



General Assembly

January Session, 2009

Raised Bill No. 6464

LCO No. 3371

03371_____PD_

Referred to Committee on Planning and Development

Introduced by:
(PD)

AN ACT CONCERNING COORDINATED PRESERVATION AND DEVELOPMENT.

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

1 Section 1. Section 22a-27s of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) There is established the Face of Connecticut Steering Committee,
4 which shall be within the Department of Environmental Protection for
5 administrative purposes only. Such committee shall (1) direct the
6 expenditure of any funds deposited in the Face of Connecticut account
7 created under section 22a-27t; and (2) review for consistency with
8 smart growth, as defined in section 1 of house bill_____ of the current
9 session, the following: (A) Applications for open space and watershed
10 land acquisition grants submitted pursuant to section 7-131e, as
11 amended by this act, (B) offers to sell the development rights to
12 agricultural land submitted pursuant to section 22-26cc, as amended
13 by this act, (C) grants-in-aid for restoration of historic structures and
14 landmarks submitted pursuant to section 10-411, as amended by this
15 act, and (D) funds for brownfield remediation submitted under section
16 32-9ee, as amended by this act.

17 **(b)** The committee shall consist of the Commissioner of
18 Environmental Protection, the Commissioner of Economic and
19 Community Development, or the commissioner's designee, the
20 Commissioner of Agriculture, the executive director of the Connecticut
21 Commission on Culture and Tourism, the Secretary of the Office of
22 Policy and Management and ten members as follows: (1) A
23 representative of a local organization involved in historic preservation,
24 appointed by the speaker of the House of Representatives; (2) a
25 representative of a nonprofit organization involved in farmland
26 preservation, appointed by the president pro tempore of the Senate; (3)
27 a representative of a local or regional nonprofit organization involved
28 in the preservation of open space, appointed by the majority leader of
29 the House of Representatives; (4) a representative of a water company
30 actively involved in land preservation, appointed by the majority
31 leader of the Senate; (5) a representative of the agricultural industry,
32 appointed by the minority leader of the House of Representatives; (6) a
33 representative of a state-wide nonprofit involved in the preservation of
34 open space, appointed by the minority leader of the Senate; (7) a
35 representative of a state-wide nonprofit organization involved in
36 historic preservation, appointed by the Governor; (8) a representative
37 of an organization involved with community redevelopment,
38 appointed by the Governor; (9) a representative of the legislative
39 Brownfields Task Force, appointed by the speaker of the House of
40 Representatives; and (10) a representative of the environmental law
41 section of the Connecticut Bar Association who is involved with
42 brownfields remediation, appointed by the president pro tempore of
43 the Senate.

44 **[(b)] (c)** All initial appointments to the committee shall be made not
45 later than September 1, 2008. The term of each appointed member of
46 the steering committee shall be coterminous with the term of the
47 appointing authority or until a successor is chosen, whichever is later.
48 The Commissioner of Environmental Protection shall serve as the
49 chairperson of the committee for the two years following the
50 appointment of the committee, followed first by the Commissioner of

51 Agriculture for two years and subsequently by the executive director
52 of the Connecticut Commission on Culture and Tourism for two years
53 and subsequently by the Commissioner of Economic and Community
54 Development or said commissioner's designee for two years. Such
55 rotation shall repeat every two years thereafter in the order specified in
56 this subsection, except that if there is a vacancy in one of said
57 positions, one of the other commissioners or the executive director
58 may serve as chairperson until the vacancy is filled.

59 [(c)] (d) The committee shall meet quarterly.

60 Sec. 2. Section 7-131e of the general statutes is repealed and the
61 following is substituted in lieu thereof (*Effective October 1, 2009*):

62 (a) Grant award decisions under the protected open space and
63 watershed land acquisition grant program established under section
64 7-131d or under the Charter Oak open space grant program
65 established under section 7-131t shall be made by the Commissioner of
66 Environmental Protection at least semiannually. All complete and
67 eligible grant applications shall be acted upon by the commissioner as
68 soon as practicable. A single project may receive a grant in more than
69 one grant cycle, subject to future availability of funds and subject to
70 the limitations set forth in this section and sections 23-78, 12-498 and
71 7-131d. Up to five per cent of the grant funds may be used for
72 administrative expenses including, but not limited to: (1) Contractors
73 to assist the Department of Environmental Protection in the review
74 and evaluation of grant proposals and baseline data collection for
75 conservation easements; (2) appraisals or appraisal reviews; and (3)
76 preparation of legal and other documents. Administrative expenses
77 may not be used for staff salaries. Not later than September 1, 1998, for
78 the protected open space and watershed land acquisition grant
79 program established under section 7-131d, and not later than
80 September 1, 2000, for the Charter Oak open space grant program
81 account established under section 7-131t, the commissioner shall
82 develop written guidelines and a ranking system for consistency and

83 equity in the distribution of grant awards under the protected open
84 space and watershed land acquisition grant program established under
85 section 7-131d or under the Charter Oak open space grant program
86 account established under section 7-131t based on the criteria listed in
87 subsections (b) and (c) of section 7-131d. Consistent with such criteria,
88 additional consideration shall be given to: (A) Protection of lands
89 adjacent to and complementary to adjacent protected open space land
90 or class I or class II water company lands; (B) equitable geographic
91 distribution of the grants; (C) proximity of a property to urban areas
92 with growth and development pressures or to areas with open space
93 deficiencies and underserved populations; (D) protection of land
94 particularly vulnerable to development incompatible with its natural
95 resource values including the protection of a public water supply
96 source; (E) consistency with the state's plan of conservation and
97 development; (F) multiple protection elements, such as water quality
98 and supply protection, scenic preservation and farmland preservation;
99 (G) the extent to which the presence of already constructed buildings
100 or other manmade improvements diminish or overshadow the natural
101 resource value of a proposed acquisition, or its value relative to its
102 cost; and (H) preservation of forest lands and bodies of water which
103 naturally absorb significant amounts of carbon dioxide.

104 (b) There is established a Natural Heritage, Open Space and
105 Watershed Land Acquisition Review Board to assist and advise the
106 commissioner in carrying out the provisions of sections 7-131d to
107 7-131g, inclusive, as amended by this act, and sections 23-73 to 23-79,
108 inclusive. Upon establishment of the review board and selection of a
109 chairman under this section, the review board (1) shall provide
110 comments on selection criteria, policies and procedures; (2) shall
111 promote public participation; (3) shall provide guidance and conduct
112 review of strategies for land protection, including strategies under
113 section 23-8; (4) shall review and evaluate grant award policies and
114 procedures; and (5) may provide comments on any application for
115 funds not later than forty-five days after such application is submitted
116 to the chairman. Upon establishment of the board, the commissioner

117 shall take such comments into consideration in making any decisions
118 regarding such grants.

119 (c) The review board shall consist of twenty-one members as
120 follows: (1) The chairpersons and ranking members of the bonding
121 subcommittee of the joint standing committee of the General Assembly
122 having cognizance of matters relating to finance, revenue and bonding;
123 (2) one member of the joint standing committee of the General
124 Assembly having cognizance of matters relating to the environment,
125 appointed by the speaker of the House of Representatives, and one
126 member of the joint standing committee of the General Assembly
127 having cognizance of matters relating to planning and development,
128 appointed by the president pro tempore of the Senate, each of whom
129 shall be ex-officio members of the board; (3) the Secretary of the Office
130 of Policy and Management, or his designee; (4) a representative of the
131 business community and a person experienced in issues relating to
132 access to public facilities by persons with disabilities, appointed by the
133 Governor; (5) one representative from an investor-owned water utility,
134 appointed by the minority leader of the Senate; (6) one representative
135 from a municipal water utility, appointed by the minority leader of the
136 House of Representatives; (7) one representative from a regional water
137 utility, appointed by the minority leader of the Senate; (8) one
138 representative who is a realtor or attorney with a minimum of five
139 years experience in real estate transfers, appointed by the speaker of
140 the House of Representatives; one representative with a minimum of
141 five years experience in the construction industry or land
142 development, appointed by the president pro tempore of the Senate;
143 (9) two representatives of interest groups primarily concerned with the
144 conservation of river watershed regions, appointed one each by the
145 majority leaders of the House of Representatives and the Senate; (10)
146 three representatives from nonprofit organizations primarily
147 concerned with environmental protection or natural resource
148 conservation with a minimum of five years experience in land
149 conservation and acquisition, appointed one each by the Governor, the
150 speaker of the House of Representatives and the president pro tempore

151 of the Senate; and (11) one chief elected official of a town with a
152 population less than twenty thousand and one chief elected official of a
153 town with a population greater than twenty thousand, appointed by
154 the Governor. The members, other than the members described in
155 subdivisions (1), (2) and (3) of this subsection, shall serve terms of
156 three years provided the terms of the members described in
157 subdivisions (4) to (8), inclusive, of this subsection who are appointed
158 in the year after July 1, 1998, shall expire on October 1, 1999, and
159 further provided the terms of the members described in subdivisions
160 (9) to (11), inclusive, of this subsection shall expire on October 1, 2000.
161 The board shall elect a chairman from among its members and shall
162 make such election on or before October 1, 1998. Members of the board
163 shall serve until reappointed or replaced.

164 (d) Annually, on or before February fifteenth, the board shall submit
165 a report regarding grant awards made in the previous calendar year
166 and any findings and recommendations regarding the open space and
167 watershed land acquisition program and the recreation and natural
168 heritage trust program established under section 23-73 to the General
169 Assembly.

170 (e) The commissioner shall submit each complete and eligible
171 application to the Face of Connecticut Steering Committee, established
172 under section 22a-27s, as amended by this act, for review to determine
173 if the application is consistent smart growth, as defined in section 1 of
174 house bill ___ of the current session. The steering committee shall
175 notify the commissioner of its approval or disapproval not more than
176 thirty days after receipt of the application. No grant shall be awarded
177 unless the steering committee determines that the application is
178 consistent with the principles of smart growth.

179 [(e)] (f) There is established an open space and watershed land
180 acquisition account within the General Fund which shall consist of any
181 funds required or allowed by law to be deposited into the account
182 including, but not limited to, gifts or donations received for the

183 purposes of section 7-131d. Investment earnings credited to the assets
184 of the account shall become part of the assets of the account. Any
185 balance remaining in the account at the end of any fiscal year shall be
186 carried forward in the account for the fiscal year next succeeding.
187 Payments from the account shall be made upon authorization by the
188 Commissioner of Environmental Protection. Neither the proceeds of
189 any general obligation bonds of the state nor the investment earnings
190 of any such proceeds shall be deposited in the account. The
191 Commissioner of Environmental Protection may use funds in the
192 account for purposes of section 7-131d.

193 Sec. 3. Subsection (a) of section 22-26cc of the general statutes is
194 repealed and the following is substituted in lieu thereof (*Effective*
195 *October 1, 2009*):

196 (a) There is established within the Department of Agriculture a
197 program to solicit, from owners of agricultural land, offers to sell the
198 development rights to such land and to inform the public of the
199 purposes, goals and provisions of this chapter. The commissioner shall
200 submit each complete and eligible offer to the Face of Connecticut
201 Steering Committee, established under section 22a-27s, as amended by
202 this act, for review to determine if the offer is consistent smart growth,
203 as defined in section 1 of house bill _____ of the current session. The
204 steering committee shall notify the commissioner of its approval or
205 disapproval not more than thirty days after receipt of the application.
206 The commissioner shall not accept an offer unless the steering
207 committee determines that the offer is consistent smart growth. The
208 commissioner, with the approval of the State Properties Review Board,
209 shall have the power to acquire or accept as a gift, on behalf of the
210 state, the development rights of any agricultural land, if offered by the
211 owner. Notice of the offer shall be filed in the land records wherein the
212 agricultural land is situated. If ownership of any land for which
213 development rights have been offered is transferred, the offer shall be
214 effective until the subsequent owner revokes the offer in writing. The
215 state conservation and development plan established pursuant to

216 section 16a-24 shall be applied as an advisory document to the
217 acquisition of development rights of any agricultural lands. The factors
218 to be considered by the commissioner in deciding whether or not to
219 acquire such rights shall include, but not be limited to, the following:
220 (1) The probability that the land will be sold for nonagricultural
221 purposes; (2) the current productivity of such land and the likelihood
222 of continued productivity; (3) the suitability of the land as to soil
223 classification and other criteria for agricultural use; (4) the degree to
224 which such acquisition would contribute to the preservation of the
225 agricultural potential of the state; (5) any encumbrances on such land;
226 (6) the cost of acquiring such rights; and (7) the degree to which such
227 acquisition would mitigate damage due to flood hazards. Ownership
228 by a nonprofit organization authorized to hold land for conservation
229 and preservation purposes of land which prior to such ownership
230 qualified for the program established pursuant to this section shall not
231 be deemed to diminish the probability that the land will be sold for
232 nonagricultural purposes. After a preliminary evaluation of such
233 factors by the Commissioner of Agriculture, he shall obtain and review
234 one or more fee appraisals of the property selected in order to
235 determine the value of the development rights of such property. The
236 commissioner shall notify the Department of Transportation, the
237 Department of Economic and Community Development, the
238 Department of Environmental Protection and the Office of Policy and
239 Management that such property is being appraised. Any appraisal of
240 the value of such land obtained by the owner and performed in a
241 manner approved by the commissioner shall be considered by the
242 commissioner in making such determination. The value of
243 development rights for all purposes of this section shall be the
244 difference between the value of the property for its highest and best
245 use and its value for agricultural purposes as determined by the
246 commissioner. The use or presence of pollutants or chemicals in the
247 soil shall not be deemed to diminish the agricultural value of the land
248 or to prohibit the commissioner from acquiring the development rights
249 to such land. The commissioner may purchase development rights for

250 a lesser amount provided he complies with all factors for acquisition
251 specified in this subsection and in any implementing regulations. In
252 determining the value of the property for its highest and best use,
253 consideration shall be given but not limited to sales of comparable
254 properties in the general area, use of which was unrestricted at the
255 time of sale.

256 Sec. 4. Section 10-411 of the general statutes is repealed and the
257 following is substituted in lieu thereof (*Effective October 1, 2009*):

258 (a) Any municipality or private organization may acquire, relocate,
259 restore, preserve and maintain historic structures and landmarks and
260 may receive funds from the state and federal governments for such
261 purposes. Grants-in-aid may be made to owners of historic structures
262 or landmarks in an amount not to exceed fifty per cent of the
263 nonfederal share of the total cost of such acquisition, relocation,
264 historic preservation and restoration. Grants-in-aid shall be made
265 through an assistance agreement signed by the owner. Subsequent to
266 the execution of any such assistance agreement, advances of funds
267 may be made by the commission to the owner of such an historic
268 structure or landmark. The commission shall submit each complete
269 and eligible application for a grant-in-aid to the Face of Connecticut
270 Steering Committee, established under section 22a-27s, as amended by
271 this act, for review to determine if the application is consistent smart
272 growth, as defined in section 1 of house bill ____ of the current session.
273 The steering committee shall notify the commission of its approval or
274 disapproval not more than thirty days after receipt of the application.
275 No grant-in-aid shall be awarded unless the steering committee
276 determines that the application is consistent with the principles of
277 smart growth.

278 (b) Before executing any such assistance agreement under sections
279 10-410 to 10-415, inclusive, as amended by this act, the commission
280 shall require that (1) the owner has developed a comprehensive
281 historic preservation plan, approved by the commission, together with

282 specific work plans and specifications; (2) the owner provides payment
283 and performance bonds to assure the completion of the preservation
284 work in an authentic manner satisfactory to the commission; (3) the
285 owner has filed with the town clerk in the municipality in which the
286 property is located a declaration of covenant guaranteeing the
287 preservation of the historical or architectural qualities of the property
288 in perpetuity or for a period approved by the commission; (4) the
289 owner receiving funds for the purposes of said sections plans to and
290 can demonstrate an ability to maintain and operate properly the
291 historic structure or landmark for an indefinite period of time and that
292 such owner will open it to the public at reasonable times, free of charge
293 or subject to a reasonable charge as approved by the commission; (5)
294 the owner maintains sufficient casualty and liability insurance to
295 render the state harmless in any action arising from the acquisition,
296 relocation, restoration or operation of properties under said sections;
297 and (6) if such historic structure or landmark lies within the
298 boundaries of any historic district, the proposed acquisition,
299 relocation, preservation and restoration has been approved by the local
300 historic district commission. Such assistance agreement may require
301 that if the owner receiving funds under said sections fails to operate or
302 maintain properly the historic structure or landmark, title to such
303 property may be acquired by the commission upon payment to such
304 municipality or private organization of a sum equal to the amount
305 provided by such municipality or private organization in accordance
306 with such assistance agreement.

307 (c) Federal grants-in-aid shall be administered by the commission in
308 accordance with all federal requirements.

309 (d) The commission shall adopt regulations pursuant to chapter 54
310 for its guidance before making such grants-in-aid or advances. Such
311 regulations shall, among other things, require that the commission
312 determine that the historic structure or landmark to be acquired,
313 relocated or restored is an authentic historic structure or landmark as
314 identified in the state register of historic places.

315 Sec. 5. Section 32-9ee of the general statutes is repealed and the
316 following is substituted in lieu thereof (*Effective October 1, 2009*):

317 (a) The municipality or economic development agency that receives
318 grants through the Office of Brownfield Remediation and
319 Development's pilot program established in subsection (c) of section
320 32-9cc shall be considered an innocent party and shall not be liable
321 under section 22a-432, 22a-433, 22a-451 or 22a-452 as long as the
322 municipality or economic development agency did not cause or
323 contribute to the discharge, spillage, uncontrolled loss, seepage or
324 filtration of such hazardous substance, material, waste or pollution
325 that is subject to remediation under this pilot program; does not
326 exacerbate the conditions; and complies with reporting of significant
327 environmental hazard requirements in section 22a-6u.

328 (b) In determining what funds shall be made available for an
329 eligible brownfield remediation, the Commissioner of Economic and
330 Community Development shall consider (1) the economic
331 development opportunities such reuse and redevelopment may
332 provide, (2) the feasibility of the project, (3) the environmental and
333 public health benefits of the project, and (4) the contribution of the
334 reuse and redevelopment to the municipality's tax base. The
335 commissioner shall submit each proposal for brownfield remediation
336 funds to the Face of Connecticut Steering Committee, established
337 under section 22a-27s, as amended by this act, for review to determine
338 if the proposal is consistent smart growth, as defined in section 1 of
339 house bill ___ of the current session. The steering committee shall
340 notify the commissioner of its approval or disapproval not more than
341 thirty days after receipt of the proposal. No funds shall be awarded
342 unless the steering committee determines that the proposal is
343 consistent with the principles of smart growth.

344 (c) No person shall acquire title to or hold, possess or maintain any
345 interest in a property that has been remediated in accordance with the
346 pilot program established in subsection (c) of section 32-9cc if such

347 person (1) is liable under section 22a-432, 22a-433, 22a-451 or 22a-452;
 348 (2) is otherwise responsible, directly or indirectly, for the discharge,
 349 spillage, uncontrolled loss, seepage or filtration of such hazardous
 350 substance, material or waste; (3) is a member, officer, manager,
 351 director, shareholder, subsidiary, successor of, related to, or affiliated
 352 with, directly or indirectly, the person who is otherwise liable to under
 353 section 22a-432, 22a-433, 22a-451 or 22a-452; or (4) is or was an owner,
 354 operator or tenant. If such person elects to acquire title to or hold,
 355 possess or maintain any interest in the property, that person shall
 356 reimburse the state of Connecticut, the municipality and the economic
 357 development agency for any and all costs expended to perform the
 358 investigation and remediation of the property, plus interest at a rate of
 359 eighteen per cent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	22a-27s
Sec. 2	<i>October 1, 2009</i>	7-131e
Sec. 3	<i>October 1, 2009</i>	22-26cc(a)
Sec. 4	<i>October 1, 2009</i>	10-411
Sec. 5	<i>October 1, 2009</i>	32-9ee

Statement of Purpose:

To ensure a coordinated investment approach consistent with smart growth throughout state government by establishing the Face of Connecticut Steering Committee as the clearinghouse for grant decisions regarding brownfield remediation, open space, farmland and historic assets.

[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.]