



General Assembly

**Substitute Bill No. 6464**

January Session, 2009

\*          HB06464PD          032309          \*

**AN ACT CONCERNING COORDINATED PRESERVATION AND DEVELOPMENT.**

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

1       Section 1. (NEW) (*Effective October 1, 2009*) The Interagency  
2 Responsible Growth Steering Council, established pursuant to  
3 Executive Order No. 15 of Governor M. Jodi Rell, shall review for  
4 consistency with the principles of smart growth, as defined in section 1  
5 of substitute house bill 6467 of the current session, applications  
6 pursuant to the following programs: (1) Open space and watershed  
7 land acquisition grants submitted pursuant to section 7-131e of the  
8 general statutes, as amended by this act; (2) offers to sell the  
9 development rights to agricultural land submitted pursuant to section  
10 22-26cc of the general statutes, as amended by this act; (3) grants-in-aid  
11 for restoration of historic structures and landmarks submitted  
12 pursuant to section 10-411 of the general statutes, as amended by this  
13 act; (4) funds for brownfield remediation submitted under section 32-  
14 9ee of the general statutes, as amended by this act; (5) financial  
15 assistance for physical development from the Connecticut  
16 Development Authority pursuant to section 6 of this act; (6) grants  
17 from the Commissioner of Economic and Community Development  
18 for physical development pursuant to section 7 of this act; (7) grants-  
19 in-aid pursuant to section 4-66c of the general statutes, as amended by  
20 this act; and (8) grants-in-aid under section 4-66g of the general  
21 statutes, as amended by this act.

22 (b) The awarding authority shall submit an application to the  
23 steering council prior to the final decision of the state agency on the  
24 application. The steering council shall review the application and  
25 determine whether or not the application for any form of financial  
26 assistance is consistent with the principles of smart growth, as defined  
27 in section 1 of substitute house bill 6467 of the current session. The  
28 steering council shall notify the awarding authority of its  
29 determination not more than thirty days after receipt of the  
30 application. No financial assistance shall be awarded by the state  
31 agency or the Connecticut Development Authority unless the steering  
32 council determines that the application is consistent with said  
33 principles of smart growth.

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

36 (a) Grant award decisions under the protected open space and  
37 watershed land acquisition grant program established under section  
38 7-131d or under the Charter Oak open space grant program  
39 established under section 7-131t shall be made by the Commissioner of  
40 Environmental Protection at least semiannually. All complete and  
41 eligible grant applications shall be acted upon by the commissioner as  
42 soon as practicable. A single project may receive a grant in more than  
43 one grant cycle, subject to future availability of funds and subject to  
44 the limitations set forth in this section and sections 23-78, 12-498 and  
45 7-131d. Up to five per cent of the grant funds may be used for  
46 administrative expenses including, but not limited to: (1) Contractors  
47 to assist the Department of Environmental Protection in the review  
48 and evaluation of grant proposals and baseline data collection for  
49 conservation easements; (2) appraisals or appraisal reviews; and (3)  
50 preparation of legal and other documents. Administrative expenses  
51 may not be used for staff salaries. Not later than September 1, 1998, for  
52 the protected open space and watershed land acquisition grant  
53 program established under section 7-131d, and not later than  
54 September 1, 2000, for the Charter Oak open space grant program  
55 account established under section 7-131t, the commissioner shall

56 develop written guidelines and a ranking system for consistency and  
57 equity in the distribution of grant awards under the protected open  
58 space and watershed land acquisition grant program established under  
59 section 7-131d or under the Charter Oak open space grant program  
60 account established under section 7-131t based on the criteria listed in  
61 subsections (b) and (c) of section 7-131d. Consistent with such criteria,  
62 additional consideration shall be given to: (A) Protection of lands  
63 adjacent to and complementary to adjacent protected open space land  
64 or class I or class II water company lands; (B) equitable geographic  
65 distribution of the grants; (C) proximity of a property to urban areas  
66 with growth and development pressures or to areas with open space  
67 deficiencies and underserved populations; (D) protection of land  
68 particularly vulnerable to development incompatible with its natural  
69 resource values including the protection of a public water supply  
70 source; (E) consistency with the state's plan of conservation and  
71 development; (F) multiple protection elements, such as water quality  
72 and supply protection, scenic preservation and farmland preservation;  
73 (G) the extent to which the presence of already constructed buildings  
74 or other manmade improvements diminish or overshadow the natural  
75 resource value of a proposed acquisition, or its value relative to its  
76 cost; and (H) preservation of forest lands and bodies of water which  
77 naturally absorb significant amounts of carbon dioxide.

78 (b) There is established a Natural Heritage, Open Space and  
79 Watershed Land Acquisition Review Board to assist and advise the  
80 commissioner in carrying out the provisions of sections 7-131d to  
81 7-131g, inclusive, as amended by this act, and sections 23-73 to 23-79,  
82 inclusive. Upon establishment of the review board and selection of a  
83 chairman under this section, the review board (1) shall provide  
84 comments on selection criteria, policies and procedures; (2) shall  
85 promote public participation; (3) shall provide guidance and conduct  
86 review of strategies for land protection, including strategies under  
87 section 23-8; (4) shall review and evaluate grant award policies and  
88 procedures; and (5) may provide comments on any application for  
89 funds not later than forty-five days after such application is submitted

90 to the chairman. Upon establishment of the board, the commissioner  
91 shall take such comments into consideration in making any decisions  
92 regarding such grants.

93 (c) The review board shall consist of twenty-one members as  
94 follows: (1) The chairpersons and ranking members of the bonding  
95 subcommittee of the joint standing committee of the General Assembly  
96 having cognizance of matters relating to finance, revenue and bonding;  
97 (2) one member of the joint standing committee of the General  
98 Assembly having cognizance of matters relating to the environment,  
99 appointed by the speaker of the House of Representatives, and one  
100 member of the joint standing committee of the General Assembly  
101 having cognizance of matters relating to planning and development,  
102 appointed by the president pro tempore of the Senate, each of whom  
103 shall be ex-officio members of the board; (3) the Secretary of the Office  
104 of Policy and Management, or his designee; (4) a representative of the  
105 business community and a person experienced in issues relating to  
106 access to public facilities by persons with disabilities, appointed by the  
107 Governor; (5) one representative from an investor-owned water utility,  
108 appointed by the minority leader of the Senate; (6) one representative  
109 from a municipal water utility, appointed by the minority leader of the  
110 House of Representatives; (7) one representative from a regional water  
111 utility, appointed by the minority leader of the Senate; (8) one  
112 representative who is a realtor or attorney with a minimum of five  
113 years experience in real estate transfers, appointed by the speaker of  
114 the House of Representatives; one representative with a minimum of  
115 five years experience in the construction industry or land  
116 development, appointed by the president pro tempore of the Senate;  
117 (9) two representatives of interest groups primarily concerned with the  
118 conservation of river watershed regions, appointed one each by the  
119 majority leaders of the House of Representatives and the Senate; (10)  
120 three representatives from nonprofit organizations primarily  
121 concerned with environmental protection or natural resource  
122 conservation with a minimum of five years experience in land  
123 conservation and acquisition, appointed one each by the Governor, the

124 speaker of the House of Representatives and the president pro tempore  
125 of the Senate; and (11) one chief elected official of a town with a  
126 population less than twenty thousand and one chief elected official of a  
127 town with a population greater than twenty thousand, appointed by  
128 the Governor. The members, other than the members described in  
129 subdivisions (1), (2) and (3) of this subsection, shall serve terms of  
130 three years provided the terms of the members described in  
131 subdivisions (4) to (8), inclusive, of this subsection who are appointed  
132 in the year after July 1, 1998, shall expire on October 1, 1999, and  
133 further provided the terms of the members described in subdivisions  
134 (9) to (11), inclusive, of this subsection shall expire on October 1, 2000.  
135 The board shall elect a chairman from among its members and shall  
136 make such election on or before October 1, 1998. Members of the board  
137 shall serve until reappointed or replaced.

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

144 (e) The commissioner shall submit each complete and eligible  
145 application to the Interagency Responsible Growth Steering Council,  
146 established under Executive Order No. 15 of Governor M. Jodi Rell, for  
147 review to determine if the application is consistent with the principles  
148 of smart growth, as defined in section 1 of substitute house bill 6467 of  
149 the current session. The steering council shall notify the commissioner  
150 of its determination not more than thirty days after receipt of the  
151 application. No grant shall be awarded unless the steering council  
152 determines that the application is consistent with said principles of  
153 smart growth.

154 [(e)] (f) There is established an open space and watershed land  
155 acquisition account within the General Fund which shall consist of any  
156 funds required or allowed by law to be deposited into the account

157 including, but not limited to, gifts or donations received for the  
158 purposes of section 7-131d. Investment earnings credited to the assets  
159 of the account shall become part of the assets of the account. Any  
160 balance remaining in the account at the end of any fiscal year shall be  
161 carried forward in the account for the fiscal year next succeeding.  
162 Payments from the account shall be made upon authorization by the  
163 Commissioner of Environmental Protection. Neither the proceeds of  
164 any general obligation bonds of the state nor the investment earnings  
165 of any such proceeds shall be deposited in the account. The  
166 Commissioner of Environmental Protection may use funds in the  
167 account for purposes of section 7-131d.

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

171 (a) There is established within the Department of Agriculture a  
172 program to solicit, from owners of agricultural land, offers to sell the  
173 development rights to such land and to inform the public of the  
174 purposes, goals and provisions of this chapter. The commissioner shall  
175 submit each complete and eligible offer to the Interagency Responsible  
176 Growth Steering Council, established under Executive Order No. 15 of  
177 Governor M. Jodi Rell, for review to determine if the offer is consistent  
178 with the principles of smart growth, as defined in section 1 of  
179 substitute house bill 6467 of the current session. The steering council  
180 shall notify the commissioner of its determination not more than thirty  
181 days after receipt of the application. The commissioner shall not accept  
182 an offer unless the steering council determines that the offer is  
183 consistent with said principles of smart growth. The commissioner,  
184 with the approval of the State Properties Review Board, shall have the  
185 power to acquire or accept as a gift, on behalf of the state, the  
186 development rights of any agricultural land, if offered by the owner.  
187 Notice of the offer shall be filed in the land records wherein the  
188 agricultural land is situated. If ownership of any land for which  
189 development rights have been offered is transferred, the offer shall be  
190 effective until the subsequent owner revokes the offer in writing. The

191 state conservation and development plan established pursuant to  
192 section 16a-24 shall be applied as an advisory document to the  
193 acquisition of development rights of any agricultural lands. The factors  
194 to be considered by the commissioner in deciding whether or not to  
195 acquire such rights shall include, but not be limited to, the following:  
196 (1) The probability that the land will be sold for nonagricultural  
197 purposes; (2) the current productivity of such land and the likelihood  
198 of continued productivity; (3) the suitability of the land as to soil  
199 classification and other criteria for agricultural use; (4) the degree to  
200 which such acquisition would contribute to the preservation of the  
201 agricultural potential of the state; (5) any encumbrances on such land;  
202 (6) the cost of acquiring such rights; and (7) the degree to which such  
203 acquisition would mitigate damage due to flood hazards. Ownership  
204 by a nonprofit organization authorized to hold land for conservation  
205 and preservation purposes of land which prior to such ownership  
206 qualified for the program established pursuant to this section shall not  
207 be deemed to diminish the probability that the land will be sold for  
208 nonagricultural purposes. After a preliminary evaluation of such  
209 factors by the Commissioner of Agriculture, he shall obtain and review  
210 one or more fee appraisals of the property selected in order to  
211 determine the value of the development rights of such property. The  
212 commissioner shall notify the Department of Transportation, the  
213 Department of Economic and Community Development, the  
214 Department of Environmental Protection and the Office of Policy and  
215 Management that such property is being appraised. Any appraisal of  
216 the value of such land obtained by the owner and performed in a  
217 manner approved by the commissioner shall be considered by the  
218 commissioner in making such determination. The value of  
219 development rights for all purposes of this section shall be the  
220 difference between the value of the property for its highest and best  
221 use and its value for agricultural purposes as determined by the  
222 commissioner. The use or presence of pollutants or chemicals in the  
223 soil shall not be deemed to diminish the agricultural value of the land  
224 or to prohibit the commissioner from acquiring the development rights  
225 to such land. The commissioner may purchase development rights for

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

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

234 (a) Any municipality or private organization may acquire, relocate,  
235 restore, preserve and maintain historic structures and landmarks and  
236 may receive funds from the state and federal governments for such  
237 purposes. Grants-in-aid may be made to owners of historic structures  
238 or landmarks in an amount not to exceed fifty per cent of the  
239 nonfederal share of the total cost of such acquisition, relocation,  
240 historic preservation and restoration. Grants-in-aid shall be made  
241 through an assistance agreement signed by the owner. Subsequent to  
242 the execution of any such assistance agreement, advances of funds  
243 may be made by the commission to the owner of such an historic  
244 structure or landmark. The commission shall submit each complete  
245 and eligible application for a grant-in-aid to the Interagency  
246 Responsible Growth Steering Council, established under Executive  
247 Order No. 15 of Governor M. Jodi Rell, for review to determine if the  
248 application is consistent with the principles of smart growth, as  
249 defined in section 1 of substitute house bill 6467 of the current session.  
250 The steering council shall notify the commission of its determination  
251 not more than thirty days after receipt of the application. No grant-in-  
252 aid shall be awarded unless the steering council determines that the  
253 application is consistent with said principles of smart growth.

254 (b) Before executing any such assistance agreement under sections  
255 10-410 to 10-415, inclusive, as amended by this act, the commission  
256 shall require that (1) the owner has developed a comprehensive  
257 historic preservation plan, approved by the commission, together with  
258 specific work plans and specifications; (2) the owner provides payment

259 and performance bonds to assure the completion of the preservation  
260 work in an authentic manner satisfactory to the commission; (3) the  
261 owner has filed with the town clerk in the municipality in which the  
262 property is located a declaration of covenant guaranteeing the  
263 preservation of the historical or architectural qualities of the property  
264 in perpetuity or for a period approved by the commission; (4) the  
265 owner receiving funds for the purposes of said sections plans to and  
266 can demonstrate an ability to maintain and operate properly the  
267 historic structure or landmark for an indefinite period of time and that  
268 such owner will open it to the public at reasonable times, free of charge  
269 or subject to a reasonable charge as approved by the commission; (5)  
270 the owner maintains sufficient casualty and liability insurance to  
271 render the state harmless in any action arising from the acquisition,  
272 relocation, restoration or operation of properties under said sections;  
273 and (6) if such historic structure or landmark lies within the  
274 boundaries of any historic district, the proposed acquisition,  
275 relocation, preservation and restoration has been approved by the local  
276 historic district commission. Such assistance agreement may require  
277 that if the owner receiving funds under said sections fails to operate or  
278 maintain properly the historic structure or landmark, title to such  
279 property may be acquired by the commission upon payment to such  
280 municipality or private organization of a sum equal to the amount  
281 provided by such municipality or private organization in accordance  
282 with such assistance agreement.

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

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

291 Sec. 5. Section 32-9ee of the general statutes is repealed and the

292 following is substituted in lieu thereof (*Effective October 1, 2009*):

293 (a) The municipality or economic development agency that receives  
294 grants through the Office of Brownfield Remediation and  
295 Development's pilot program established in subsection (c) of section  
296 32-9cc shall be considered an innocent party and shall not be liable  
297 under section 22a-432, 22a-433, 22a-451 or 22a-452 as long as the  
298 municipality or economic development agency did not cause or  
299 contribute to the discharge, spillage, uncontrolled loss, seepage or  
300 filtration of such hazardous substance, material, waste or pollution  
301 that is subject to remediation under this pilot program; does not  
302 exacerbate the conditions; and complies with reporting of significant  
303 environmental hazard requirements in section 22a-6u.

304 (b) In determining what funds shall be made available for an  
305 eligible brownfield remediation, the Commissioner of Economic and  
306 Community Development shall consider (1) the economic  
307 development opportunities such reuse and redevelopment may  
308 provide, (2) the feasibility of the project, (3) the environmental and  
309 public health benefits of the project, and (4) the contribution of the  
310 reuse and redevelopment to the municipality's tax base. The  
311 commissioner shall submit each proposal for brownfield remediation  
312 funds to the Interagency Responsible Growth Steering Council,  
313 established under Executive Order No. 15 of Governor M. Jodi Rell, for  
314 review to determine if the proposal is consistent with the principles of  
315 smart growth, as defined in section 1 of substitute house bill 6467 of  
316 the current session. The steering council shall notify the commissioner  
317 of its determination not more than thirty days after receipt of the  
318 proposal. No funds shall be awarded unless the steering council  
319 determines that the proposal is consistent with said principles of smart  
320 growth.

321 (c) No person shall acquire title to or hold, possess or maintain any  
322 interest in a property that has been remediated in accordance with the  
323 pilot program established in subsection (c) of section 32-9cc if such  
324 person (1) is liable under section 22a-432, 22a-433, 22a-451 or 22a-452;

325 (2) is otherwise responsible, directly or indirectly, for the discharge,  
326 spillage, uncontrolled loss, seepage or filtration of such hazardous  
327 substance, material or waste; (3) is a member, officer, manager,  
328 director, shareholder, subsidiary, successor of, related to, or affiliated  
329 with, directly or indirectly, the person who is otherwise liable to under  
330 section 22a-432, 22a-433, 22a-451 or 22a-452; or (4) is or was an owner,  
331 operator or tenant. If such person elects to acquire title to or hold,  
332 possess or maintain any interest in the property, that person shall  
333 reimburse the state of Connecticut, the municipality and the economic  
334 development agency for any and all costs expended to perform the  
335 investigation and remediation of the property, plus interest at a rate of  
336 eighteen per cent.

337 Sec. 6. (NEW) (*Effective October 1, 2009*) (a) As used in this section:

338 (1) "Authority" means the Connecticut Development Authority,  
339 created under section 32-11a of the general statutes; and

340 (2) "Financial assistance" means any and all forms of loans,  
341 extensions of credit, guarantees, equity investments or any other form  
342 of financing or refinancing to persons for the purchase, acquisition,  
343 construction, expansion, continued operation, reconstruction,  
344 financing, refinancing or placing in operation of an economic  
345 development project, including, but not limited to, fixed assets,  
346 working capital, equity participations and acquisitions, employee  
347 buyouts, refinancing and financial restructuring.

348 (b) The Connecticut Development Authority before approving any  
349 application under any provision of the general statutes for any form of  
350 financial assistance for any physical development, including but not  
351 limited to, the purchase or improvement of real property and the  
352 construction, reconstruction or renovation of a structure, shall submit  
353 such application to the Interagency Responsible Growth Steering  
354 Council, established pursuant to Executive Order No. 15 of Governor  
355 M. Jodi Rell, for a determination of consistency with the principles of  
356 smart growth, as defined in section 1 of substitute house bill 6467 of

357 the current session. The steering council shall notify the authority of its  
358 determination not more than thirty days after receipt of the  
359 application. No financial assistance shall be awarded by the authority  
360 unless the steering council determines that the application is consistent  
361 with said principles of smart growth.

362       Sec. 7. (NEW) (*Effective October 1, 2009*) The Commissioner of  
363 Economic and Community Development, before approving any  
364 application under any provision of the general statutes for a grant for  
365 physical development, including, but not limited to, the purchase or  
366 improvement of real property and the construction, reconstruction or  
367 renovation of a structure, shall submit such application to the  
368 Interagency Responsible Growth Steering Council, established  
369 pursuant to Executive Order No. 15 of Governor M. Jodi Rell, for a  
370 determination of consistency with the principles of smart growth, as  
371 defined in section 1 of substitute house bill 6467 of the current session.  
372 The steering council shall notify the commissioner of its determination  
373 not more than thirty days after receipt of the application. No financial  
374 assistance shall be awarded by the commissioner unless the steering  
375 council determines that the application is consistent with said  
376 principles of smart growth.

377       Sec. 8. Section 4-66c of the general statutes is amended by adding  
378 subsection (f) as follows (*Effective October 1, 2009*):

379       (NEW) (f) Before approving an application for a grant-in-aid under  
380 this section, a state agency shall submit such application to the  
381 Interagency Responsible Growth Steering Council, established  
382 pursuant to Executive Order No. 15 of Governor M. Jodi Rell, for a  
383 determination of consistency with the principles of smart growth, as  
384 defined in section 1 of substitute house bill 6467 of the current session.  
385 The steering council shall notify the agency of its determination not  
386 more than thirty days after receipt of the application. No financial  
387 assistance shall be awarded by the state agency unless the steering  
388 council determines that the application is consistent with said  
389 principles of smart growth.

390       Sec. 9. Subsection (d) of section 4-66g of the general statutes is  
 391 repealed and the following is substituted in lieu thereof (*Effective*  
 392 *October 1, 2009*):

393       (d) Any grant-in-aid allowed under the small town economic  
 394 assistance program under this section may be administered on behalf  
 395 of the Office of Policy and Management by another state agency as  
 396 determined by the Secretary of the Office of Policy and Management.  
 397 Before approving an application for a grant-in-aid under this section,  
 398 the Secretary of the Office of Policy and Management or the head of a  
 399 state agency shall submit such application to the Interagency  
 400 Responsible Growth Steering Council, established pursuant to  
 401 Executive Order No. 15 of Governor M. Jodi Rell, for a determination  
 402 of consistency with the principles of smart growth, as defined in  
 403 section 1 of substitute house bill 6467 of the current session. The  
 404 steering council shall notify the secretary or the head of the state  
 405 agency of its determination not more than thirty days after receipt of  
 406 the application. No financial assistance shall be awarded by the state  
 407 agency unless the steering council determines that the application is  
 408 consistent with said principles of smart growth.

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>	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
Sec. 6	<i>October 1, 2009</i>	New section
Sec. 7	<i>October 1, 2009</i>	New section
Sec. 8	<i>October 1, 2009</i>	4-66c
Sec. 9	<i>October 1, 2009</i>	4-66g(d)

**PD**           *Joint Favorable Subst.*