



General Assembly

**Substitute Bill No. 6464**

January Session, 2009

\*          HB06464ENV          042709          \*

**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) grants-in-aid for  
9       restoration of historic structures and landmarks submitted pursuant to  
10      section 10-411 of the general statutes, as amended by this act; (3) funds  
11      for brownfield remediation submitted under section 32-9ee of the  
12      general statutes, as amended by this act; (4) financial assistance for  
13      physical development from the Connecticut Development Authority  
14      pursuant to section 6 of this act; (5) grants from the Commissioner of  
15      Economic and Community Development for physical development  
16      pursuant to section 7 of this act; (6) grants-in-aid pursuant to section 4-  
17      66c of the general statutes, as amended by this act; and (7) grants-in-  
18      aid under section 4-66g of the general statutes, as amended by this act.

19      (b) The awarding authority shall submit an application to the

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

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 Section 7-131e of the general statutes is repealed and the  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

33       (a) Grant award decisions under the protected open space and  
34 watershed land acquisition grant program established under section  
35 7-131d or under the Charter Oak open space grant program  
36 established under section 7-131t shall be made by the Commissioner of  
37 Environmental Protection at least semiannually. All complete and  
38 eligible grant applications shall be acted upon by the commissioner as  
39 soon as practicable. A single project may receive a grant in more than  
40 one grant cycle, subject to future availability of funds and subject to  
41 the limitations set forth in this section and sections 23-78, 12-498 and  
42 7-131d. Up to five per cent of the grant funds may be used for  
43 administrative expenses including, but not limited to: (1) Contractors  
44 to assist the Department of Environmental Protection in the review  
45 and evaluation of grant proposals and baseline data collection for  
46 conservation easements; (2) appraisals or appraisal reviews; and (3)  
47 preparation of legal and other documents. Administrative expenses  
48 may not be used for staff salaries. Not later than September 1, 1998, for  
49 the protected open space and watershed land acquisition grant  
50 program established under section 7-131d, and not later than  
51 September 1, 2000, for the Charter Oak open space grant program  
52 account established under section 7-131t, the commissioner shall  
53 develop written guidelines and a ranking system for consistency and

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

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

88 shall take such comments into consideration in making any decisions  
89 regarding such grants.

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

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

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

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

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

155 purposes of section 7-131d. Investment earnings credited to the assets  
156 of the account shall become part of the assets of the account. Any  
157 balance remaining in the account at the end of any fiscal year shall be  
158 carried forward in the account for the fiscal year next succeeding.  
159 Payments from the account shall be made upon authorization by the  
160 Commissioner of Environmental Protection. Neither the proceeds of  
161 any general obligation bonds of the state nor the investment earnings  
162 of any such proceeds shall be deposited in the account. The  
163 Commissioner of Environmental Protection may use funds in the  
164 account for purposes of section 7-131d.

165 Sec. 3. Section 10-411 of the general statutes is repealed and the  
166 following is substituted in lieu thereof (*Effective October 1, 2009*):

167 (a) Any municipality or private organization may acquire, relocate,  
168 restore, preserve and maintain historic structures and landmarks and  
169 may receive funds from the state and federal governments for such  
170 purposes. Grants-in-aid may be made to owners of historic structures  
171 or landmarks in an amount not to exceed fifty per cent of the  
172 nonfederal share of the total cost of such acquisition, relocation,  
173 historic preservation and restoration. Grants-in-aid shall be made  
174 through an assistance agreement signed by the owner. Subsequent to  
175 the execution of any such assistance agreement, advances of funds  
176 may be made by the commission to the owner of such an historic  
177 structure or landmark. The commission shall submit each complete  
178 and eligible application for a grant-in-aid to the Interagency  
179 Responsible Growth Steering Council, established under Executive  
180 Order No. 15 of Governor M. Jodi Rell, for review to determine if the  
181 application is consistent with the principles of smart growth, as  
182 defined in section 1 of substitute house bill 6467 of the current session.  
183 The steering council shall notify the commission of its determination  
184 not more than thirty days after receipt of the application. No grant-in-  
185 aid shall be awarded unless the steering council determines that the  
186 application is consistent with said principles of smart growth.

187 (b) Before executing any such assistance agreement under sections

188 10-410 to 10-415, inclusive, as amended by this act, the commission  
189 shall require that (1) the owner has developed a comprehensive  
190 historic preservation plan, approved by the commission, together with  
191 specific work plans and specifications; (2) the owner provides payment  
192 and performance bonds to assure the completion of the preservation  
193 work in an authentic manner satisfactory to the commission; (3) the  
194 owner has filed with the town clerk in the municipality in which the  
195 property is located a declaration of covenant guaranteeing the  
196 preservation of the historical or architectural qualities of the property  
197 in perpetuity or for a period approved by the commission; (4) the  
198 owner receiving funds for the purposes of said sections plans to and  
199 can demonstrate an ability to maintain and operate properly the  
200 historic structure or landmark for an indefinite period of time and that  
201 such owner will open it to the public at reasonable times, free of charge  
202 or subject to a reasonable charge as approved by the commission; (5)  
203 the owner maintains sufficient casualty and liability insurance to  
204 render the state harmless in any action arising from the acquisition,  
205 relocation, restoration or operation of properties under said sections;  
206 and (6) if such historic structure or landmark lies within the  
207 boundaries of any historic district, the proposed acquisition,  
208 relocation, preservation and restoration has been approved by the local  
209 historic district commission. Such assistance agreement may require  
210 that if the owner receiving funds under said sections fails to operate or  
211 maintain properly the historic structure or landmark, title to such  
212 property may be acquired by the commission upon payment to such  
213 municipality or private organization of a sum equal to the amount  
214 provided by such municipality or private organization in accordance  
215 with such assistance agreement.

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

218 (d) The commission shall adopt regulations pursuant to chapter 54  
219 for its guidance before making such grants-in-aid or advances. Such  
220 regulations shall, among other things, require that the commission  
221 determine that the historic structure or landmark to be acquired,

222 relocated or restored is an authentic historic structure or landmark as  
223 identified in the state register of historic places.

224 Sec. 4. Section 32-9ee of the general statutes is repealed and the  
225 following is substituted in lieu thereof (*Effective October 1, 2009*):

226 (a) The municipality or economic development agency that receives  
227 grants through the Office of Brownfield Remediation and  
228 Development's pilot program established in subsection (c) of section  
229 32-9cc shall be considered an innocent party and shall not be liable  
230 under section 22a-432, 22a-433, 22a-451 or 22a-452 as long as the  
231 municipality or economic development agency did not cause or  
232 contribute to the discharge, spillage, uncontrolled loss, seepage or  
233 filtration of such hazardous substance, material, waste or pollution  
234 that is subject to remediation under this pilot program; does not  
235 exacerbate the conditions; and complies with reporting of significant  
236 environmental hazard requirements in section 22a-6u.

237 (b) In determining what funds shall be made available for an  
238 eligible brownfield remediation, the Commissioner of Economic and  
239 Community Development shall consider (1) the economic  
240 development opportunities such reuse and redevelopment may  
241 provide, (2) the feasibility of the project, (3) the environmental and  
242 public health benefits of the project, and (4) the contribution of the  
243 reuse and redevelopment to the municipality's tax base. The  
244 commissioner shall submit each proposal for brownfield remediation  
245 funds to the Interagency Responsible Growth Steering Council,  
246 established under Executive Order No. 15 of Governor M. Jodi Rell, for  
247 review to determine if the proposal is consistent with the principles of  
248 smart growth, as defined in section 1 of substitute house bill 6467 of  
249 the current session. The steering council shall notify the commissioner  
250 of its determination not more than thirty days after receipt of the  
251 proposal. No funds shall be awarded unless the steering council  
252 determines that the proposal is consistent with said principles of smart  
253 growth.

254 (c) No person shall acquire title to or hold, possess or maintain any  
255 interest in a property that has been remediated in accordance with the  
256 pilot program established in subsection (c) of section 32-9cc if such  
257 person (1) is liable under section 22a-432, 22a-433, 22a-451 or 22a-452;  
258 (2) is otherwise responsible, directly or indirectly, for the discharge,  
259 spillage, uncontrolled loss, seepage or filtration of such hazardous  
260 substance, material or waste; (3) is a member, officer, manager,  
261 director, shareholder, subsidiary, successor of, related to, or affiliated  
262 with, directly or indirectly, the person who is otherwise liable to under  
263 section 22a-432, 22a-433, 22a-451 or 22a-452; or (4) is or was an owner,  
264 operator or tenant. If such person elects to acquire title to or hold,  
265 possess or maintain any interest in the property, that person shall  
266 reimburse the state of Connecticut, the municipality and the economic  
267 development agency for any and all costs expended to perform the  
268 investigation and remediation of the property, plus interest at a rate of  
269 eighteen per cent.

270 Sec. 5. (NEW) (*Effective October 1, 2009*) (a) As used in this section:

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

273 (2) "Financial assistance" means any and all forms of loans,  
274 extensions of credit, guarantees, equity investments or any other form  
275 of financing or refinancing to persons for the purchase, acquisition,  
276 construction, expansion, continued operation, reconstruction,  
277 financing, refinancing or placing in operation of an economic  
278 development project, including, but not limited to, fixed assets,  
279 working capital, equity participations and acquisitions, employee  
280 buyouts, refinancing and financial restructuring.

281 (b) The Connecticut Development Authority before approving any  
282 application under any provision of the general statutes for any form of  
283 financial assistance for any physical development, including but not  
284 limited to, the purchase or improvement of real property and the  
285 construction, reconstruction or renovation of a structure, shall submit

286 such application to the Interagency Responsible Growth Steering  
287 Council, established pursuant to Executive Order No. 15 of Governor  
288 M. Jodi Rell, for a determination of consistency with the principles of  
289 smart growth, as defined in section 1 of substitute house bill 6467 of  
290 the current session. The steering council shall notify the authority of its  
291 determination not more than thirty days after receipt of the  
292 application. No financial assistance shall be awarded by the authority  
293 unless the steering council determines that the application is consistent  
294 with said principles of smart growth.

295       Sec. 6. (NEW) (*Effective October 1, 2009*) The Commissioner of  
296 Economic and Community Development, before approving any  
297 application under any provision of the general statutes for a grant for  
298 physical development, including, but not limited to, the purchase or  
299 improvement of real property and the construction, reconstruction or  
300 renovation of a structure, shall submit such application to the  
301 Interagency Responsible Growth Steering Council, established  
302 pursuant to Executive Order No. 15 of Governor M. Jodi Rell, for a  
303 determination of consistency with the principles of smart growth, as  
304 defined in section 1 of substitute house bill 6467 of the current session.  
305 The steering council shall notify the commissioner of its determination  
306 not more than thirty days after receipt of the application. No financial  
307 assistance shall be awarded by the commissioner unless the steering  
308 council determines that the application is consistent with said  
309 principles of smart growth.

310       Sec. 7. Section 4-66c of the general statutes is amended by adding  
311 subsection (f) as follows (*Effective October 1, 2009*):

312       (NEW) (f) Before approving an application for a grant-in-aid under  
313 this section, a state agency shall submit such application to the  
314 Interagency Responsible Growth Steering Council, established  
315 pursuant to Executive Order No. 15 of Governor M. Jodi Rell, for a  
316 determination of consistency with the principles of smart growth, as  
317 defined in section 1 of substitute house bill 6467 of the current session.  
318 The steering council shall notify the agency of its determination not

319 more than thirty days after receipt of the application. No financial  
 320 assistance shall be awarded by the state agency unless the steering  
 321 council determines that the application is consistent with said  
 322 principles of smart growth.

323 Sec. 8. Subsection (d) of section 4-66g of the general statutes is  
 324 repealed and the following is substituted in lieu thereof (*Effective*  
 325 *October 1, 2009*):

326 (d) Any grant-in-aid allowed under the small town economic  
 327 assistance program under this section may be administered on behalf  
 328 of the Office of Policy and Management by another state agency as  
 329 determined by the Secretary of the Office of Policy and Management.  
 330 Before approving an application for a grant-in-aid under this section,  
 331 the Secretary of the Office of Policy and Management or the head of a  
 332 state agency shall submit such application to the Interagency  
 333 Responsible Growth Steering Council, established pursuant to  
 334 Executive Order No. 15 of Governor M. Jodi Rell, for a determination  
 335 of consistency with the principles of smart growth, as defined in  
 336 section 1 of substitute house bill 6467 of the current session. The  
 337 steering council shall notify the secretary or the head of the state  
 338 agency of its determination not more than thirty days after receipt of  
 339 the application. No financial assistance shall be awarded by the state  
 340 agency unless the steering council determines that the application is  
 341 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>	10-411
Sec. 4	<i>October 1, 2009</i>	32-9ee
Sec. 5	<i>October 1, 2009</i>	New section
Sec. 6	<i>October 1, 2009</i>	New section
Sec. 7	<i>October 1, 2009</i>	4-66c
Sec. 8	<i>October 1, 2009</i>	4-66g(d)

**ENV**      *Joint Favorable Subst.*