



# House of Representatives

**File No. 990**

General Assembly

January Session, 2009

**(Reprint of File No. 321)**

Substitute House Bill No. 5821  
As Amended by House Amendment  
Schedules "A", "B" and "C"

Approved by the Legislative Commissioner  
May 21, 2009

***AN ACT CONCERNING ECONOMIC DEVELOPMENT PROJECTS, IN-STATE MICRO BUSINESSES AND THE STANDARD WAGE.***

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

1 Section 1. (NEW) (*Effective October 1, 2009*) As used in section 2 of  
2 this act:

3 (1) "Economic development project" means any project which is to  
4 be used or occupied by any person for (A) manufacturing, industrial,  
5 research, office or product warehousing or distribution purposes or  
6 hydroponic or aquaponic food production purposes and which the  
7 Connecticut Development Authority determines will tend to maintain  
8 or provide gainful employment, maintain or increase the tax base of  
9 the economy, or maintain, expand or diversify industry in the state, (B)  
10 controlling, abating, preventing or disposing land, water, air or other  
11 environmental pollution, including, without limitation, thermal,  
12 radiation, sewage, wastewater, solid waste, toxic waste, noise or  
13 particulate pollution, except resources recovery facilities, as defined in  
14 section 22a-219a of the general statutes, used for the principal purpose  
15 of processing municipal solid waste and which are not expansions or

16 additions to resources recovery facilities operating on July 1, 1990, (C)  
17 the conservation of energy or utilization of cogeneration technology or  
18 solar, wind, hydro, biomass or other renewable sources to produce  
19 energy for any industrial or commercial application, or (D) any other  
20 purpose which the authority determines will materially contribute to  
21 the economic base of the state by creating or retaining jobs, promoting  
22 the export of products or services beyond state boundaries,  
23 encouraging innovation in products or services, or otherwise  
24 contributing to, supporting or enhancing existing activities that are  
25 important to the economic base of the state.

26 (2) "Professional engineer" means a person who is qualified by  
27 reason of his knowledge of mathematics, the physical sciences and the  
28 principles of engineering, acquired by professional education and  
29 practical experience, to engage in engineering practice, including  
30 rendering or offering to render to clients any professional service such  
31 as consultation, investigation, evaluation, planning, design or  
32 responsible supervision of construction, in connection with any public  
33 or privately-owned structures, buildings, machines, equipment,  
34 processes, works or projects in which the public welfare or the  
35 safeguarding of life, public health or property is concerned or  
36 involved, and who is licensed by the state of Connecticut as a  
37 professional engineer pursuant to chapter 391 of the general statutes.

38 Sec. 2. (NEW) (*Effective October 1, 2009*) Notwithstanding any  
39 provision of the general statutes, any professional engineer licensed in  
40 accordance with the provisions of chapter 391 of the general statutes  
41 may certify to a state agency with authority to issue a permit for an  
42 economic development project under any provision of the general  
43 statutes that such economic development project is in compliance with  
44 all requirements for issuance of a state permit by such state agency.

45 Sec. 3. Subsection (c) of section 4a-59 of the general statutes is  
46 repealed and the following is substituted in lieu thereof (*Effective July*  
47 *1, 2009*):

48 (c) All open market orders or contracts shall be awarded to (1) the  
49 lowest responsible qualified bidder, the qualities of the articles to be  
50 supplied, their conformity with the specifications, their suitability to  
51 the requirements of the state government and the delivery terms being  
52 taken into consideration and, at the discretion of the Commissioner of  
53 Administrative Services, life-cycle costs and trade-in or resale value of  
54 the articles may be considered where it appears to be in the best  
55 interest of the state, (2) the highest scoring bidder in a multiple criteria  
56 bid, in accordance with the criteria set forth in the bid solicitation for  
57 the contract, or (3) the proposer whose proposal is deemed by the  
58 awarding authority to be the most advantageous to the state, in  
59 accordance with the criteria set forth in the request for proposals,  
60 including price and evaluation factors. Notwithstanding any provision  
61 of the general statutes to the contrary, each state agency awarding a  
62 contract through competitive negotiation shall include price as an  
63 explicit factor in the criteria in the request for proposals and for the  
64 contract award. In considering past performance of a bidder for the  
65 purpose of determining the "lowest responsible qualified bidder" or  
66 the "highest scoring bidder in a multiple criteria bid", the  
67 commissioner shall evaluate the skill, ability and integrity of the  
68 bidder in terms of the bidder's fulfillment of past contract obligations  
69 and the bidder's experience or lack of experience in delivering  
70 supplies, materials, equipment or contractual services of the size or  
71 amount for which bids have been solicited. In determining the lowest  
72 responsible qualified bidder for the purposes of this section, the  
73 commissioner may give a price preference of up to ten per cent for (A)  
74 the purchase of goods made with recycled materials or the purchase of  
75 recyclable or remanufactured products if the commissioner determines  
76 that such preference would promote recycling or remanufacturing. As  
77 used in this subsection, "recyclable" means able to be collected,  
78 separated or otherwise recovered from the solid waste stream for  
79 reuse, or for use in the manufacture or assembly of another package or  
80 product, by means of a recycling program which is reasonably  
81 available to at least seventy-five per cent of the state's population,  
82 "remanufactured" means restored to its original function and thereby

83 diverted from the solid waste stream by retaining the bulk of  
84 components that have been used at least once and by replacing  
85 consumable components and "remanufacturing" means any process by  
86 which a product is remanufactured; (B) the purchase of motor vehicles  
87 powered by a clean alternative fuel; [or] (C) the purchase of motor  
88 vehicles powered by fuel other than a clean alternative fuel and  
89 conversion equipment to convert such motor vehicles allowing the  
90 vehicles to be powered by either the exclusive use of clean alternative  
91 fuel or dual use of a clean alternative fuel and a fuel other than a clean  
92 alternative fuel. As used in this subsection, "clean alternative fuel" shall  
93 mean natural gas or electricity when used as a motor vehicle fuel; or  
94 (D) the purchase of goods or services from micro businesses. As used  
95 in this subsection, "micro business" means a business with gross  
96 revenues not exceeding three million dollars in the most recently  
97 completed fiscal year. All other factors being equal, preference shall be  
98 given to supplies, materials and equipment produced, assembled or  
99 manufactured in the state and services originating and provided in the  
100 state. If any such bidder refuses to accept, within ten days, a contract  
101 awarded to such bidder, such contract may be awarded to the next  
102 lowest responsible qualified bidder or the next highest scoring bidder  
103 in a multiple criteria bid, whichever is applicable, and so on until such  
104 contract is awarded and accepted. If any such proposer refuses to  
105 accept, within ten days, a contract awarded to such proposer, such  
106 contract shall be awarded to the next most advantageous proposer,  
107 and so on until the contract is awarded and accepted. There shall be a  
108 written evaluation made of each bid. This evaluation shall identify the  
109 vendors and their respective costs and prices, document the reason  
110 why any vendor is deemed to be nonresponsive and recommend a  
111 vendor for award. A contract valued at one million dollars or more  
112 shall be awarded to a bidder other than the lowest responsible  
113 qualified bidder or the highest scoring bidder in a multiple criteria bid,  
114 whichever is applicable, only with written approval signed by the  
115 Commissioner of Administrative Services and by the Comptroller. The  
116 commissioner shall submit to the joint standing committee of the  
117 General Assembly having cognizance of matters relating to

118 government administration, the State Auditors and the Comptroller,  
 119 an annual report of all awards made pursuant to the provisions of this  
 120 section.

121 Sec. 4. Subsection (h) of section 31-57f of the general statutes, as  
 122 amended by house bill 6502 of the current session, is repealed and the  
 123 following is substituted in lieu thereof (*Effective July 1, 2009*):

124 (h) Where a required employer is awarded a contract to perform  
 125 services that are substantially the same as services that have been  
 126 rendered under a predecessor contract, such required employer shall  
 127 retain, for a period of ninety days, all employees who had been  
 128 employed by the predecessor to perform services under such  
 129 predecessor contract, except that the successor contract need not retain  
 130 employees who worked less than fifteen hours per week or who had  
 131 been employed at the site for less than sixty days. During such ninety-  
 132 day period, the successor contract shall not discharge without just  
 133 cause an employee retained pursuant to this subsection. If the  
 134 performance of an employee retained pursuant to this subsection or  
 135 section 4a-82 is satisfactory during the ninety-day period, the successor  
 136 contractor shall offer the employee continued employment for the  
 137 duration of the successor contract under the terms and conditions  
 138 established by the successor contractor, or as required by law. The  
 139 provisions of this subsection shall not apply to any contract covered by  
 140 section 31-57g or subsections (o) and (p) of section 4a-82.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	New section
Sec. 2	<i>October 1, 2009</i>	New section
Sec. 3	<i>July 1, 2009</i>	4a-59(c)
Sec. 4	<i>July 1, 2009</i>	31-57f(h)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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### **OFA Fiscal Note**

**State Impact:** See Below

**Municipal Impact:** None

### **Explanation**

The bill allows any state-licensed professional engineer to certify that an economic development project is in compliance with all state-permitting requirements. This is not anticipated to result in a fiscal impact.

The bill creates a price preference for the purchase of goods or services from micro businesses. This may increase the cost of certain goods or services to various state agencies if contracts that would otherwise be awarded to the lowest qualified bidder are awarded to micro businesses instead.

Lastly, the bill exempts a business taking over a food and beverage service contract at Bradley International Airport from having to keep the workers hired under the prior contract for at least 90 days from the new contract's start date, as required under sHB 6502. This provision may reduce certain contract costs to the state.

House "A" specifies that a professional engineer is someone who has been licensed by the state and has no fiscal impact.

House "B" creates a price preference for the purchase of goods or services from micro businesses, and could increase costs to the state for certain goods and services.

House "C" adds the exemption regarding food and beverage service

contracts at Bradley. House "C" may reduce the costs to the state outlined in the fiscal note on sHB 6502, as passed by the House on May 13, 2009. The extent of this reduction is indeterminate.

***The Out Years***

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

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**OLR Bill Analysis****sHB 5821 (as amended by House “A,” “B” and “C”)\******AN ACT CONCERNING ECONOMIC DEVELOPMENT PROJECTS.*****SUMMARY:**

This bill allows state-licensed engineers to certify that economic development projects comply with all state permitting requirements. It specifies the professional criteria an engineer must meet before he or she can certify a project. But it does not indicate if the agency funding the project, the project’s developer, or the agency issuing the permit must approve the engineer. Nor does it state if the permitting agency must issue the permit when the engineer certifies compliance.

The bill authorizes a maximum 10% bid preference for businesses that purchase goods or services from a business whose gross revenue in the most recent fiscal year does not exceed \$3 million (i.e., “micro businesses”). The administrative services commissioner may grant the preference when determining the lowest qualified bidder. Current law authorizes the same preference for businesses selling specific types of products. It also requires state agencies to set aside contracts for exclusive bidding by small and minority-owned businesses.

Lastly, the bill amends sHB 6502, which requires among other things, a business taking over a state building service contract to retain the people hired under the prior contract for at least 90 days. Current law imposes a similar requirement on businesses taking over a food and beverage service contract at Bradley International Airport from another business. The bill exempts Bradley food and beverage contracts from sHB 6502’s requirement.

\*House Amendment “A” makes a conforming technical change.

\*House Amendment "B" adds the 10% bid preference for businesses purchasing goods or services from micro businesses.

\*House Amendment "C" adds the exemption regarding food and beverage service contracts at Bradley.

EFFECTIVE DATE: July 1, 2009, except for that the authorization regarding state-licensed engineers takes effect October 1, 2009.

## **CERTIFYING ECONOMIC DEVELOPMENT PROJECTS**

### ***Eligible Engineers***

The bill specifies the criteria a state-licensed engineer must meet to certify that an economic development project complies with state permitting requirements. An engineer may certify compliance if he or she practices engineering based on knowledge acquired through professional education and practical experience. The knowledge must be of mathematics, physical science, and engineering principles.

The engineer's practice may include consulting, investigating, evaluating, planning, designing, or supervising construction projects. The projects may be related to public or privately owned structures, buildings, machines, equipment, processes, or works. They must affect the public welfare or present the need to safeguard life, public health, or property.

Lastly, the engineer must be licensed by the state as a professional engineer.

### ***Eligible Projects***

The bill's certification option is available for four types of economic development projects. The first type includes many traditional economic development uses, including manufacturing, industrial, research, office, product warehousing and distribution, and hydroponic or aquaponic food production facilities. These uses qualify for permit certification if the Connecticut Development Authority (CDA) determines they will maintain or create jobs; maintain or increase the tax base; or maintain, expand, or diversify industry.

A wide range of environmental quality projects also qualifies for permit certification. Eligible projects include controlling, abating, preventing, or disposing of land, water, air and other environmental pollution, including thermal, radiation, sewage, wastewater, solid waste, toxic waste, noise, or particulate pollution. They do not include new resources recovery facilities used mainly to process municipal solid waste.

Alternate energy and energy conservation projects involving commercial or industrial applications qualify for permit certification. They include projects using cogeneration technology or solar, wind, hydro, biomass, or other renewable energy sources.

Lastly, permit certification is also available to any type of project that improves the capacity of the state's economy to generate new wealth. CDA must first determine if the project will create or retain jobs, promote exports, encourage innovation, or support the state's economic base in other ways.

### **MICRO BUSINESS BID PREFERENCE**

The bill extends the current maximum 10% bid preference to businesses that purchase goods or services from micro businesses. Current law allows the DAS commissioner to grant the preference when purchasing goods made with recycled materials or that can be recycled or remanufactured if doing so would promote recycling or remanufacturing. She can also grant the preference for motor vehicles using clean alternative fuels or that can use both these fuels and conventional ones.

Current law also requires state agencies to set-aside contracts for exclusive bidding by small businesses. A business qualifies for set-aside bidding if it grossed no more than \$15 million in the most recently completed fiscal year and meets other specified criteria.

### **BACKGROUND**

#### ***Legislative History***

The bill amends sHB 6502 (File 966) on the Senate calendar. That bill, among other things, requires a new contractor that takes over an existing state building service to keep the employees from the previous contract for at least 90 days after the date it begins service under the new contract and permits it to fire those employees only for cause. It excludes from this requirement people with disabilities or disadvantaged people working in the janitorial work pilot program under contracts with no more than four full-time workers.

**COMMITTEE ACTION**

Commerce Committee

Joint Favorable Substitute

Yea 20 Nay 0 (03/12/2009)