



Connecticut Business & Industry Association

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**TESTIMONY OF  
ERIC J. BROWN, ASSOCIATE COUNSEL  
CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION  
BEFORE THE PLANNING & DEVELOPMENT COMMITTEE  
MARCH 2, 2009**

Good morning. My name is Eric Brown and I serve as associate counsel with the Connecticut Business & Industry Association (CBIA). CBIA represents nearly 10,000 businesses of all types and sizes throughout Connecticut. Nearly 90 percent of our members are small businesses having fewer than 50 employees.

Thank you for this opportunity to provide comment on the "smart growth" bills before your committee today.

CBIA congratulates the Planning & Development Committee and the Governor on developing a group of innovative proposals for promoting sustainable economic growth in Connecticut. In the General Assembly, we particularly recognize the hard work of Chairman Brendan Sharkey and the other legislators who ably took leadership roles in the activities of the Smart Growth Working Group over the past year. In our opinion, nearly all the proposals on today's agenda merit advancement in the legislative process along with continued discussion and refinement in order to insure maximum stakeholder support when they are ultimately considered by the House and Senate.

Towards that end, CBIA is pleased to list its position on each of the bills on today's agenda, and provide additional information on many of the bills following the listing.

**LIST OF CBIA's POSITION ON SMART GROWTH BILLS BEFORE THE PLANNING AND DEVELOPMENT COMMITTEE – MARCH 2, 2009**

**Raised Bill No. 6463, An Act Concerning Membership on Regional Planning Agencies:** CBIA supports this bill.

**Raised Bill No. 6464, An Act Concerning Coordinated Preservation and Development:** CBIA urges that this bill's language be modified to cast the Face of Connecticut Steering Committee in an advisory role to the state's investment decision-making process rather than as an authority with approval and veto powers.

**Raised Bill No. 6465, An Act Concerning Smart Growth and Transportation Planning:** CBIA does not support this bill.

**Raised Bill No. 6466, An Act Concerning Projects of Regional Significance**  
CBIA supports sections 1(b) and 1(c) of this bill

**Raised Bill No. 6467, An Act Concerning Smart Growth and Plans of Conservation and Development:** CBIA recommends:

- Changes to the proposed definition of "smart growth" in Section 1
- Deletion of Section 2
- Replacing the phrase "shall incorporate smart growth" wherever it occurs in the bill to be replaced with "shall include an explanation regarding the extent to which the revisions promote principals of "smart growth"
- Deletion of Section 7

**Raised Bill No. 6469, An Act Concerning Smart Growth and State Planning**  
CBIA supports Section 3 of this bill.

**Raised Bill No. 6585, An Act Concerning Regionalism:** CBIA suggests subsection 1(b)(5)(C) be rewritten as, "(C) sharing of health care risks and costs"

**Raised Bill No. 6588, An Act Concerning Regional Training for Local Land Use Commissioners:** CBIA recommends omitting subsection 1(c) of this bill.

**Raised Bill No. 6589, An Act Concerning Land Use Appeals:** CBIA supports this bill.

**Committee Bill No. 371, An Act Concerning Intermunicipal Cooperation**  
CBIA has concerns with the tax provisions of subsection 1(b) of this bill.

**Committee Bill No. 384, An Act Promoting Regionalism in the State:** CBIA supports this bill.

**Committee Bill No. 5544, An Act Concerning Regional Economic Development Plans:**CBIA supports this bill.

**Governor's Bill No. 6387, An Act Concerning Regional Economic Development Plans:** CBIA supports this bill.

**Governor's Bill No. 6388, An Act Providing Mandate Relief to Municipalities**  
CBIA supports this bill.

**Governor's Bill No. 6389, An Act Promoting Regionalism:** CBIA supports this bill.

**Regarding specific suggestions for each of the smart growth bills on your March 2, 2009 public hearing agenda, we ask that you consider the following:**

**Raised Bill No. 6463, An Act Concerning Membership on Regional Planning Agencies:**

CBIA supports this bill as it insures that chief elected decision-makers, accountable to the voters of their towns, will be represented on all Regional Planning Agencies (RPAs). This should help strengthen the working relationships within RPAs, improve the efficiency and effectiveness of RPA activities within the state.

**Raised Bill No. 6464, An Act Concerning Coordinated Preservation and Development**

CBIA appreciates the bill's intention of creating a more consistent and coordinate approach to state investments related to brownfield remediation, open space, farmland preservation and historic assets.

However, subjecting each such proposed investment under consideration before the commissioners of the Department of Environmental Protection and the Department of Agriculture, as well as the Commission on Culture and Tourism to the approval of the Face of Connecticut Steering Committee ("FCSC") and giving the FCSC veto power over these projects (as proposed in sections 2(e), 3(a) and 4(a) respectively), is going too far in our judgment.

While "smart growth" – a term yet to be defined by Connecticut statute, is a worthy concept as a guide to state investment, the state's hands should not be tied so tightly as to exclude the opportunity to invest in important opportunities for the state that do not necessarily meet a yet-to-be-determine "smart growth" definition. The state needs greater flexibility on how it can invest in economic development projects and we urge that this bill's language be modified to cast the Face of Connecticut Steering Committee in an advisory role to the state's investment decision-making process rather than as an authority with approval and veto powers.

### **Raised Bill No. 6465, An Act Concerning Smart Growth and Transportation Planning**

CBIA does not support this bill.

The bill requires adoption of capitol plan by the Transportation Strategy Board (TSB). CBIA is not sure what this new mandate on the TSB would mean. Would the TSB now be required to provide a method for paying for each transportation priority in its plan?

The bill also requires the TSB to "incorporate smart growth" into its future plans. This appears to introduce a new criteria into the TSB's project evaluation and prioritization process. CBIA believes many of the accepted concepts of "smart growth" are already included in the statutory directives to the TSB with respect to the board's strategic plans. Additionally, we are concerned the bill could be interpreted to position "smart growth" as the primary criteria effectively trumping the multitude of other important criteria that the TSB is required to consider.

### **Raised Bill No. 6466, An Act Concerning Projects of Regional Significance**

CBIA supports instituting a voluntary preapplication review process for major economic development projects and exempting these discussions from the Freedom of Information Act, as proposed in section 1(b) and 1(c) of this bill.

### **Raised Bill No. 6467, An Act Concerning Smart Growth and Plans of Conservation and Development.**

CBIA has several concerns with the current language of this bill and offers the following suggested modifications:

- The definition of smart growth in section raises several questions and some concerns. CBIA supports a more "direct" and objective definition that focuses on effective management of natural resources while growing our economy, and avoids esoteric and subjective concepts such as "social development" or clauses that could be read to weigh one goal over another. For example, the definition assertively calls for "**conservation and protection** of natural resources" versus a more passive, "**promote** economic development." In other words, in this example, we would prefer that the language be more balanced –either assert both or simply "promote" both. The following are some suggested modifications for your considerations. We offer this as a tool for further dialogue among stakeholders.

The Section 1. (NEW) (*Effective October 1, 2009*) As used in sections 2 and 7 of this act and sections 16a-27 of the general statutes, as amended by this act, 8-23 of the general statutes, as amended by this act and 8-35a of the general statutes, as amended by this act, "smart growth" means [economic, social and environmental development] **land use policies and practices** that (1) [uses] **manage** land and resources [to] **in a manner that** enhances the long-term quality of life for current and future generations in the state and promotes (A) integrated planning that coordinates tax, transportation, housing, environmental and economic development policies at the state and local level, (B) the reduction of reliance on the property tax by municipalities by creating efficiencies and coordination of services on the regional level while reducing interlocal competition for grand list growth, (C) the redevelopment of existing infrastructure and resources, including brownfields and historic places, [instead of new construction in undeveloped places], (D) transportation choices that provide alternatives to automobiles, including rail, bikeways and walking, while reducing energy consumption, (E) affordable and available housing for mixed income households in close proximity to transportation and employment centers, (F) concentrated, mixed-use development around transportation nodes and civic and cultural centers, [and] (G) the [conservation and protection of natural resources by preserving] **preservation of** open space, farmland and historic properties and [furthering] (H) energy efficiency; and (2) is accomplished by a collaborative approach to planning, decision-making and evaluation between and among all levels of government to [promote] **increase** economic competitiveness in the state while preserving natural resources.

- CBIA does not support Section 2 of the bill. Both "sprawl" and "smart growth" are undefined terms at this point. Further, it is not clear what "address" means – does this mean eliminate, reduce, manage, mitigate? Even if all these terms were defined and clear, is "smart growth" really the only strategy for "addressing" sprawl? CBIA urges the deletion of section 2.
- The current bill states that revisions to state, municipal and regional plans of conservation and development "shall incorporate smart growth." Again, even if "smart growth" were a defined term, what would these sections mean by "incorporating" smart growth? CBIA suggests these provisions of the bill be rewritten to state, "shall include an explanation regarding the extent to which the revisions promote principals of "smart growth" as defined under chapter \_\_\_ of the Connecticut General Statutes."
- Section 7 requires the Office of Policy and Management to "develop model zoning regulations to be used by zoning commissions that provide for

smart growth . . .” This language is vague as to whether such a regulation would serve as minimum standards, purely advisory, a measure of consistency with state policy, or whether they would need to be adopted word-for-word. Additionally, given the breadth of issues most descriptions of “smart growth” encompass (including the definition proposed in section 1 of this bill) we question whether developing such a model ordinance that is workable in all 169 towns is reasonably doable. CBIA suggests Section 7 be deleted. Perhaps the Smart Growth Working Group can take a look at whether such model regulations have been developed in other states and assess whether any such regulations would form the basis of a good model regulation for Connecticut.

### **Raised Bill No. 6469, An Act Concerning Smart Growth and State Planning**

CBIA supports Section 3 of this bill. While this is probably not the year from a fiscal standpoint to establish a program of state-wide geographic system mapping, we think this would be a valuable and constructive tool to the state, regions and municipalities.

### **Raised Bill No. 6585, An Act Concerning Regionalism**

CBIA supports section 1 of this bill except subsection 1(b)(5)(C) which we believe could result in effectively mandating municipalities to join the expensive state health care pool if, due to market conditions or the interests of other municipalities participating in the agreement, establishing a municipal pool is not a practical option. CBIA suggests subsection 1(b)(5)(C) be rewritten as, “(C) sharing of health care risks and costs”

### **Raised Bill No. 6588, An Act Concerning Regional Training for Local Land Use Commissioners:**

CBIA recommends omitting subsection 1(c) of this bill. CBIA is generally supportive of this bill except that we are concerned with the proposal contained in subsection 1(c). This subsection requires courts reviewing local land use decisions to consider the training and expertise of the local land use commissioners. We strongly favor the state taking steps to insure these commissioners receive as much training as possible. However, just because a commissioner has taken courses to increase their expertise, does not mean they are incapable of reaching decisions that are not based on sound scientific or legal principles. CBIA believes courts should be free to assess such cases based on the merits and not be forced to give greater consideration to the decision of a layman commissioner simply because that commissioner has attended courses and certification programs.

## **Raised Bill No. 6589, An Act Concerning Land Use Appeals**

CBIA supports this bill.

## **Committee Bill No. 371, An Act Concerning Intermunicipal Cooperation**

CBIA has some concerns with Subsection 1(b) which permits imposition of additional regional taxes. We are worried that regional option revenues are not the panacea that some hope them to be. We strongly encourage the committee to conduct a thorough analysis of the impact on municipalities, regions, their residents and businesses, should additional taxes be imposed at the regional level.

We have several reasons for our concerns. First, we are concerned that the imposition some of these taxes might have a negative effect on the state's smart growth efforts. This is in large part due to the fact that local option taxes are most often requested by the state's larger municipalities. It was the higher costs in the cities that drove many to the suburbs to begin with. Adding to those costs will not encourage reinvestment nor any other economic activity in those locations.

Second, the measure may result in some towns having to reduce private-sector services. This would happen when retailers, restaurants and local car repair shops realize it would be less expensive for their clients and themselves to locate in a neighboring community that does not impose local or regional option taxes.

Third, implementation of new taxes would drive up municipal costs as they currently do not have the infrastructure to administer local or regional sales tax or income tax initiatives. One of the busiest groups at the Department of Revenue Services is the employees that work on sales and use tax matters.

Ultimately, we believe that the state should continue to encourage municipalities and regions to control spending and the General Assembly should review all municipal and regional revenue options, as is being done with the state, in the larger picture. Many municipalities have begun to address some of their budget issues by looking at the bigger picture. They have been effective in reducing municipal health care costs and have implemented a number of regional initiatives, making their towns more efficient and effective. When discussing revenues, we urge that you consider the big picture as well and understand the effect various measures will have on the state, regions and towns.

**Committee Bill No. 384, An Act Promoting Regionalism in the State**

CBIA supports this bill.

**Committee Bill No. 5544, An Act Concerning Regional Economic Development Plans:**

CBIA supports this bill.

**Governor's Bill No. 6387, An Act Concerning Regional Economic Development Plans:**

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Thank you for this opportunity to provide comment on the "smart growth" bills listed on you March 2, 2009 agenda.