



**STATE OF CONNECTICUT
OFFICE OF POLICY AND MANAGEMENT**

**TESTIMONY SUBMITTED TO THE COMMERCE COMMITTEE
FEBRUARY 26, 2009**

*Robert L. Genuario, Secretary
Office of Policy and Management (OPM)*

**Concerning Committee Bill No. 6097
AN ACT CONCERNING BROWNFIELDS DEVELOPMENT PROJECTS**

Senator LeBeau, Representative Berger and distinguished members of the Commerce Committee, I thank you for the opportunity to submit written testimony concerning Committee Bill No. 6097, the intent of which is to facilitate the development of brownfields projects.

As you know, Governor M. Jodi Rell supports the redevelopment of brownfields and vacant mills, whether they are located in our cities or our smaller towns. We all know how important the reclamation and reuse of brownfields is in terms of reducing urban sprawl and serving, indirectly, to preserve open space and agricultural lands.

Since 2006, staff of the Department of Economic and Community Development's Office of Brownfields Remediation and Development (OBRD) has been working diligently with various communities and developers to bring brownfields back to a productive reuse. In October 2008, Governor Rell announced that five brownfield sites across the state that would receive a total of \$2.25 million to assist in redevelopment efforts under the brownfields pilot program.

Although we support the concept of rehabilitating existing vacant and contaminated sites, we must oppose various sections of Committee Bill No. 6097.

While well-intentioned, the amount of the appropriation in Section 9 and the 100% tax credit that Section 7 would establish are simply not affordable, especially given the current economic crisis. By providing a 100% tax credit against either the corporation business or personal income tax an organization undertaking remediation would not have any incentive to control clean-up costs as it would ultimately pass those costs on to the state's other taxpayers. Also, we have long opposed the precedent of allowing credits against the personal income tax; maintaining a simplified personal income tax structure helps to protect this important revenue source. Moreover, there is a component of the Urban Industrial Site Reinvestment credit that is applicable to brownfields.

Most of our other concerns have to do the language in Sections 2 through 6 of Committee Bill No. 6097. We believe the intent of these sections is to clarify liability issues. They are confusing, however, in that they appear to broadly define who may be liable, while establishing an absolute defense for those encompassed within that broad definition. Rather than clarifying the issue of litigation, the ambiguous nature of these provisions may actually encourage more lawsuits which could serve as a disincentive to reclamation efforts. Although supportive of reforming statutory provisions concerning liability, especially those that may impede brownfield reclamation by municipalities, we do not believe these sections will achieve the desired affect. Instead, the Commerce Committee may wish to consider providing for a reduced apportionment of municipal liability, so as to encourage their efforts at reducing the number of brownfield properties.

Lastly, we also feel that there is more appropriate language that would clarify provisions regarding contaminated properties in floodplains, and I intend to ask staff of the Department of Environmental Protection (DEP) to provide you with such language, which staff developed in concert with the Department of Economic and Community Development.

Thank you for affording me the opportunity to submit this testimony regarding our opposition to the appropriation and tax credit provisions of Committee Bill No. 6097 and our concerns with the potential unintended consequences of other sections of this bill. I encourage you to continue working with the OBRD and DEP on the liability concepts encompassed within this bill, as well as other issues related to the reclamation of brownfields. These agencies have staff members with the expertise to assist you in the important task of facilitating brownfields reclamation.