



House of Representatives

General Assembly

File No. 241

February Session, 2008

Substitute House Bill No. 5746

House of Representatives, March 27, 2008

The Committee on Transportation reported through REP. GUERRERA of the 29th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE DEPARTMENT OF TRANSPORTATION.

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

1 Section 1. Section 13a-126 of the 2008 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

4 (a) As used in this section, "public service facility" includes all
5 privately, publicly or cooperatively owned lines, facilities and systems
6 for producing, transmitting or distributing communications, cable
7 television, power, electricity, light, heat, gas, oil, crude products,
8 water, steam, waste, storm water not connected with highway
9 drainage and any other similar commodities, including fire and police
10 signal systems and street lighting systems which directly or indirectly
11 serve the public.

12 (b) Whenever the commissioner determines that any public service
13 facility located within, on, along, over or under any land comprising
14 the right-of-way of a state highway or any other public highway when

15 necessitated by the construction or reconstruction of a state highway
16 shall be readjusted or relocated in or removed from such right-of-way,
17 the commissioner shall issue an appropriate order to the company,
18 corporation or municipality owning or operating such facility, and
19 such company, corporation or municipality shall, upon receipt of such
20 order, readjust, relocate or remove the same promptly in accordance
21 with such order. [; provided an equitable]

22 (c) (1) A share of the cost of such readjustment, relocation or
23 removal, including the cost of installing and constructing a public
24 service facility of equal capacity in a new location, shall be borne by
25 the state. [, except that the state shall not bear any share of the cost of a
26 project of an electric distribution company, as defined in section 16-1,
27 to readjust, relocate or remove any facility, as defined in subsection (a)
28 of section 16-50i, used for transmitting electricity or as an electric
29 transmission trunkline. The Department of Transportation shall
30 evaluate the total costs of such a project, including department costs
31 for construction or reconstruction and electric distribution company
32 costs for readjusting, relocating or removing such facility, so as to
33 minimize the overall costs incurred by the state and the electric
34 distribution company. The electric distribution company may provide
35 the department with proposed alternatives to the relocation,
36 readjustment or removal proposed by the department and shall be
37 responsible for any changes to project costs attributable to adoption of
38 the company's proposed alternative designs for such project, including
39 changes to the area of the relocation, readjustment or removal and any
40 incremental costs incurred by the department to evaluate such
41 alternatives. If such electric distribution company and the department
42 cannot agree on a plan for such project, the Commissioner of
43 Transportation and the chairperson of the Department of Public Utility
44 Control shall, on request of the company, jointly determine the
45 alternative for the project.]

46 (2) Such [equitable] share, in the case of or in connection with the
47 construction or reconstruction of any limited access highway, or for a
48 public service facility owned by a municipality, town, city, borough,

49 any municipal corporation or department thereof, whether or not
50 separately incorporated, shall be the entire cost, less the deductions
51 provided in this section, and, in the case of or in connection with the
52 construction or reconstruction of any other state highway, shall be
53 [such portion or all of the entire cost, less the deductions provided in
54 this section, as may be fair and just under all the circumstances, but
55 shall not be less than] fifty per cent of such cost, [after] less the
56 deductions provided in this section. In establishing the [equitable]
57 share of the cost to be borne by the state, there shall be deducted from
58 the cost of the readjusted, relocated or removed facilities a sum based
59 on a consideration of the value of materials salvaged from existing
60 installations, the cost of the original installation, the life expectancy of
61 the original facility and the unexpired term of such life use.

62 (3) When any facility is removed from the right-of-way of a public
63 highway to a private right-of-way, the state shall not pay for such
64 private right-of-way, provided, when a municipally-owned facility is
65 thus removed from a municipally-owned highway, the state shall pay
66 for the private right-of-way needed by the municipality for such
67 relocation.

68 (4) Notwithstanding any provision of this section, the state shall not
69 bear any share of the cost of a project to readjust, relocate or remove
70 any facility, as defined in subsection (a) of section 16-50i, used for
71 transmitting electricity or as an electric trunkline. The Department of
72 Transportation shall evaluate the total costs of such a project, including
73 department costs for construction or reconstruction and electric
74 distribution company costs for readjusting, relocating or removing
75 such facility, so as to minimize the overall costs incurred by the state
76 and the electric distribution company. The electric distribution
77 company may provide the department with proposed alternatives to
78 the relocation, readjustment or removal proposed by the department
79 and shall be responsible for any changes to project costs attributable to
80 adoption of the company's proposed alternative designs for such
81 project, including changes to the area of the relocation, readjustment or
82 removal, and any incremental costs incurred by the department to

83 evaluate such alternatives. If such electric distribution company and
84 the department cannot agree on a plan for such project, the
85 Commissioner of Transportation and the chairperson of the Public
86 Utilities Control Authority shall, upon the request of the company,
87 jointly determine the alternative for the project.

88 (5) If the commissioner and the company, corporation or
89 municipality owning or operating such facility cannot agree upon the
90 share of the cost to be borne by the state, either may apply to the
91 superior court for the judicial district within which such highway is
92 situated, or, if said court is not in session, to any judge thereof, for a
93 determination of the cost to be borne by the state, and said court or
94 such judge, after causing notice of the pendency of such application to
95 be given to the other party, shall appoint a state referee to make such
96 determination. Such referee, having given at least ten days' notice to
97 the parties interested of the time and place of the hearing, shall hear
98 both parties, shall view such highway, shall take such testimony as
99 such referee deems material and shall thereupon determine the
100 amount of the cost to be borne by the state and immediately report to
101 the court. If the report is accepted by the court, such determination
102 shall, subject to right of appeal as in civil actions, be conclusive upon
103 both parties.

104 Sec. 2. Section 14-212a of the general statutes is repealed and the
105 following is substituted in lieu thereof (*Effective October 1, 2008*):

106 (a) The Superior Court shall impose an additional fee equivalent to
107 one hundred per cent of the fine established or imposed for the
108 violation of the provisions of section 14-213, 14-213b, 14-214, 14-215 of
109 the 2008 supplement to the general statutes, 14-216, 14-218a, 14-219, 14-
110 220, 14-221, 14-222, 14-222a of the 2008 supplement to the general
111 statutes, 14-223, 14-224, 14-225, 14-227a, 14-230, 14-230a, 14-231, 14-232,
112 14-233, 14-235, 14-236, 14-237, 14-238, 14-238a, 14-239, 14-240, 14-240a,
113 14-241, 14-242, 14-243, 14-244, 14-245, 14-246a, 14-247, 14-247a, 14-248a,
114 14-249, 14-250, 14-250a, 14-257, 14-261, 14-266, 14-271, 14-273, 14-279,
115 14-281a, subsection (e) or (g) of section 14-283, section 14-289a of the

116 2008 supplement to the general statutes or 14-289b for any such
117 violation committed while construction work is ongoing within a
118 highway construction zone designated in a conspicuous manner by the
119 Department of Transportation, [or] while utility work is ongoing
120 within a utility work zone designated in a conspicuous manner by a
121 public service company, as defined in section 16-1 of the 2008
122 supplement to the general statutes, [or] by a water company, as
123 defined in section 25-32a, or while activities are ongoing in a traffic
124 incident management zone.

125 (b) (1) The Department of Transportation shall post a sign at the
126 beginning of a highway construction zone which shall read as follows:
127 "ROAD WORK AHEAD FINES DOUBLED", and at the end of such
128 zone which shall read as follows: "END ROAD WORK".

129 (2) A public service company or water company shall post a sign at
130 the beginning of a utility work zone which shall read as follows:
131 "UTILITY WORK AHEAD FINES DOUBLED", and at the end of such
132 zone which shall read as follows: "END UTILITY WORK".

133 (3) As used in this section, "traffic incident management zone" refers
134 to an area of a highway where temporary traffic controls or measures
135 are installed under the authority of the Commissioner of
136 Transportation, Commissioner of Public Safety, or local "traffic
137 authority", as defined in section 14-297, in response to a motor vehicle
138 incident, natural disaster, hazardous material spill or other unplanned
139 incident. The traffic incident management zone shall be delineated by
140 the use of one or more temporary traffic control devices or measures
141 such as signs, cones, flares or visible flashing or revolving lights which
142 meet the requirements of sections 14-96p and 14-96q.

143 (c) The state or any agency or employee of the state shall not be
144 civilly liable for any injuries or damages to any person or property
145 which may result, either directly or indirectly, from failure on the part
146 of the Department of Transportation to post any sign required under
147 subsection (b) of this section.

148 Sec. 3. Section 13b-53 of the general statutes is repealed and the
149 following is substituted in lieu thereof (*Effective from passage*):

150 The commissioner may, on behalf of the state, acquire, own,
151 construct, maintain or operate, upon, at or near the seaboard or any
152 navigable waterway, land, or any harbor, wharf, dock, pier, quay,
153 canal, slip or basin, or any appropriate harbor facility, shed, warehouse
154 of any kind, vault, railroad track, yard, terminal or equipment, or such
155 other facility related to the transportation of goods or people by water
156 as he deems necessary to the fulfillment of the purposes of this
157 chapter. The commissioner, [may make any such facility available for
158 use by] with the approval of the State Properties Review Board, the
159 Office of Policy and Management and the Attorney General, may lease
160 or grant any interest at the State Pier in New London or any navigation
161 property owned or under the control of the Department of
162 Transportation to any person and in any manner, as he deems
163 appropriate, [in order to promote the efficient interchange of traffic
164 between modes of transportation by water, and modes of
165 transportation other than by water, including but not limited to
166 transportation by rail, air and land] except that after initiating such
167 approval, the commissioner may temporarily lease any such interest. A
168 temporary lease shall be effective only until a final decision is made by
169 the State Properties Review Board and the Attorney General. Leases of
170 land of the state shall be for periods determined by the commissioner
171 with the approval of the State Properties Review Board and may
172 provide for the construction of buildings on the land. The
173 commissioner may confer the privilege of concessions of supplying,
174 upon such facilities, goods, commodities, service and facilities.

175 Sec. 4. Section 13b-344 of the general statutes is repealed and the
176 following is substituted in lieu thereof (*Effective October 1, 2008*):

177 (a) Each town, city or borough shall place, inspect and maintain
178 warning signs and pavement markings consisting of stop lines and
179 advance warning markings on each highway approaching a crossing at
180 grade of such highway and the tracks of any railroad within the

181 respective limits of such town, city or borough. Such signs shall be
182 furnished by the railroad company crossing such highway. Such signs
183 and pavement markings shall conform with the Federal Highway
184 Administration's Manual on Uniform Traffic Control Devices and shall
185 be placed in a manner that conforms with said manual. If in the case of
186 any such crossing it appears that the placing of the signs prescribed by
187 this section is impracticable or unnecessary, the Commissioner of
188 Transportation may release such municipality from the obligation of
189 placing and maintaining such signs on the highway near such
190 crossing. The [railroad company operating over such crossing, or the
191 private party or corporation owning a railroad right-of-way,]
192 Department of Transportation shall annually notify in writing the
193 appropriate town, city [,] or borough [or, in the case of a state highway,
194 the Commissioner of Transportation] of the location of all railroad
195 crossings within the respective limits of such town, city or borough
196 and the obligations of such town, city or borough under the provisions
197 of this subsection. [The commissioner shall provide each such railroad
198 company, private party or corporation with a list of the towns, cities
199 and boroughs to be notified in accordance with this subsection. Such
200 list shall include the name and address of the official to whom such
201 notification shall be delivered.]

202 (b) Each town, city or borough, upon receipt of a report of a
203 malfunctioning grade crossing gate or signal shall dispatch local police
204 or firemen to the crossing who shall, upon consultation with the
205 railroad company crossing such highway, either direct traffic across
206 the crossing or to an alternate route until such time as the railroad
207 company crossing such highway repairs the gate or signal or assumes
208 responsibility for directing traffic.

209 Sec. 5. Section 4b-15b of the 2008 supplement to the general statutes
210 is repealed and the following is substituted in lieu thereof (*Effective*
211 *October 1, 2008*):

212 (a) Prior to acceptance of all or part of any building under a lease,
213 lease renewal or purchase, where such premises are to be occupied by

214 state employees or others, each state department shall provide for an
215 inspection of the premises and shall develop a protocol for periodic
216 assessment and remediation of indoor air quality issues in such
217 facility. Such protocol shall include the best practices for commercial
218 office space and shall include all applicable provisions of the
219 Environmental Protection Agency's Indoor Air Quality Tools for
220 Schools Program.

221 (b) Each lease agreement entered into on and after July 1, 2007, by
222 any state department to lease all or part of any building to be occupied
223 by state employees or others shall contain a provision requiring the
224 lessor to make all necessary efforts during the term of the lease
225 agreement to maintain the structure and mechanical systems of the
226 building as necessary to sustain the indoor air quality in the building
227 to the levels in existence at the time the premises were accepted and to
228 carry out the indoor air quality protocol established under subsection
229 (a) of this section.

230 (c) The provisions of this section shall not apply to any building
231 leased or owned by the Department of Transportation that the
232 department does not use for office space.

233 Sec. 6. Subsection (c) of section 13b-97 of the general statutes is
234 repealed and the following is substituted in lieu thereof (*Effective*
235 *October 1, 2008*):

236 (c) No certificate shall be sold or transferred until the department,
237 upon written application to it setting forth the purpose, terms and
238 conditions thereof, and after investigation, finds that the purchaser or
239 transferee is suitable to operate a taxicab service after consideration of
240 the factors specified in subsection (a) of this section and approves the
241 same. The application shall be accompanied by a fee of eighty-eight
242 dollars. The department may amend or, for sufficient cause shown,
243 may suspend or revoke any such certificate. The department may
244 impose a civil penalty on any person or any officer of any association,
245 limited liability company or corporation who violates any provision of
246 this chapter or any regulation adopted under section 13b-96 with

247 respect to fares, service, operation or equipment, in an amount not to
248 exceed [one hundred] one thousand dollars per day for each violation.
249 Any such certificate issued by the department shall remain valid
250 unless suspended or revoked by the department. Any such certificate
251 issued by the Division of Public Utility Control within the Department
252 of Business Regulation prior to October 1, 1979, or by any transit
253 district prior to March 1, 1997, shall remain valid unless suspended or
254 revoked by the Department of Transportation.

255 Sec. 7. (NEW) (*Effective October 1, 2008*) The Commissioner of
256 Transportation shall adopt regulations, in accordance with the
257 provisions of chapter 54 of the general statutes, regulating or
258 prohibiting road construction activities during rush hour. The purpose
259 of such regulations shall be to increase public safety, avoid traffic
260 delays, decrease road congestion, reduce pollution and reduce fuel
261 consumption by motorists during rush hour.

262 Sec. 8. Section 14-262a of the general statutes is repealed and the
263 following is substituted in lieu thereof (*Effective October 1, 2008*):

264 Licensed repair tow trucks may, without regard to the limitations of
265 length or width contained in section 14-262, or the limitations of
266 weight contained in section 14-267a, tow disabled trucks and trailers
267 from highways to the nearest garage where such disabled vehicle can
268 be properly repaired, but not more than [twenty-five] fifty miles,
269 without incurring a penalty. Violation of any provision of this section
270 shall be an infraction.

271 Sec. 9. Subsection (c) of section 14-270 of the general statutes is
272 repealed and the following is substituted in lieu thereof (*Effective July*
273 *1, 2008*):

274 (c) Any permit issued under this section [or a legible copy or
275 facsimile shall be retained in the possession of the operator of the
276 vehicle or combination of vehicles or vehicle and trailer for which such
277 permit was issued, except that a telegraphic confirmation of] may be
278 electronically issued and the existence of such permit or the use of the

279 special number plates described in section 14-24 and any regulations
280 adopted thereunder shall be sufficient to fulfill the requirements of this
281 section.

282 Sec. 10. (*Effective October 1, 2008*) Section 31-56 of the general statutes
283 is repealed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	13a-126
Sec. 2	<i>October 1, 2008</i>	14-212a
Sec. 3	<i>from passage</i>	13b-53
Sec. 4	<i>October 1, 2008</i>	13b-344
Sec. 5	<i>October 1, 2008</i>	4b-15b
Sec. 6	<i>October 1, 2008</i>	13b-97(c)
Sec. 7	<i>October 1, 2008</i>	New section
Sec. 8	<i>October 1, 2008</i>	14-262a
Sec. 9	<i>July 1, 2008</i>	14-270(c)
Sec. 10	<i>October 1, 2008</i>	Repealer section

Statement of Legislative Commissioners:

In section 1(c)(4) the reference to "Department of Public Utility Control" was changed to "Public Utilities Control Authority" for accuracy, and in section 2(b)(3) "will" was changed to "shall" for accuracy.

TRA *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 09 \$	FY 10 \$
Department of Transportation	TF - Revenue Gain	Potential Minimal	Potential Minimal

Note: TF=Transportation Fund

Municipal Impact: None

Explanation

Increasing the daily civil penalty assessed to taxi operators from \$100 to \$1,000 is expected to result in a potential minimal revenue gain (less than \$100,000) to the Department of Transportation.

The bill establishes a new fee equal to the fine imposed for certain motor vehicle violations; the bill’s fee would be imposed when these violations occur in a traffic incident management zone. Based on estimated revenues generated under existing laws that double fines for violations that occur in utility and construction zones, as well as school zones, it is anticipated that the bill would generate less than \$200,000 annually.

Other sections in this bill are not anticipated to result in a fiscal impact to the Department Transportation.

The Out Years

The annualized ongoing fiscal impact identified above would remain relatively constant into the future since fine amounts are set by statute.

OLR Bill Analysis

sHB 5746

***AN ACT CONCERNING THE DEPARTMENT OF
TRANSPORTATION.***

SUMMARY:

This bill:

1. codifies the Department of Transportation's (DOT) cost-sharing responsibility with respect to relocating public utility facilities associated with state highway improvements;
2. establishes an enhanced penalty for certain traffic violations that occur in traffic incident management zones, and defines these zones;
3. authorizes DOT to enter temporary leases for use of the State Pier or other navigation property DOT owns or controls, pending the required approval of other state officials;
4. makes the transportation commissioner rather than railroads responsible for notifying municipalities about certain issues relating to rail crossings;
5. exempts buildings DOT acquires but does not use for office space from indoor air quality protocols enacted for state-owned or -leased buildings in 2007;
6. requires the commissioner to adopt regulations prohibiting construction activities during rush hour;
7. expands exemptions from certain state laws for tow trucks towing disabled trucks from the highway for repair;

8. increases the daily civil penalty DOT can assess for violating taxi laws and regulations;
9. allows DOT to issue vehicle over-dimension permits (length, width, height, and weight) electronically and eliminates the requirement that the permit holder have a paper copy, facsimile, or telegraphic confirmation of the permit in his possession; and
10. repeals an obsolete statute requiring all DOT contracts for work on a state bridge to contain a provision that prohibits anyone from working more than 48 hours in any week on the work specified in the contract, except in case of emergency.

EFFECTIVE DATE: October 1, 2008, except for the provision for electronic transmission of DOT permits which is effective on July 1, 2008 and the utility reimbursement and temporary State Pier lease provisions, which are effective upon passage.

UTILITY RELOCATION REIMBURSEMENT RATE

By law, when the transportation commissioner determines that the construction or reconstruction of a state highway necessitates that a public service facility located in, over, under, or below the highway's right-of-way must be relocated, he can order the utility to do so. The law requires the state bear an "equitable" share of the relocation cost. Currently, this must be a minimum of 50% and as much as 100% of costs, less deductions allowable under the statute.

The bill codifies what constitutes an equitable share. Specifically, it establishes:

1. 100% reimbursement to municipally owned utilities, less allowable deductions;
2. 100% reimbursement, less deductions, for other utilities when the relocated facility is associated with construction of or improvements to a limited access highway; and
3. 50% reimbursement, less deductions, when the work is

associated with construction of or improvements to a state highway other than a limited-access highway.

The deductions specified in the statute include the value of materials salvaged from the original installation, the cost of the original installation, the life expectancy of the original installation, and the unexpired term of its life use.

The bill also requires the utility to begin adjusting or relocating its facility as soon as it receives the commissioner's notice that it is necessary. The current law does not specify when relocation must actually begin once notice is received.

ENHANCED FINE FOR TRAFFIC OFFENSE IN TRAFFIC INCIDENT MANAGEMENT ZONE

By law, the court must impose an additional fee equal to 100% of the fine it imposes for certain designated traffic violations when they occur in a clearly designated and marked state highway construction zone or utility work zone. The bill establishes a similar requirement when they are committed in "traffic incident management zone."

It defines a traffic incident management zone as an area of the highway where temporary traffic controls or measures are installed under the authority of the transportation or public safety commissioner, or a local traffic authority, in response to a motor vehicle incident, natural disaster, hazardous material spill, or other unplanned incident. The zone must be delineated by signs, cones, flares, or flashing or revolving lights.

TEMPORARY AGREEMENTS FOR STATE PIER

The bill authorizes the transportation commissioner to lease or grant any interest at the State Pier in New London or any navigation property the state owns or controls. The commissioner can execute a temporary lease after requesting State Properties Review Board and attorney general approval that would be effective only until the full agreement has received final approval. The bill specifies that the Office of Policy and Management must also approve leases for the State Pier

and that any leases, with the approval of the properties review board, may provide for building construction and that the commissioner may confer concessions privileges for goods, commodities, services, and facilities at the State Pier.

NOTIFICATION REGARDING RAIL CROSSINGS

Current law requires railroads to notify the appropriate municipality or DOT annually, in writing, with regard to rail crossings within the town and the obligations of the town to inspect and correct any malfunctioning gates, signals, or pavement markings that it is the town's responsibility to maintain. The bill makes the DOT, instead of the railroads, responsible for this notification. It eliminates a requirement that DOT provide a list of municipalities to be notified to each railroad, private party, or corporation since DOT becomes responsible for notifying the towns directly.

INDOOR AIR QUALITY PROTOCOL EXEMPTION

The bill exempts DOT-leased- or -owned buildings that it does not use for office space from provisions of a 2007 law that requires development of protocols for periodic indoor air quality assessment and possible remediation. In practice, DOT frequently acquires structures as part of a proposed transportation improvement and leases them until completion of the construction when final disposition of the building is made. The leases make the tenant responsible for maintaining the buildings' mechanical systems.

RUSH HOUR CONSTRUCTION ACTIVITIES

The bill requires the transportation commissioner to adopt regulations prohibiting road construction activities during rush hour. The purpose of the regulations must be to increase public safety, avoid traffic delays, decrease road congestion, reduce pollution, and reduce fuel consumption by drivers during rush hour.

TOW TRUCK EXEMPTIONS

By law, licensed tow trucks are exempt from the state's maximum vehicle length law when towing disabled trucks and trailers to the

nearest garage where they can be serviced, up to a distance of 25 miles. The bill (1) extends this exemption to the maximum width and gross and axle weight laws as well and (2) expands the maximum distance when these exemptions apply from 25 to 50 miles.

CIVIL PENALTY FOR TAXI LAW VIOLATIONS

The bill increases from \$100 to \$1,000, the daily civil penal the DOT may impose on any person, association officer, limited liability corporation, or corporation who violates any taxi law or regulation relating to fares, service, operations, or equipment. The bill makes the civil penalty the same for taxi companies as currently applies for livery law violations.

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 31 Nay 0 (03/07/2008)