</i>	22a-133m(h)
Sec. 8	<i>July 1, 2007</i>	32-23d(ii)
Sec. 9	<i>July 1, 2007</i>	New section
Sec. 10	<i>July 1, 2007</i>	New section
Sec. 11	<i>July 1, 2007</i>	PA 06-184, Sec. 11
Sec. 12	<i>July 1, 2007</i>	New section
Sec. 13	<i>July 1, 2007</i>	New section
Sec. 14	<i>July 1, 2007</i>	New section
Sec. 15	<i>July 1, 2007</i>	New section
Sec. 16	<i>July 1, 2007</i>	New section
Sec. 17	<i>July 1, 2007</i>	New section

CE 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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Economic & Community Development	Various - Cost	Significant	Significant
Department of Environmental Protection	GF - Cost	See Below	See Below
Public Health, Dept.	GF - See Below	None	None
Policy & Mgmt., Off.	GF - See Below	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
Various Municipalities	Revenue Impact	Potential	Potential

Explanation

The bill establishes minimum staffing requirements for the Office of Brownfield Remediation and Development (OBRD) which was established in PA06-184 and requires that its staff be used solely by the OBRD. The bill also redefines and expands the OBRD's duties, including adding 2 new grant programs, a loan program, 2 additional pilot projects, and additional administrative duties. At the current time, no staff is totally dedicated to the OBRD. The OBRD is within the Department of Economic and Community Development (DECD). It is estimated that the OBRD will require a Director, a supervising environmental analyst, an environmental analyst and an administrative assistant for a total cost of \$224,000 in FY 08 and FY 09 for salaries, not including fringe benefits¹, plus an additional \$10,000 in

¹ 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 for a new employee as a percentage of average salary is 25.8%, effective July 1, 2006. The first year fringe benefit costs for new positions do not

associated other expenses.

It is anticipated that the Department of Environmental Protection (DEP) will require additional resources of approximately \$50,000 to \$100,000 or require the diversion of ½ of a full time manager away from current duties to provide the new staffing requirements in the bill, including but not limited to, providing a manager to act as a liaison, monthly meetings, and 2 additional pilot projects. It is anticipated that the Department of Public Health can provide liaison services and attend monthly meetings within their current budgetary resources.

The bill requires the Office of Responsible Growth (ORG) to enter into a MOU with other agencies to ensure that all brownfield remediation and development projects are coordinated through the OBRD and requires that the ORG designate a manager to act as a liaison pursuant to the MOU. The ORG was created by the Governor through Executive Order 15, and places it within the Office of Policy and Management (OPM), and requires the OPM Secretary to designate a staff member to serve as the State Responsible Growth Coordinator, currently the ORG has four staff. It is anticipated that the ORG can perform the duties required by this bill within ORG's normal budgetary resources.

The bill limits the Urban Sites Remedial Action program funded through General Obligation bonds to projects estimated to cost more than \$10 million dollars. This could reduce the number of projects eligible for funding. The unallocated balance for this account as of April 1, 2007 is \$ 6.4 million and no new funds are recommended in the Governor's capital budget.

The bill eliminates future applications as of January 1, 2009 to the

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 2006-07 fringe benefit rate is 34.4%, which when combined with the non pension fringe benefit rate totals 60.2%.

Special Contaminated Property Remediation and Insurance Fund (SCPRIF). It is unclear what would become of any balance in the fund at that time.

The bill adds the CDA and the representative of DECD as a member to the Brownfield task force and continues it until Jan. 1 2008. It requires the administrative staff of the Commerce Committee to serve the task force. No fiscal impact is anticipated.

Any potential revenue gain to municipalities related to the new grant or loan or pilot programs for urban site remediation would depend upon the amount of the assistance and the recipient of the assistance.

The bill appropriates \$1.5 million from the General Fund to the DEP and the DECD in each year of the biennium for staffing, operating the OBRD, marketing, education, outreach etc. These funds are not provided in HB 7077, the Governor's recommended budget.

The bill appropriates \$75 million to the DECD from the General Fund in FY 2008 for the 2 new grant programs and the new loan program established in the bill. These funds have not been provided in HB 7077, the Governor's recommended budget. The bill also appropriates \$5 million a year from FY 2008 through FY 2013. The state currently operates on a biennial budget.

The Out Years

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

OLR Bill Analysis**sHB 7369*****AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE BROWNFIELDS TASK FORCE.*****SUMMARY:**

This bill expands the state's financial and administrative capacity to remediate contaminated sites (i.e., brownfields). It establishes new grant and direct loan programs for municipal, regional, and nonprofit agencies; small businesses; developers; and property owners. The bill appropriates \$75 million in FY 08 to the Department of Economic and Community Development (DECD) for the three programs and an additional \$5 million per year in FYs 09-13 to DECD for them.

The bill requires the Connecticut Development Authority (CDA) to establish a program exclusively for guaranteeing loans banks make for remediating contaminated sites and appropriates \$5 million in FY 08 for this purpose and for existing CDA brownfield remediation programs. The bill also allows CDA to issue bonds on behalf of towns for remediating sites for residential and mixed uses. Current law allows CDA to issue these bonds for remediating sites for business uses.

The bill expands the Office of Brownfield Remediation and Development's (OBRD) pilot program for remediating and redeveloping brownfields in targeted cities. It increases the number of targeted cities from four to six and appropriates \$20 million in FY 08 for the program.

The bill also increases OBRD's duties and expands its capacity to fulfill them. It makes OBRD a unit of DECD, sets minimum staffing standards, and appropriates \$2 million in FY 08 to cover its administrative and operations costs. It also appropriates \$1.5 million in

FY 08 to the Department of Environmental Protection to cover its cost of helping OBRD coordinate the state's brownfield remediation efforts. The bill requires more agencies to assign liaisons to the office. It also requires OBRD and the agencies to delineate their roles in an memorandum of understanding, which must be executed by January 1, 2008.

Lastly, the bill reestablishes the Brownfields Task Force established under PA 06-184 and requires it to report additional recommendations to the legislature on solving the brownfields problem. The task force submitted the initial report, which was due January 1, 2007. The next report is due February 1, 2008.

EFFECTIVE DATE: July 1, 2007

NEW PROGRAMS

Municipal and Regional Economic and Community Development Grant Program (§ 3)

The bill requires OBRD to provide grants to local and regional development agencies and nonprofit organizations for cleaning up brownfields. Agencies can use the grants to investigate, clean up, develop, reuse, and sell brownfields in their respective towns or regions. The grants can cover a broad range of activities that are usually performed when investigating and remediating sites. The remediated sites can be redeveloped for a wide range of uses, including factories, housing, and community centers.

The bill specifies how the grants must be administered. OBRD must establish a competitive application process, and the DECD commissioner must develop an application form. Eligible applicants must submit their applications to DECD by September 1 annually. OBRD must award the grants no later than the five months after the application deadline. Grant amounts cannot exceed \$4 million per project. OBRD must adopt written procedures for awarding the grants.

Targeted Brownfield Development Loan Fund (§ 4)

The bill authorizes the DECD commissioner to provide low-interest

loans to developers and property owners for remediating brownfields. The loans cannot exceed \$2 million per year for two years and can be used to finance a wide range of remediation activities, including investigating the type and extent of the contamination and disposing of hazardous materials. The commissioner must adopt written procedures for administering the loans.

Developers and property owners qualify for the loans if they meet specified criteria. A developer qualifies if he did not cause or contribute to the contamination and is not connected directly or indirectly with the person ordered by the DEP commissioner to address actual or potential contamination. A property owner qualifies for loans if he is in good standing with DEP, shows that he cannot obtain financing from banks and other traditional lenders, and cannot retain or create jobs because he cannot afford to investigate and remediate a contaminated property. Developers and property owners must agree to enter into a DEP remediation program.

A project qualifies for a loan based on its economic potential and the applicant's history. OBRD must develop criteria based on the bill's specifications, which include the amount of tax revenue the redeveloped site will generate for the town and the applicant's history of complying with environmental laws. OBRD must publish the criteria.

The bill specifies how the program must be administered. The commissioner must develop the application form and award the loans on a rolling basis. He may impose terms and conditions on the loans. He may require the borrower to pay the principal when:

1. the brownfield property is sold or leased,
2. the DEP commissioner approves the final remedial action report under the voluntary site remediation program, or
3. a default occurs after the period for curing it has expired.

The commissioner may also impose terms and conditions:

1. allowing the loan to be repaid within five years after the property is sold or leased or the DEP commissioner approved the report indicating that the site was remediated according to DEP standards,
2. forgiving some or all of the outstanding principal if is economically infeasible to clean up the contamination,
3. waiving or varying the interest rate, and
4. requiring the borrower to provide appropriate security for the loan.

The bill establishes a revolving loan fund in which the commissioner must deposit the loan payments. The fund is nonlapsing and any investment income it earns must be credited to the fund. The commissioner can use the fund only to make brownfield remediation loans. He may contract with a nonprofit organization to administer the loan fund, but he must approve any loan made from the fund.

CDA Brownfield Loan Guarantee Program (§ 10)

The bill requires CDA to establish a program specifically for guaranteeing loans banks make to developers for investigating and remediating contaminated sites. The guarantees may cover up to 30% of the loan amount. A borrower qualifies for a loan if he meets the eligibility criteria under the Targeted Brownfield Development Program.

Small Business Grant Assistance Program (§ 5)

The bill requires OBRD to establish a program providing grants to start-up and small businesses that cannot add or keep no more than 50 jobs because they cannot afford to investigate and clean up a contaminated property. OBRD must award the grants on a rolling basis, and grant recipients must enter a DEP remediation program.

Grant amounts cannot exceed \$50,000 for investigating and assessing sites and \$300,000 for completely investigating and

remediating the site. Businesses can use the loan proceeds for the same activities authorized under the targeted brownfield development program the bill establishes.

EXISTING PROGRAMS

OBRD Pilot Program (§§ 1(c) & (f) and 17)

The bill expands OBRD's pilot program and appropriates \$20 million for it in FY 08. Under current law, OBRD must designate four towns where contaminated properties hinder economic development and fund projects that could significantly benefit them. One town must have a population between 25,000 and 50,000 people, one between 50,000 and 100,000 and two must have more than 100,000 people.

The bill requires OBRD to designate an additional town that has fewer than 25,000 people. It also requires OBRD to add two more by creating new populations thresholds for towns with more than 100,000 people. Instead of designating two towns above this threshold, OBRD must designate one town with between 100,000 and 115,000 people (i.e., Waterbury) and two towns with more than 115,000 people (i.e., Bridgeport, Hartford, New Haven, and Stamford).

The bill specifies that sites must be investigated and remediated under the pilot program according to prevailing standards and practices.

Urban Sites Remedial Action Program (§ 7)

The bill limits funding under this program to projects costing more than \$10 million. The program funds cleanup of contaminated sites that could be productively reused.

CDA Funding for Remediation Projects (§§ 8 and 9)

The bill allows CDA to finance the cleanup of contaminated sites for residential or mixed use developments. The law allows CDA to issue bonds on behalf of towns to finance remediation projects. Current law limits the financing to sites will be reused in a way that will generate new business activity or add new jobs in the town where the project is

located or benefit the town and the state's economies in other ways.

The bill specifies how condominium and cooperative projects developed on sites remediated with CDA funds must pay property taxes. Towns must assess the entire project as a whole instead of assessing and taxing each unit separately. The association's executive board must pay the taxes according to the provisions under which CDA issued the bond. The board must include an amount equal to the taxes in the common expense liability and apportion that amount to each unit holder as the laws prescribe.

OBRD

Expanded Duties (§§ 1 (b) and 14)

The bill expands OBRD's duties and redefines some existing ones. OBRD must:

1. provide a single point of contact for financial and technical assistance from state and quasi-public agencies;
2. develop a common application for state and quasi-public agencies to use when providing financial assistance for assessing, remediating, and developing brownfields;
3. maintain a web site providing information about the state's brownfield development programs;
4. work with DEP to allow for its environmental review of proposed projects.

The bill specifies that OBRD must develop procedures and policies for streamlining the brownfield development, as well as the remediation, process as current law requires.

It also redefines OBRD's duty to help organizations remediate brownfields. Under current law, it must establish a place that can make it easier for towns and economic development agencies to comply with federal and state cleanup standards and qualify for state funds. Under the bill, OBRD must create a central office where these entities and

nonprofit organizations and potential property owners can go for help in accessing the state's brownfield funding programs.

The bill appropriates \$500,000 in FY 08 to OBRD for its marketing, education, and outreach programs.

Administrative Capacity (§§ 1(a) and 13)

The bill expands OBRD's capacity to fulfill its duties. Current law places the office within DECD for administrative purposes only. The bill makes it an organizational unit within DECD and directly accountable to the commissioner.

The bill also sets minimum staffing requirements. The office must be staffed by at least three professionals assigned exclusively to brownfield projects. It must have a director and a project manager with a background in environmental planning. It must also have at least one administrative support staff person. The director must report directly to the commissioner. The bill appropriates \$1.5 million in FY 08 to cover the office's personnel and operations.

Interagency Coordination (§§ 1(d) and 2)

The bill requires more agencies to coordinate their activities with OBRD. The law requires DEP and CDA each to assign a liaison to OBRD. The bill also requires the Department of Public Health (DPH) and the Office of Responsible Growth each to assign liaisons.

The bill specifies the mechanism through which OBRD and the agencies must coordinate their actions. It requires them to enter into a memorandum of understanding (MOU) that establishes OBRD's role in coordinating state assistance for remediating brownfields and requiring monthly meetings between OBRD and the agencies' senior managers. The agreement must be executed by January 1, 2008.

During these meetings, the senior managers must:

1. coordinate the number of brownfield funding applications the agencies received,

2. review the status of current projects and assign agency staff to them,
3. recommend projects for funding to DECD commissioner and CDA,
4. critique existing brownfield programs and suggest how they should be changed, and
5. discuss and recommend regulatory and statutory changes needed to streamline the process for redeveloping brownfields.

The MOU must also require the managers to meet more frequently to:

1. administer funds to designated project recipients,
2. evaluate and coordinate specific brownfield projects,
3. address specific brownfield issues with stakeholders,
4. review case management and coordination issues, and
5. develop and implement educational and outreach programs.

The bill allows rather than requires OBRD and the agency staff assigned to it to perform some of their existing duties.

TASK FORCE

The bill reestablishes the Brownfields Task Force indefinitely and requires it to submit another report by February 1, 2008. It also increases the membership to 10 by requiring the DECD commissioner to appoint a department representative to the task force. It requires the Commerce Committee staff to serve as the task force's administrative staff.

BACKGROUND

Office of Responsible Growth

The governor's Executive Order 15 created this office within the

Office of Policy and Management to conserve undeveloped land by steering development toward areas that already have the roads, sewers and other supporting infrastructure to support it. The office's duties include creating an interagency steering to coordinate the state's planning and development programs.

DEP Voluntary Remediation Program

The law allows parties to voluntarily clean up sites to DEP standards and enter into an agreement under which DEP agrees not to sue the owner. This option is available only for sites located outside of areas containing drinking water supplies and that are subject to no DEP cleanup order.

Related Bill

HB 7039 contains several provisions that are similar to the bill's. It places OBRD under the DECD commissioner, expands its duties, and requires DPH to assign a liaison to ORBD. It establishes a brownfield remediation financing program and allows the governor and the State Bond Commission to fund it with the Urban Act Bonds authorized for DECD. It also sets conditions under which brownfield sites in floodplains can be remediated and redeveloped.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/20/2007)