



General Assembly

January Session, 2007

Committee Bill No. 505

LCO No. 6050

06050SB00505ENV

Referred to Committee on Environment

Introduced by:
(ENV)

**AN ACT CLARIFYING THE CONNECTICUT RESOURCE RECOVERY
AUTHORITY'S CONDEMNATION POWERS.**

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

1 Section 1. Subsection (a) of section 22a-266 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2007*):

4 (a) To accomplish the purposes of this chapter, the authority shall
5 have power to:

6 (1) Own, manage and use real property or any interest therein;

7 (2) Determine the location and character of any project to be
8 developed under the provisions of this chapter, subject to applicable
9 statutes and regulations and the requirements of the state-wide solid
10 waste management plan;

11 (3) Purchase, receive by gift or otherwise, lease, exchange, or
12 otherwise acquire and construct, reconstruct, improve, maintain, equip
13 and furnish such waste management projects as are called for by the
14 state solid waste management plan;

15 (4) Sell or lease to any person, all or any portion of a waste
16 management project, for such consideration and upon such terms as
17 the authority may determine to be reasonable;

18 (5) Mortgage or otherwise encumber all or any portion of a project
19 whenever, in the opinion of the authority, such action is deemed to be
20 in furtherance of the purposes of this chapter;

21 (6) Grant options to purchase, or to renew a lease for, any authority
22 waste management project on such terms as the authority may
23 determine to be reasonable;

24 (7) Acquire, by purchase, gift, or transfer [, or by condemnation for
25 public purposes,] and manage and operate, hold and dispose of real
26 property and, subject to agreements with lessors or lessees, develop or
27 alter such property by making improvements and betterments with the
28 purpose of enhancing the value and usefulness of such property;

29 (8) Make plans, surveys, studies and investigations necessary or
30 desirable, in conformity with the state plan and with due consideration
31 for local or regional plans, to carry out authority functions with respect
32 to the acquisition, use and development of real property and the
33 design and construction of systems and facilities;

34 (9) Make short and long range plans, consistent with the provisions
35 of the state solid waste management plan, for the processing and
36 transportation of solid wastes and recovered resources by authority-
37 owned facilities;

38 (10) Design or provide for the design of solid waste management
39 facilities including design for the alteration, reconstruction,
40 improvement, enlargement or extension of existing facilities;

41 (11) Construct, erect, build, acquire, alter, reconstruct, improve,
42 enlarge or extend waste management projects including provision for
43 the inspection and supervision thereof and the engineering,

44 architectural, legal, fiscal and economic investigations and studies,
45 surveys, designs, plans, working drawings, specifications, procedures
46 and any other actions incidental thereto;

47 (12) Own, operate and maintain waste management projects and
48 make provision for their management and for the manufacturing,
49 processing and transportation operations necessary to derive
50 recovered resources from solid waste, and contracting for the sale of
51 such;

52 (13) Enter upon lands and waters, as may be necessary, to make
53 surveys, soundings, borings and examinations in order to accomplish
54 the purposes of this chapter;

55 (14) Contract with municipal and regional authorities and state
56 agencies to provide waste management services in accordance with the
57 provisions of section 22a-275 and to plan, design, construct, manage,
58 operate and maintain solid waste disposal and processing facilities on
59 their behalf;

60 (15) Design and construct improvements or alterations on properties
61 which it owns or which it operates by contract on behalf of municipal
62 or regional authorities, including the restoration of terminated dumps
63 and landfills to beneficial public or private use;

64 (16) Contract for services in the performance of architectural and
65 engineering design, the supervision of design and construction, system
66 management and facility management; for such professional or
67 technical services as are specified in subdivision (3) of section 22a-265;
68 and for such other professional or technical services as may require
69 either prequalification of a contractor or the submission by any
70 individual, firm or consortium or association of individuals or firms of
71 a proposal in response to an official request for proposal or similar
72 written communication of the authority that is issued or made
73 pursuant to the contracting procedures adopted under section 22a-
74 268a, whenever such services are, in the discretion of the authority,

75 deemed necessary, desirable or convenient in carrying out the
76 purposes of the authority;

77 (17) Contract for the construction of solid waste facilities with
78 private persons or firms, or consortia of such persons or firms,
79 pursuant to applicable provisions of this chapter, the requirements of
80 applicable regulations, the contracting procedures adopted under
81 section 22a-268a and the state plan and in accordance with such
82 specifications, terms and conditions as the authority may deem
83 necessary or advisable;

84 (18) Assist in the development of industries and commercial
85 enterprises and the planning, design, construction, financing,
86 management, ownership, operation and maintenance of systems,
87 facilities and technology within the state based upon or related to
88 resources recovery, recycling, reuse, treatment, processing or disposal
89 of solid waste provided any net revenue to the authority from
90 activities, contracts, products or processes undertaken pursuant to this
91 subdivision shall be distributed so as to reduce the costs of other
92 authority services to the users thereof on a pro rata basis proportionate
93 to costs paid by such users;

94 (19) Act as an electric supplier or an electric aggregator pursuant to
95 public act 98-28* provided any net revenue to the authority from
96 activities, contracts, products or processes undertaken pursuant to this
97 subdivision, after payment of principal and interest on bonds and
98 repayment of any loans or notes of the authority, shall be distributed
99 so as to reduce the costs of other authority services to the users thereof
100 on a pro rata basis proportionate to costs paid by such users. In acting
101 as an electric supplier or an electric aggregator pursuant to any license
102 granted by the Department of Public Utility Control, the authority may
103 enter into contracts for the purchase and sale of electricity and electric
104 generation services, provided such contracts are solely for the
105 purposes of ensuring the provision of safe and reliable electric service
106 and protecting the position of the authority with respect to capacity

107 and price; and

108 (20) Acquire real property by condemnation for public purposes,
109 including the condemnation of any resources recovery facility
110 constructed with publicly supported bonds and any and all real
111 property appurtenant to or used in connection with such facility,
112 including: (A) All improvements and fixtures on such property, (B)
113 private property, and (C) every estate, legal or equitable interest and
114 right, and inchoate interest in such facility, including options to
115 purchase, franchises, easements, rights-of-way and any other rights or
116 interests which the authority deems necessary for its obligations and
117 purposes under this chapter.

118 Sec. 2. Section 22a-260 of the general statutes is repealed and the
119 following is substituted in lieu thereof (*Effective October 1, 2007*):

120 The following terms, as used in this chapter, [and] chapter 103b and
121 section 3 of this act, shall have the indicated meanings unless the
122 context in which they are used demands a different meaning and
123 intent:

124 (1) "Authority" means the Connecticut Resources Recovery
125 Authority created and established pursuant to this chapter or any
126 board, body, commission, department, officer, agency or other
127 successor thereto;

128 (2) "State solid waste management plan" means the administrative
129 and financial plan developed by the Commissioner of Environmental
130 Protection for solid waste disposal and resources recovery, pursuant to
131 section 22a-211;

132 (3) "Resources recovery" means the processing of solid wastes to
133 reclaim energy therefrom;

134 (4) "Recycling" means the processing of solid waste to reclaim
135 material therefrom;

136 (5) "Person" means any individual, firm, partnership, association,
137 limited liability company or corporation, public or private, organized
138 or existing under the laws of the state or any other state, including
139 federal corporations, but excluding municipalities, special districts
140 having taxing powers or other political subdivisions of the state;

141 (6) "Waste management services" means actions taken to effectuate
142 the receipt, storage, transportation and processing for resources
143 recovery, recycling, reuse of recovered materials, or disposal of solid
144 wastes, including the sale of products, materials or energy on behalf of
145 the state, a region, a municipality or a person by the authority or by
146 any person or persons acting under contract with the authority,
147 pursuant to the provisions of this chapter;

148 (7) "Solid waste" means unwanted or discarded solid, liquid,
149 semisolid or contained gaseous material, including but not limited to,
150 demolition debris, material burned or otherwise processed at a
151 resources recovery facility or incinerator, material processed at a
152 recycling facility and sludges or other residue from a water pollution
153 abatement facility, water supply treatment plant or air pollution
154 control facility;

155 (8) "Solid waste facility" means any solid waste disposal area,
156 volume reduction plant, transfer station, wood burning facility, or
157 biomedical waste treatment facility;

158 (9) "Solid waste disposal area" means any location, including a
159 landfill or other land disposal site, used for the disposal of more than
160 ten cubic yards of solid waste;

161 (10) "Volume reduction plant" means any location or structure,
162 whether located on land or water, where more than two thousand
163 pounds per hour of solid waste generated elsewhere may be reduced
164 in volume, including but not limited to, resources recovery facilities
165 and other incinerators, recycling facilities, pulverizers, compactors,
166 shredders, balers and composting facilities;

167 (11) "Resources recovery facility" means a facility utilizing processes
168 aimed at reclaiming the material or energy values from solid wastes;

169 (12) "Transfer station" means any location or structure, whether
170 located on land or water, where more than ten cubic yards of solid
171 waste, generated elsewhere, may be stored for transfer or transferred
172 from transportation units and placed in other transportation units for
173 movement to another location, whether or not such waste is stored at
174 the location prior to transfer;

175 (13) "Recycling facility" or "recycling center" means land and
176 appurtenances thereon and structures where recycling is conducted,
177 including but not limited to, an intermediate processing center as
178 defined in this section;

179 (14) "Solid waste planning region" means those municipalities or
180 parts thereof within or forming an area defined in the state solid waste
181 management plan;

182 (15) "Municipality" means any town, city or borough within the
183 state;

184 (16) "Municipal authority" means the local governing body having
185 legal jurisdiction over solid waste management within its corporate
186 limits which shall be, in the case of any municipality which adopts a
187 charter provision or ordinance pursuant to section 7-273aa, the
188 municipal resource recovery authority;

189 (17) "Region" means two or more municipalities which have joined
190 together by creating a district or signing an interlocal agreement or
191 signing a mutual contract for a definite period of time concerning solid
192 waste management within such municipalities;

193 (18) "Regional authority" means the administrative body delegated
194 the responsibility for solid waste management in a region;

195 (19) "Bonds" means bonds of the authority issued pursuant to the

196 provisions of this chapter and the authorizing resolutions of said
197 authority;

198 (20) "Notes" means notes of the authority issued pursuant to this
199 chapter and the resolutions of the authority, either in anticipation of
200 and pending the issuance of bonds by said authority or otherwise;

201 (21) "Revenues" means moneys or income received by the authority
202 in whatever form, including but not limited to fees, charges, lease
203 payments, interest payments on investments, payments due and
204 owing on account of any instrument, contract or agreement between
205 the authority and any municipality, region, state agency or person,
206 gifts, grants, bestowals or any other moneys or payments to which the
207 authority is entitled under the provisions of this chapter or any other
208 law, or of any agreement, contract or indenture of the authority;

209 (22) "Waste management project" means any solid waste disposal
210 and resources recovery area, plant, works, system, facility or
211 component of a facility, equipment, machinery or other element of a
212 facility which the authority is authorized to plan, design, finance,
213 construct, manage, operate or maintain under the provisions of this
214 chapter, including real estate and improvements thereto and the
215 extension or provision of utilities and other appurtenant facilities
216 deemed necessary by the authority for the operation of a project or
217 portion of a project, including all property rights, easements and
218 interests required;

219 (23) "Solid waste management system" means that portion of the
220 overall state solid waste management plan specifically designed to
221 deal with the provision of waste management services and to effect
222 resources recovery and recycling by means of a network of waste
223 management projects and resources recovery facilities developed,
224 established and operated by the authority by contract or otherwise, but
225 not embracing or including any regulatory or enforcement activities of
226 the Department of Environmental Protection in accordance with

227 applicable provisions of the general statutes and as may be referred to
228 in the state solid waste management plan as developed and
229 promulgated by the Commissioner of Environmental Protection;

230 (24) "Costs" means the cost or fair market value, as determined by
231 the authority, of construction, lands, property rights, utility extensions,
232 disposal facilities, access roads, easements, franchises, financing
233 charges, interest, engineering and legal services, plans, specifications,
234 surveys, cost estimates, studies, transportation and other expenses
235 necessary or incidental to the design, development, construction,
236 financing, management and operation and maintenance of a waste
237 management project, and such other costs or expenses of the authority,
238 including administrative and operating costs, research and
239 development, and operating capital, including fees, charges, loans,
240 insurances, and the expense of purchasing real and personal property,
241 including waste management projects;

242 (25) "Intermediate processing facility" means a facility where glass,
243 metals, paper products, batteries, household hazardous waste,
244 fertilizers and other items are removed from the waste stream for
245 recycling or reuse.

246 Sec. 3. (NEW) (*Effective October 1, 2007*): (a) Notwithstanding the
247 provisions of section 22a-276 of the general statutes, not later than
248 thirty days before instituting condemnation proceedings to obtain a
249 resources recovery facility, the authority shall notify all parties with an
250 interest in said facility of the authority's intention to condemn said
251 facility. Said notice shall detail the properties and interests that the
252 authority seeks to condemn, and shall inquire whether the interested
253 parties intend to sell such properties and interests in the resources
254 recovery facility that the authority has identified as being necessary for
255 fulfilling its obligations under this chapter.

256 (b) All parties notified in accordance with subsection (a) of this
257 section shall answer such notice, in writing, not later than thirty days

258 after the receipt of the notice. If the parties are agreeable to selling their
 259 interest in the facility, their answer shall contain the asking price and
 260 terms of sale and such price or terms may be the subject of further
 261 negotiation among the parties and the authority. If the parties refuse to
 262 sell such facility, or fail to reply to the authority not later than thirty
 263 days after receipt of the notice, the parties shall forfeit their right to
 264 have their interest purchased and the authority may condemn the
 265 facility at the reasonable value determined in accordance with
 266 subsection (c) of this section.

267 (c) If the authority and the interested party or parties fail to agree
 268 upon a price for the parties' interest in the facility, either the authority
 269 or such party may petition the Department of Public Utility Control for
 270 a determination of a fair price for such interest. The Department of
 271 Public Utility Control shall determine the price by estimating the cost
 272 of the replacement of the subject interest and making adjustments for
 273 depreciation, the value of the underlying land and total
 274 entrepreneurial profit.

275 (d) Not later than ninety days after the final determination of the
 276 price to be paid for the interest in the facility, the authority shall make
 277 a final determination whether or not to purchase the interest at said
 278 price. The authority may vote to issue such bonds and notes as may be
 279 necessary and expedient for the purpose of defraying the cost of
 280 purchasing the interest. If the authority issues such bonds or notes, the
 281 authority shall pay the money so raised to the previous interest holder
 282 immediately upon receipt.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	22a-266(a)
Sec. 2	<i>October 1, 2007</i>	22a-260
Sec. 3	<i>October 1, 2007</i>	New section

Statement of Purpose:

To clarify CRRA's condemnation authority over resource recovery facilities and to give CRRA the authority to condemn inchoate interests in resource recovery facilities, to give DPUC the power to determine the amount of compensation to be paid, to provide that CRRA may decide whether or not to pursue the purchase after a final price has been set, and to provide that compensation shall be paid only after the interest is obtained by CRRA.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. FINCH, 22nd Dist.; SEN. GOMES, 23rd Dist.
REP. HENNESSY, 127th Dist.

S.B. 505