



General Assembly

January Session, 2009

**Raised Bill No. 1153**

LCO No. 4367

\*04367\_\_\_\_\_GAE\*

Referred to Committee on Government Administration and Elections

Introduced by:  
(GAE)

**AN ACT CONCERNING THE CAPITOL AREA DISTRICT HEATING AND COOLING SYSTEM.**

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

1 Section 1. (NEW) (*Effective from passage*) (a) The Commissioner of  
2 Public Works, on behalf of the state, may purchase from TEN  
3 Companies, Inc., in accordance with the Asset Purchase Agreement  
4 dated November 4, 2008, by and among the state, acting by and  
5 through the Commissioner of Public Works, and TEN Companies, Inc.,  
6 which Asset Purchase Agreement is hereby ratified and approved, the  
7 district heating and cooling system that provides heating and cooling  
8 service to state facilities within the Capitol District and to other  
9 facilities, and which is known as the Capitol Area System, including,  
10 but not limited to, all assets and property relative to or necessary for  
11 the operation of said system. The commissioner may assume all  
12 vendor contracts, customer contracts, supplier agreements, and third-  
13 party contracts with regard to said system. The commissioner may  
14 undertake any obligation and enter into any agreement to accomplish  
15 any transaction that is necessary to carry out the provisions of this  
16 section or said Asset Purchase Agreement, including, but not limited

17 to, the grant or acceptance of any release set forth in said Asset  
18 Purchase Agreement.

19 (b) To the extent any provision in an agreement executed or  
20 assumed by the commissioner pursuant to subsection (a) of this section  
21 may be interpreted as waiving the sovereign immunity of the state,  
22 including, without limitation, indemnification provisions, such  
23 provision is effective and enforceable against the state solely in  
24 accordance with its specific terms. Nothing in this subsection shall be  
25 construed as a waiver of the sovereign immunity of the state in any  
26 other context.

27 (c) In order to operate the Capitol Area System, the commissioner  
28 may: (1) Furnish, from plants located in the city of Hartford, heat or air  
29 conditioning, or both, by means of steam, heated or chilled water or  
30 other medium; (2) lay and maintain mains, pipes or other conduits; (3)  
31 erect such other fixtures as are, or may be, necessary or convenient in  
32 and on the streets, highways and public grounds of said city, for the  
33 purpose of carrying steam, heated or chilled water or other medium  
34 from such plants to the location to be served and returning the same;  
35 and (4) lease to one or more corporations formed or specially chartered  
36 for the purpose of furnishing heat or air conditioning, or both, one or  
37 more of such plants or distribution systems owned by it and  
38 constructed or adapted for either or both such purposes.

39 (d) Notwithstanding any provision of the general statutes, the  
40 commissioner may perform all obligations of the state relating to or  
41 arising from any agreement between the state and TEN Companies,  
42 Inc., including, but not limited to, acting on behalf of the Joint  
43 Committee on Legislative Management, the Judicial Department, and  
44 any state agency that owns, operates or occupies a building that  
45 receives services from TEN Companies, Inc.

46 (e) The Commissioner of Public Works may (1) enter into contracts  
47 with third parties for the procurement of energy products and services  
48 or for the operation and maintenance of, and repairs and

49 improvements to, the Capitol Area System; (2) provide energy  
50 products and services, as produced from said system or distributed by  
51 said system, to any buildings owned by, or leased to, the state or any  
52 instrumentality of the state; (3) sell energy products and services, as  
53 produced from said system or distributed by said system, to the  
54 owners or tenants of buildings not owned by the state; (4) occupy and  
55 use rights-of-way necessary to own, maintain, repair, improve and  
56 operate said system in and on the streets, highways and public  
57 grounds of the city of Hartford, on all property owned by the state and  
58 on property where the system is located, and to serve public and  
59 private end-use customers; (5) lay and maintain mains, pipes or other  
60 conduits, and erect such other fixtures as are, or may be, necessary or  
61 convenient in and on the streets, highways and public grounds of said  
62 city, for the purpose of carrying energy products to the location to be  
63 served and returning the same; and (6) enter into contracts with third  
64 parties for the procurement of other products and services, and  
65 provide or sell other products or services to the state or to the owners  
66 or tenants of buildings not owned by the state, that are being  
67 produced, provided or distributed through said system, or any part  
68 thereof, prior to, or as of, the effective date of this section.

69 (f) Notwithstanding any provision of the general statutes, the  
70 Commissioner of Public Works may: (1) Grant easements with respect  
71 to land owned by the state in connection with the operation of the  
72 Capitol Area System, subject to the approval of the agency having  
73 supervision of the care and control of such land and the State  
74 Properties Review Board; (2) acquire easements with respect to land  
75 not owned by the state in connection with said system, subject to the  
76 approval of the State Properties Review Board; (3) enter into leases for  
77 any type of space or facility necessary to meet the needs of operating  
78 said system, subject to the approval of the State Properties Review  
79 Board; and (4) when the General Assembly is not in session, the  
80 commissioner may, subject to the provisions of section 4b-23 of the  
81 general statutes, purchase or acquire for the state any land, or interest  
82 therein, if such action is necessary for the operation of said system. No

83 easement granted pursuant to subdivision (1) of this section shall be  
84 for the disposal or storage of radioactive or hazardous waste materials.  
85 The commissioner shall provide notice of any easement granted  
86 pursuant to subdivision (1) of this section to the chief elected official of  
87 the municipality and the members of the General Assembly  
88 representing the municipality, in which such land is located.

89 (g) The Commissioner of Public Works may establish and  
90 administer an account to be known as the Public Works Heating and  
91 Cooling Energy Revolving Account, which shall be used for: (1) The  
92 deposit of receipts from the sale of energy products and services to  
93 state agencies or to the owners or tenants of buildings not owned by  
94 the state, and (2) for the payment of expenses related to the operation,  
95 maintenance, repair and improvement of the Capitol Area System. The  
96 commissioner may expend funds necessary for all reasonable direct  
97 expenses related to said account.

98 (h) The Commissioner of Public Works, with the approval of the  
99 Secretary of the Office of Policy and Management as to the method  
100 used to calculate rates and the type of expenses included for repairs  
101 and maintenance, shall include the following in the expenses invoiced  
102 to, and collected from, each state agency and owner or tenant of the  
103 buildings not owned by the state, to the extent not prohibited by  
104 contracts in effect as of November 4, 2008: (1) A pro-rata share of all  
105 costs of acquiring the system, including, but not limited to, all costs for  
106 legal and consultant services; (2) a pro-rata share of the cost of such  
107 energy products or services, whether produced by the state or  
108 purchased from third parties; (3) a pro-rata share of any and all costs of  
109 operating, maintaining and repairing said system, including, but not  
110 limited to, the cost of services provided by vendors and the cost of  
111 equipment; (4) a pro-rata share of an amount determined to be  
112 necessary for long-term capital improvements or replacement, which  
113 amount shall be specifically identified in the Public Works Heating  
114 and Cooling Energy Revolving Account, and allocated for long-term  
115 capital improvements or replacement; (5) a pro-rata share of the

116 Department of Public Works' personnel costs related to the operation,  
117 maintenance, repair and improvement of the Capitol Area System; and  
118 (6) a pro-rata share of the cost of other products or services incurred  
119 and permitted by this section. Not more than forty-five days after  
120 receipt of such proposal from the commissioner, the Secretary of the  
121 Office of Policy and Management shall approve or disapprove of the  
122 proposed method used to calculate rates and the type of expenses  
123 included. If the secretary fails to act on the proposal during this period,  
124 the commissioner's proposal shall be deemed to have been approved.

125 (i) Nothing in this section shall be construed to limit the use of the  
126 Capitol Area System by the state to its use or functional capacity as of  
127 the date of its purchase by the state.

128 (j) Except as expressly required by the provisions of this section, the  
129 acquisition of the Capitol Area System by the Commissioner of Public  
130 Works, and any transaction related to such acquisition, shall not be  
131 subject to any other review, approval or authorization by any other  
132 state agency, board, department or instrumentality and shall not be  
133 subject to any otherwise applicable sales or conveyance tax or taxes.

134 Sec. 2. Section 3 of number 7 of the special acts of 1961, as amended  
135 by special act 97-1, is amended to read as follows (*Effective from*  
136 *passage*):

137 (a) Said corporation is authorized and empowered, either directly  
138 or through the agency of its parent, a subsidiary or an affiliate: To  
139 furnish, from plants located in the city of Hartford, heat or air  
140 conditioning, or both, by means of steam, heated or chilled water or  
141 other medium; to lay and maintain mains, pipes or other conduits, and  
142 to erect such other fixtures as are or may be necessary or convenient in  
143 and on the streets, highways and public grounds of said city, for the  
144 purpose of carrying steam, heated or chilled water or other medium  
145 from such plants to the location to be served and returning the same;  
146 and to lease to one or more corporations formed under the general law  
147 or specially chartered for the purpose of furnishing heat or air

148 conditioning, or both, one or more of such plants or distribution  
149 systems, or both, owned by it and constructed or adapted for either or  
150 both of such purposes.

151 (b) Said corporation or its successor may sell to the state the district  
152 heating and cooling system, known as the Capitol Area System, that  
153 provides heating and cooling energy products or services to buildings  
154 owned by the state and to privately owned buildings. Such sale shall  
155 include, but not be limited to, all assets and property relative to or  
156 necessary for the operation of said system.

157 *Sec. 3. (Effective from passage)* (a) For the purpose of the sale provided  
158 for in section 1 of this act, the purchase price for the Capitol Area  
159 System and the assets and property of TEN Companies, Inc., related to  
160 said system, as set forth in the Asset Purchase Agreement between  
161 TEN Companies, Inc., and the State of Connecticut dated November 4,  
162 2008, shall be ten million six hundred thousand dollars, which  
163 purchase price includes a credit in the amount of five million dollars  
164 provided by TEN Companies, Inc., to the state in consideration of the  
165 settlement of litigation. The provisions of this subsection shall be  
166 deemed to constitute compliance, to the extent applicable, with the  
167 provisions of section 3-125a of the general statutes.

168 (b) The State Bond Commission may authorize the issuance of  
169 bonds of the state in one or more series and in a principal amount in  
170 the aggregate not exceeding ten million six hundred thousand dollars.  
171 The proceeds of the sale of said bonds shall be used for the purpose of  
172 acquiring the Capitol Area System, including all assets and property  
173 relative to or necessary for the operation of said system.

174 *Sec. 4. (Effective from passage)* The State Bond Commission shall have  
175 the power to authorize the issuance of bonds of the state in one or  
176 more series and in a principal amount in the aggregate not exceeding  
177 one million dollars for the transactional costs related to the purchase of  
178 the Capitol Area System, as provided in section 1 of this act, including,  
179 but not limited to, the state's insurance costs, the state's legal fees,

180 reimbursement to TEN Companies, Inc. for prepaid property taxes, a  
 181 reasonable amount for start-up funding for the Public Works Heating  
 182 and Cooling Energy Revolving Account, as established in section 1 of  
 183 this act, and the cost of materials to cap the ends of the system loop  
 184 located in the downtown area of the city of Hartford.

185       Sec. 5. (NEW) (*Effective from passage*) The State Bond Commission  
 186 shall have power to authorize the issuance of bonds of the state in one  
 187 or more series and in a principal amount in the aggregate not  
 188 exceeding five million dollars for the purchase and installation of  
 189 additional equipment not part of the sale of the Capitol Area System  
 190 provided for under section 1 of this act, or for assets or property  
 191 necessary for the improvement or the operation of the Capitol Area  
 192 System, or for providing services to state and nonstate owned  
 193 buildings not connected to, or receiving services from, the system as of  
 194 the effective date of this section.

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| This act shall take effect as follows and shall amend the following sections: |                     |  |
| Section 1   | <i>from passage</i> | New section                                  |
| Sec. 2  | <i>from passage</i> | Number 7 of the special acts of 1961, Sec. 3 |
| Sec. 3  | <i>from passage</i> | New section                                  |
| Sec. 4  | <i>from passage</i> | New section                                  |
| Sec. 5  | <i>from passage</i> | New section                                  |

**Statement of Purpose:**

To authorize the Commissioner of Public Works to purchase, operate and maintain the Capitol Area System which provides heating and cooling to certain state facilities and privately owned buildings in the city of Hartford.

*[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.]*