



House of Representatives

General Assembly

File No. 412

February Session, 2010

Substitute House Bill No. 5074

House of Representatives, April 8, 2010

The Committee on Commerce reported through REP. BERGER of the 73rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT ENCOURAGING BIOMANUFACTURING JOBS IN DISTRESSED MUNICIPALITIES.

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

1 Section 1. Section 32-9p of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2010*):

3 As used in subdivisions (59) and (60) of section 12-81, as amended
4 by this act, and sections 12-217e, 32-9p to 32-9s, inclusive, as amended
5 by this act, and 32-23p, the following words and terms have the
6 following meanings:

7 (a) "Area of high unemployment" means, as of the date of any final
8 and official determination by the authority or the department to
9 extend assistance under said sections, any municipality which is a
10 distressed municipality as defined in subsection (b) of this section, and
11 any other municipality in the state which in the calendar year
12 preceding such determination had a rate of unemployment which
13 exceeded one hundred ten per cent of the average rate of

14 unemployment in the state for the same calendar year, as determined
15 by the Labor Department, provided no such other municipality with
16 an unemployment rate of less than six per cent shall be an area of high
17 unemployment.

18 (b) "Distressed municipality" means, as of the date of the issuance of
19 an eligibility certificate, any municipality in the state which, according
20 to the United States Department of Housing and Urban Development
21 meets the necessary number of quantitative physical and economic
22 distress thresholds which are then applicable for eligibility for the
23 urban development action grant program under the Housing and
24 Community Development Act of 1977, as amended, or any town
25 within which is located an unconsolidated city or borough which
26 meets such distress thresholds. Any municipality which, at any time
27 subsequent to July 1, 1978, has met such thresholds but which at any
28 time thereafter fails to meet such thresholds, according to said
29 department, shall be deemed to be a distressed municipality for a
30 period of five years subsequent to the date of the determination that
31 such municipality fails to meet such thresholds, unless such
32 municipality elects to terminate its designation as a "distressed
33 municipality", by vote of its legislative body, not later than September
34 1, 1985, or not later than three months after receiving notification from
35 the commissioner that it no longer meets such thresholds, whichever is
36 later. In the event a distressed municipality elects to terminate its
37 designation, the municipality shall notify the commissioner and the
38 Secretary of the Office of Policy and Management in writing within
39 thirty days. In the event that the commissioner determines that
40 amendatory federal legislation or administrative regulation has
41 materially changed the distress thresholds thereby established,
42 "distressed municipality" shall mean any municipality in the state
43 which meets comparable thresholds of distress which are then
44 applicable in the areas of high unemployment and poverty, aging
45 housing stock and low or declining rates of growth in job creation,
46 population and per capita income as established by the commissioner,
47 consistent with the purposes of subdivisions (59) and (60) of section 12-
48 81, as amended by this act, and sections 12-217e, as amended by this

49 act, 32-9p to 32-9s, inclusive, as amended by this act, and 32-23p, in
50 regulations adopted in accordance with chapter 54. For purposes of
51 sections 32-9p to 32-9s, inclusive, as amended by this act, "distressed
52 municipality" shall also mean any municipality adversely impacted by
53 a major plant closing, relocation or layoff, provided the eligibility of a
54 municipality shall not exceed two years from the date of such closing,
55 relocation or layoff. The Commissioner of Economic and Community
56 Development shall adopt regulations, in accordance with the
57 provisions of chapter 54, which define what constitutes a "major plant
58 closing, relocation or layoff" for purposes of sections 32-9p to 32-9s,
59 inclusive, as amended by this act. "Distressed municipality" shall also
60 mean the portion of any municipality which is eligible for designation
61 as an enterprise zone pursuant to subdivision (2) of subsection (b) of
62 section 32-70.

63 (c) "Eligibility certificate" means a certificate issued by the
64 department pursuant to section 32-9r, as amended by this act,
65 evidencing its determination that a facility for which an application for
66 assistance has been submitted qualifies as a manufacturing facility and
67 is eligible for assistance under section 12-217e, as amended by this act,
68 and subdivisions (59) and (60) of section 12-81, as amended by this act.

69 (d) "Manufacturing facility" means any plant, building, other real
70 property improvement, or part thereof, (1) which (A) is constructed or
71 substantially renovated or expanded on or after July 1, 1978, in a
72 distressed municipality, a targeted investment community as defined
73 in section 32-222, or an enterprise zone designated pursuant to section
74 32-70, or (B) is acquired on or after July 1, 1978, in a distressed
75 municipality, a targeted investment community as defined in section
76 32-222, or an enterprise zone designated pursuant to [said] section 32-
77 70, by a business organization which is unrelated to and unaffiliated
78 with the seller, after having been idle for at least one year prior to its
79 acquisition and regardless of its previous use; (2) which is to be used
80 for the manufacturing, processing or assembling of raw materials,
81 parts or manufactured products, for research and development
82 facilities directly related to manufacturing, for the significant servicing,

83 overhauling or rebuilding of machinery and equipment for industrial
84 use, or, except as provided in this subsection, for warehousing and
85 distribution or, (A) if located in an enterprise zone designated
86 pursuant to [said] section 32-70, which is to be used by an
87 establishment, an auxiliary or an operating unit of an establishment as
88 such terms are defined in the Standard Industrial Classification
89 Manual, in the categories of depository institutions, nondepository
90 credit institutions, insurance carriers, holding or other investment
91 offices, business services, health services, fishing, hunting and
92 trapping, motor freight transportation and warehousing, water
93 transportation, transportation by air, transportation services, security
94 and commodity brokers, dealers, exchanges and services,
95 telemarketing or engineering, accounting, research, management and
96 related services including, but not limited to, management consulting
97 services from the Standard Industrial Classification Manual or in
98 Sector 48, 49, 52, 54, 55, or 62, Subsector 114 or 561, or industry group
99 5621 in the North American Industrial Classification System, United
100 States Manual, United States Office of Management and Budget, 1997
101 edition, which establishment, auxiliary or operating unit shows a
102 strong performance in exporting goods and services, and as further
103 defined by the commissioner through regulations adopted under
104 chapter 54, or (B) if located in an enterprise zone designated pursuant
105 to [said] section 32-70, which is to be used by an establishment
106 primarily engaged in supplying goods or services in the fields of
107 computer hardware or software, computer networking,
108 telecommunications or communications, or (C) if located in a
109 municipality with an entertainment district designated under section
110 32-76 or established under section 2 of public act 93-311, is to be used
111 in the production of entertainment products, including multimedia
112 products, or as part of the airing, display or provision of live
113 entertainment for stage or broadcast, including support services such
114 as set manufacturers, scenery makers, sound and video equipment
115 providers and manufacturers, stage and screen writers, providers of
116 capital for the entertainment industry and agents for talent, writers,
117 producers and music properties and technological infrastructure

118 support including, but not limited to, fiber optics, necessary to support
119 multimedia and other entertainment formats, except entertainment
120 provided by or shown at a gambling or gaming facility or a facility
121 whose primary business is the sale or serving of alcoholic beverages;
122 and (3) for which the department has issued an eligibility certificate in
123 accordance with section 32-9r, as amended by this act. In the case of
124 facilities which are acquired, the department may waive the
125 requirement of one year of idleness if it determines that, absent
126 qualification as a manufacturing facility under subdivisions (59) and
127 (60) of section 12-81, as amended by this act, and sections 12-217e, as
128 amended by this act, 32-9p to 32-9s, inclusive, as amended by this act,
129 and 32-23p, there is a high likelihood that the facility will remain idle
130 for one year. In the case of facilities located in an enterprise zone
131 designated pursuant to [said] section 32-70, (A) the idleness
132 requirement in subparagraph (B) of subdivision (1) of this subsection,
133 for business organizations which over the six months preceding such
134 acquisition have had an average total employment of between six and
135 nineteen employees, inclusive, shall be reduced to a minimum of six
136 months, and (B) the idleness requirement shall not apply to business
137 organizations with an average total employment of five or fewer
138 employees, provided no more than one eligibility certificate shall be
139 issued under this subparagraph for the same facility within a three-
140 year period. Of those facilities which are for warehousing and
141 distribution, only those which are newly constructed or which
142 represent an expansion of an existing facility qualify as manufacturing
143 facilities. In the event that only a portion of a plant is acquired,
144 constructed, renovated or expanded, only the portion acquired,
145 constructed, renovated or expanded constitutes the manufacturing
146 facility. A manufacturing facility which is leased may for the purposes
147 of subdivisions (59) and (60) of section 12-81, as amended by this act,
148 and sections 12-217e, as amended by this act, 32-9p to 32-9s, inclusive,
149 as amended by this act, and 32-23p, be treated in the same manner as a
150 facility which is acquired if the provisions of the lease serve to further
151 the purposes of subdivisions (59) and (60) of section 12-81, as amended
152 by this act, and sections 12-217e, as amended by this act, 32-9p to 32-9s,

153 inclusive, as amended by this act, and 32-23p and demonstrate a
154 substantial, long-term commitment by the occupant to use the
155 manufacturing facility, including a contract for lease for an initial
156 minimum term of five years with provisions for the extension of the
157 lease at the request of the lessee for an aggregate term which shall not
158 be less than ten years, or the right of the lessee to purchase the facility
159 at any time after the initial five-year term, or both. For a facility located
160 in an enterprise zone designated pursuant to [said] section 32-70, and
161 occupied by a business organization with an average total employment
162 of ten or fewer employees over the six-month period preceding
163 acquisition, such contract for lease may be for an initial minimum term
164 of three years with provisions for the extension of the lease at the
165 request of the lessee for an aggregate term which shall not be less than
166 six years, or the right of the lessee to purchase the facility at any time
167 after the initial three-year term, or both, and may also include the right
168 for the lessee to relocate to other space within the same enterprise
169 zone, provided such space is under the same ownership or control as
170 the originally leased space or if such space is not under such same
171 ownership or control as the originally leased space, permission to
172 relocate is granted by the lessor of such originally leased space, and
173 such relocation shall not extend the duration of benefits granted under
174 the original eligibility certificate. Except as provided in subparagraph
175 (B) of subdivision (1) of this subsection, a manufacturing facility does
176 not include any plant, building, other real property improvement or
177 part thereof used or usable for such purposes which existed before July
178 1, 1978.

179 (e) "Service facility" means a manufacturing facility described in
180 subparagraph (A) or (B) of subdivision (2) of subsection (d) of this
181 section, provided such facility is located outside of an enterprise zone
182 in a targeted investment community.

183 (f) "Authority", "capital reserve fund bond", "commissioner",
184 "department", "industrial project" and "insurance fund" shall have the
185 meaning such words and terms are given in section 32-23d.

186 (g) "Municipality" means any town, city or borough in the state.

187 (h) "Biomanufacturing facility" means any plant, building, other real
188 property improvement or part thereof, (1) (A) constructed or
189 substantially renovated or expanded, on or after the effective date of
190 this section, in a distressed municipality, or (B) acquired, on or after
191 the effective date of this section, in a distressed municipality, by a
192 business organization which is unrelated to and unaffiliated with the
193 seller, after having been idle for at least one year prior to its acquisition
194 and regardless of its previous use; (2) to be used in the course of
195 development of technologies that use chemical, physical or biological
196 processes performed by living cells for use in other applications,
197 including, but not limited to, the production of pharmaceuticals; and
198 (3) for which the department has issued an eligibility certificate in
199 accordance with section 32-9r, as amended by this act. In the case of
200 facilities which are acquired, the Department of Economic and
201 Community Development may waive the requirement of one year of
202 idleness if it determines that, absent qualification as a
203 biomanufacturing facility under subdivision (59) of section 12-81, as
204 amended by this act, or sections 12-217e, 32-9p and 32-9r, as amended
205 by this act, there is a high likelihood that the facility will remain idle
206 for one additional year. Of those facilities which are solely for
207 warehousing and distribution, only those which are newly constructed
208 or which represent an expansion of an existing facility qualify as
209 biomanufacturing facilities. In the event that only a portion of a plant
210 is acquired, constructed, renovated or expanded, only the portion
211 acquired, constructed, renovated or expanded constitutes the
212 biomanufacturing facility. A biomanufacturing facility which is leased
213 may, for the purposes of subdivision (59) of section 12-81, as amended
214 by this act, or sections 12-217e, 32-9p and 32-9r, as amended by this act,
215 be treated in the same manner as a facility which is acquired if the
216 provisions of the lease serve to further the purposes of subdivision (59)
217 of section 12-81, as amended by this act, or sections 12-217e, 32-9p and
218 32-9r, as amended by this act, and demonstrate a substantial, long-
219 term commitment by the occupant to use the biomanufacturing
220 facility, by including in a contract for lease an initial minimum term of

221 five years with provisions for the extension of the lease at the request
222 of the lessee for an aggregate term which shall not be less than ten
223 years, or the right of the lessee to purchase the facility at any time after
224 the initial five-year term, or both. Except as provided in subparagraph
225 (B) of subdivision (1) of this subsection, a biomanufacturing facility
226 does not include any plant, building, other real property improvement
227 or part thereof which was used or usable for biomanufacturing
228 purposes before the effective date of this section.

229 Sec. 2. Section 32-9r of the general statutes is repealed and the
230 following is substituted in lieu thereof (*Effective July 1, 2010*):

231 (a) Any person may apply to the department for a determination as
232 to whether the facility described in an application qualifies as a
233 manufacturing facility, biomanufacturing facility or service facility.
234 Applications for eligibility certificates are to be made on the forms and
235 in the manner prescribed by the department. In evaluating each
236 application the department may require the submission of all books,
237 records, documents, drawings, specifications, certifications and other
238 evidentiary items which it deems appropriate.

239 (b) No eligibility certificate shall be issued after March 1, 1991, for a
240 manufacturing facility located in a distressed municipality which does
241 not qualify as a targeted investment community unless the department
242 has issued to the applicant a commitment letter for such facility prior
243 to March 1, 1991. Notwithstanding the provisions of this subsection, an
244 eligibility certificate may be issued by the department after March 1,
245 1991, for a qualified manufacturing facility acquired, constructed or
246 substantially renovated in a distressed municipality provided the
247 commissioner determines that such acquisition, construction or
248 substantial renovation was initiated prior to March 1, 1991, and was
249 legitimately induced by the prospect of assistance under section 12-
250 217e, as amended by this act, and subdivisions (59) and (60) of section
251 12-81, as amended by this act, respectively.

252 (c) The department may issue an eligibility certificate for a qualified
253 manufacturing facility or a qualified service facility located in a

254 targeted investment community upon determination by the
255 commissioner [(A)] (1) that the acquisition, construction or substantial
256 renovation relating to the qualified manufacturing facility or qualified
257 service facility in such community was induced by the prospect of
258 assistance under section 12-217e, as amended by this act, and
259 subdivisions (59) and (60) of [said] section 12-81, as amended by this
260 act; and [(B)] (2) the applicant demonstrates an economic need or there
261 is an economic benefit to the state. The department shall issue an
262 eligibility certificate if the commissioner determines [(1)] (A) that the
263 manufacturing facility is located in an enterprise zone designated
264 pursuant to section 32-70 and is a qualified manufacturing facility, or
265 [(2)] (B) that the facility is a plant, building, other real property
266 improvement, or part thereof, which is located in a municipality with
267 an entertainment district designated under section 32-76 or established
268 under section 2 of public act 93-311, and which qualifies as a
269 "manufacturing facility" under subsection (d) of section 32-9p, as
270 amended by this act, in that it is to be used in the production of
271 entertainment products, including multimedia products, or as part of
272 the airing, display or provision of live entertainment for stage or
273 broadcast, including support services such as set manufacturers,
274 scenery makers, sound and video equipment providers and
275 manufacturers, stage and screen writers, providers of capital for the
276 entertainment industry and agents for talent, writers, producers and
277 music properties and technological infrastructure support including,
278 but not limited to, fiber optics, necessary to support multimedia and
279 other entertainment formats, except entertainment provided by or
280 shown at a gambling or gaming facility or a facility whose primary
281 business is the sale or serving of alcoholic beverages.

282 (d) The department may issue an eligibility certificate for a
283 biomanufacturing facility upon determination by the commissioner
284 that (1) the acquisition, construction or substantial renovation relating
285 to the biomanufacturing facility was initiated prior to July 1, 2014; (2)
286 such acquisition, construction or substantial renovation was
287 legitimately induced by the prospect of assistance under section 12-
288 217e, as amended by this act, or subdivisions (59) and (60) of section

289 12-81, as amended by this act; and (3) the applicant demonstrates an
290 economic need or there is an economic benefit to the state.

291 [(b)] (e) The department shall reach a determination as to the
292 eligibility of a facility within a reasonable time period, but may
293 postpone the determination to the extent required to verify to its
294 satisfaction that there is a high likelihood that any proposed facility
295 will actually be constructed, expanded, substantially renovated or
296 acquired. Upon a favorable finding, the department shall issue to the
297 applicant a certificate to the effect that the facility concerned is a
298 manufacturing facility, biomanufacturing facility or a service facility
299 and is eligible for assistance under section 12-217e, as amended by this
300 act, [and] or subdivisions (59) and (60) of section 12-81, as amended by
301 this act.

302 [(c)] (f) Upon an unfavorable determination the department shall
303 issue a notice to the applicant to the effect that the facility concerned
304 has been determined not to be a manufacturing facility,
305 biomanufacturing facility or a service facility, together with a
306 statement in reasonable detail as to the reasons for the unfavorable
307 determination. Any aggrieved applicant shall be afforded an
308 opportunity for a public hearing on the matter within thirty days
309 following issuance of the notice. The department shall reconsider the
310 application based upon the information presented at the public
311 hearing and reaffirm or change its earlier determination within ten
312 days of the hearing.

313 [(d)] (g) The decision of the department to issue an eligibility
314 certificate or to deny an application for the issuance of an eligibility
315 certificate either upon the expiration of thirty days without a public
316 hearing following an initial unfavorable determination or upon any
317 reconsideration of the application pursuant to subsection [(c)] (f) of this
318 section is conclusive and final as to the matters thereby decided, and
319 chapter 54 shall not apply to the administrative determinations
320 authorized to be made by this section.

321 [(e)] (h) Any person who claims a benefit under section 12-217e, as

322 amended by this act, or subdivisions (59) and (60) of section 12-81, as
323 amended by this act, shall notify the department of any change in fact
324 or circumstance which may bear upon the continued qualification as a
325 manufacturing facility, biomanufacturing facility or a service facility
326 for which an eligibility certificate has been issued. Upon receipt of such
327 information or upon independent investigation, the department may
328 revoke the eligibility certificate in the manner provided in subsection
329 [(c)] (f) of this section.

330 [(f)] (i) The commissioner shall adopt regulations, in accordance
331 with chapter 54, to carry out the provisions of this section. Such
332 regulations shall provide that establishments in the category of
333 business services, as defined in the Standard Industrial Classification
334 Manual, or manufacturing facilities, as defined in subsection (d) of
335 section 32-9p, as amended by this act, may be eligible for a certificate if
336 they are located in an enterprise zone.

337 Sec. 3. Subdivision (59) of section 12-81 of the 2010 supplement to
338 the general statutes is repealed and the following is substituted in lieu
339 thereof (*Effective from passage and applicable to assessment years*
340 *commencing on or after October 1, 2010*):

341 (59) (a) Any manufacturing facility, as defined in section 32-9p, as
342 amended by this act, acquired, constructed, substantially renovated or
343 expanded on or after July 1, 1978, in a distressed municipality, as
344 defined in said section or in a targeted investment community, as
345 defined in section 32-222, or in an enterprise zone designated pursuant
346 to section 32-70 and for which an eligibility certificate has been issued
347 by the Department of Economic and Community Development, and
348 any manufacturing plant designated by the Commissioner of
349 Economic and Community Development under subsection (a) of
350 section 32-75c as follows: To the extent of eighty per cent of its
351 valuation for purposes of assessment in each of the five full assessment
352 years following the assessment year in which the acquisition,
353 construction, renovation or expansion of the manufacturing facility is
354 completed, except that a manufacturing facility having a standard

355 industrial classification code of 2833 or 2834 and having at least one
356 thousand full-time employees, as defined in subsection (f) of section
357 32-9j, shall be eligible to have the assessment period extended for five
358 additional years upon approval of the commissioner, in accordance
359 with all applicable regulations, provided such full-time employees
360 have not been relocated from another facility in the state operated by
361 the same eligible applicant;

362 (b) Any service facility, as defined in section 32-9p, as amended by
363 this act, acquired, constructed, substantially renovated or expanded on
364 or after July 1, 1996, and for which an eligibility certificate has been
365 issued by the Department of Economic and Community Development,
366 as follows: (i) In the case of an investment of twenty million dollars or
367 more but not more than thirty-nine million dollars in the service
368 facility, to the extent of forty per cent of its valuation for purposes of
369 assessment in each of the five full assessment years following the
370 assessment year in which the acquisition, construction, renovation or
371 expansion of the service facility is completed; (ii) in the case of an
372 investment of more than thirty-nine million dollars but not more than
373 fifty-nine million dollars in the service facility, to the extent of fifty per
374 cent of its valuation for purposes of assessment in each of the five full
375 assessment years following the assessment year in which the
376 acquisition, construction, renovation or expansion of the service
377 facility is completed; (iii) in the case of an investment of more than
378 fifty-nine million dollars but not more than seventy-nine million
379 dollars in the service facility, to the extent of sixty per cent of its
380 valuation for purposes of assessment in each of the five full assessment
381 years following the assessment year in which the acquisition,
382 construction, renovation or expansion of the service facility is
383 completed; (iv) in the case of an investment of more than seventy-nine
384 million dollars but not more than ninety million dollars in the service
385 facility, to the extent of seventy per cent of its valuation for purposes of
386 assessment in each of the five full assessment years following the
387 assessment year in which the acquisition, construction, renovation or
388 expansion of the service facility is completed; or (v) in the case of an
389 investment of more than ninety million dollars in the service facility, to

390 the extent of eighty per cent of its valuation for purposes of assessment
391 in each of the five full assessment years following the assessment year
392 in which the acquisition, construction, renovation or expansion of the
393 service facility is completed, except that any financial institution, as
394 defined in section 12-217u, having at least four thousand qualified
395 employees, as determined in accordance with an agreement pursuant
396 to subdivision (3) of subsection (n) of section 12-217u, shall be eligible
397 to have the assessment period extended for five additional years upon
398 approval of the commissioner, in accordance with all applicable
399 regulations, provided such full-time employees have not been
400 relocated from another facility in the state operated by the same
401 eligible applicant. In no event shall the definition of qualified
402 employee be more favorable to the employer than the definition
403 provided in section 12-217u;

404 (c) Any biomanufacturing facility, as defined in section 32-9p, as
405 amended by this act, acquired, constructed, substantially renovated or
406 expanded on or after the effective date of this section, but prior to July
407 1, 2014, and for which an eligibility certificate has been issued by the
408 Department of Economic and Community Development for an
409 investment of fifty million dollars or more in such facility, to the extent
410 of eighty per cent of such facility's valuation for purposes of
411 assessment in each of the seven full assessment years following the
412 assessment year in which the acquisition, construction, renovation or
413 expansion of the biomanufacturing facility is completed;

414 [(c)] (d) The completion date of a manufacturing facility,
415 biomanufacturing facility, manufacturing plant or a service facility
416 [will] shall be determined by the Department of Economic and
417 Community Development taking into account the issuance of
418 occupancy certificates and such other factors as it deems relevant. In
419 the case of a manufacturing facility, biomanufacturing facility,
420 manufacturing plant or a service facility which consists of a
421 constructed, renovated or expanded portion of an existing plant, the
422 assessed valuation of the facility or manufacturing plant is the
423 difference between the assessed valuation of the plant prior to its being

424 improved and the assessed valuation of the plant upon completion of
425 the improvements. In the case of a manufacturing facility,
426 biomanufacturing facility, manufacturing plant or a service facility
427 which consists of an acquired portion of an existing plant, the assessed
428 valuation of the facility or manufacturing plant is the assessed
429 valuation of the portion acquired. This exemption shall be applicable
430 during each such assessment year regardless of any change in the
431 ownership or occupancy of the facility or manufacturing plant. If
432 during any such assessment year, however, any facility for which an
433 eligibility certificate has been issued ceases to qualify as a
434 manufacturing facility, biomanufacturing facility, manufacturing plant
435 or a service facility, the entitlement to the exemption allowed by this
436 subdivision shall terminate for the assessment year following the date
437 on which the qualification ceases, and there shall not be a pro rata
438 application of the exemption. Any person who desires to claim the
439 exemption provided in this subdivision shall file annually with the
440 assessor or board of assessors in the distressed municipality, targeted
441 investment community or enterprise zone designated pursuant to
442 section 32-70, as applicable, in which the manufacturing facility,
443 biomanufacturing facility or service facility is located, on or before the
444 first day of November, written application claiming such exemption on
445 a form prescribed by the Secretary of the Office of Policy and
446 Management. Failure to file such application in this manner and form
447 within the time limit prescribed shall constitute a waiver of the right to
448 such exemption for such assessment year, unless an extension of time
449 is allowed pursuant to section 12-81k, and upon payment of the
450 required fee for late filing;

451 Sec. 4. Section 12-217e of the general statutes is repealed and the
452 following is substituted in lieu thereof (*Effective from passage and*
453 *applicable to income years commencing on or after January 1, 2010*):

454 (a) There shall be allowed as a credit against the tax imposed by this
455 chapter an amount equal to twenty-five per cent of that portion of such
456 tax which is allocable to any manufacturing facility, provided, for any
457 such facility which is located in an enterprise zone designated

458 pursuant to section 32-70 or in a municipality with an entertainment
459 district designated under section 32-76 or established under section 2
460 of public act 93-311 and which became eligible as a manufacturing
461 facility after the designation of such zone and for which not less than
462 one hundred fifty full-time employees or thirty per cent of the full-time
463 employment positions directly attributable to the manufacturing
464 facility were, during the last quarter of the income year of the
465 taxpayer, held by employees of the taxpayer who at the time of
466 employment were (1) residents of such zone, or (2) residents of such
467 municipality and eligible for training under the Federal
468 Comprehensive Employment Training Act or any other training
469 program that may replace the Comprehensive Employment Training
470 Act, a credit of fifty per cent shall be allowed. A position is directly
471 attributable to the manufacturing facility if: (A) The work is performed
472 or the base of operations is at the facility; (B) the position did not exist
473 prior to the construction, renovation, expansion or acquisition of the
474 facility; and (C) but for the construction, renovation, expansion or
475 acquisition of the facility, the position would not have existed,
476 provided nothing in this section shall preclude a position from being
477 considered directly attributable to a manufacturing facility if such
478 position formerly existed in an eligible manufacturing facility in the
479 same municipality under section 32-9p, as amended by this act.

480 (b) There shall be allowed as a credit against the tax imposed by this
481 chapter an amount equal to the following percentage of that portion of
482 such tax which is allocable to any service facility: (1) Fifteen per cent, if
483 there are three hundred or more but not more than five hundred
484 ninety-nine new employees working at such facility; (2) twenty per
485 cent if there are six hundred or more but not more than eight hundred
486 ninety-nine new employees working at such facility; (3) twenty-five
487 per cent, if there are nine hundred or more but not more than one
488 thousand one hundred ninety-nine new employees working at such
489 facility; (4) thirty per cent if there are one thousand two hundred or
490 more but not more than one thousand four hundred ninety-nine new
491 employees working at such facility; (5) forty per cent, if there are one
492 thousand five hundred or more but not more than one thousand nine

493 hundred ninety-nine new employees working at such facility; or (6)
494 fifty per cent if there are two thousand or more new employees
495 working at such facility. As used in this subsection: (A) "New
496 employee" means a person hired by a taxpayer to fill a position for a
497 new job or a person shifted from an existing location of the taxpayer
498 outside this state to a service facility in this state, provided (i) in no
499 case shall the total number of new employees allowed for purposes of
500 this credit exceed the total increase in the taxpayer's employment in
501 this state, which increase shall be the difference between (I) the
502 number of employees employed by the taxpayer in this state at the
503 time of application to the Commissioner of Revenue Services for such
504 credit plus the number of new employees who would be eligible for
505 inclusion under the credit allowed under this subsection without
506 regard to this calculation, and (II) the highest number of employees
507 employed by the taxpayer in this state in the year preceding the
508 taxpayer's application to the Commissioner of Revenue Services for
509 such credit, and (ii) a person shall be deemed to be a "new employee"
510 only if such person's duties in connection with the operation of the
511 facility are on a regular, full-time or equivalent or full-time and
512 permanent basis; and (B) "new job" means a job that did not exist in the
513 business of a taxpayer in this state prior to the taxpayer's application to
514 the Commissioner of Revenue Services for such credit and that is filled
515 by a new employee, but does not include a job created when an
516 employee is shifted from an existing location of the taxpayer in this
517 state to a service facility.

518 (c) There shall be allowed as a credit against the tax imposed by this
519 chapter an amount equal to fifty per cent of that portion of such tax
520 which is allocable to any biomanufacturing facility, as defined in
521 section 32-9p, as amended by this act, provided such facility is located
522 in a distressed municipality, as defined in section 32-9p, as amended
523 by this act, and the greater of fifty full-time employees or thirty per
524 cent of the full-time employment positions directly attributable to the
525 biomanufacturing facility were, during the last quarter of the income
526 year of the taxpayer, held by employees of the taxpayer who at the
527 time of employment were residents of such municipality. A position is

528 directly attributable to the biomanufacturing facility if: (1) The work is
529 performed or the base of operations is at the facility; (2) the position
530 did not exist prior to the construction, renovation, expansion or
531 acquisition of the facility; and (3) but for the construction, renovation,
532 expansion or acquisition of the facility, the position would not have
533 existed, provided nothing in this section shall preclude a position from
534 being considered directly attributable to a biomanufacturing facility if
535 such position formerly existed in an eligible biomanufacturing facility
536 in the same municipality under section 32-9p, as amended by this act.

537 [(c)] (d) The portion of such tax which is allocable to such a
538 manufacturing facility, biomanufacturing facility or service facility
539 shall be determined by multiplying such tax by a fraction computed as
540 the simple arithmetical mean of the following fractions: First, a fraction
541 the numerator of which is the average monthly net book value in the
542 income year of the manufacturing facility, biomanufacturing facility or
543 service facility and machinery and equipment acquired for and
544 installed in the manufacturing facility, biomanufacturing facility or
545 service facility, without deduction on account of any encumbrance
546 thereon, or if rented to the taxpayer, the value of the manufacturing
547 facility, biomanufacturing facility or service facility and machinery and
548 equipment acquired for and installed in the manufacturing facility,
549 biomanufacturing facility or service facility, computed by multiplying
550 the gross rents payable by the taxpayer for the manufacturing facility
551 or service facility and such machinery and equipment during the
552 income year or period by eight, and the denominator of which is the
553 sum of the average monthly net book value of all real property and
554 machinery and equipment held and owned by the taxpayer in the
555 state, without deduction on account of any encumbrance thereon and
556 the value of all real property and machinery and equipment rented to
557 the taxpayer in the state, computed by multiplying the gross rents
558 payable during the income year by eight; and second, a fraction the
559 numerator of which is all wages, salaries and other compensation paid
560 during the income year to employees of the taxpayer whose positions
561 are directly attributable to the manufacturing facility or service facility
562 and the denominator of which is the wages, salaries and other

563 compensation paid during the income year to all employees of the
564 taxpayer in the state. An employee's position is directly so attributable
565 if (1) the employee's service is performed or [his] such employee's base
566 of operations is at the manufacturing facility, biomanufacturing facility
567 or service facility, (2) the position did not exist prior to the
568 construction, renovation, expansion or acquisition of the
569 manufacturing facility, biomanufacturing facility or service facility,
570 and (3) but for the construction, renovation, expansion or acquisition
571 of the manufacturing facility, biomanufacturing facility or service
572 facility the position would not have existed. For the purposes of this
573 subsection, "gross rents" means gross rents as defined in section 12-218.

574 [(d)] (e) The credit allowed by this section may be claimed only by
575 the initial occupant or occupants of the manufacturing facility,
576 biomanufacturing facility or service facility. The owner of the
577 manufacturing facility, biomanufacturing facility or service facility
578 may not claim the credit unless the owner is also an occupant. The
579 credit may first be claimed on the tax return for the taxpayer's income
580 year which begins during the calendar year next succeeding the
581 calendar year in which the taxpayer was issued an eligibility
582 certificate, and may be claimed in each of the following nine income
583 years. If within such period, however, any facility for which an
584 eligibility certificate has been issued ceases to qualify as a
585 manufacturing facility, biomanufacturing facility or service facility or
586 any occupant of a manufacturing facility, biomanufacturing facility or
587 service facility ceases to be an occupant, the entitlement to the credit
588 allowed by this section shall terminate in the income year in which the
589 qualification or occupancy ceases, and there shall not be a pro rata
590 application of the credit to such income year.

591 [(e)] (f) Any subsequent occupant [or occupants of a manufacturing
592 facility, biomanufacturing facility or service facility for which an
593 eligibility certificate has been issued may claim the credit allowed by
594 this section in accordance with subsection [(c)] (d) of this section but
595 only after obtaining a new eligibility certificate with respect to the
596 manufacturing facility, biomanufacturing facility or service facility

597 being occupied in the manner provided in section 32-9r, as amended
 598 by this act.

599 [(f)] (g) The Commissioner of Economic and Community
 600 Development shall, upon request, provide a copy of the applicable
 601 eligibility certificate to the Commissioner of Revenue Services.

602 Sec. 5. (NEW) (*Effective July 1, 2010*) Notwithstanding section 12-705
 603 of the general statutes, from October 1, 2010, to September 30, 2017,
 604 inclusive, the liability under section 12-705 of the general statutes for
 605 an employer making payment of wages to employees at a
 606 biomanufacturing facility located in a distressed municipality shall be
 607 limited to an amount computed in such manner as to result, so far as
 608 practicable, in withholding from the employee's wages during each
 609 calendar year an amount substantially equivalent to fifteen per cent of
 610 the tax reasonably estimated to be due from the employee under
 611 chapter 229 of the general statutes with respect to the amount of such
 612 wages during the calendar year. For the purposes of this section,
 613 "biomanufacturing facility" and "distressed municipality" shall have
 614 the same meaning as in section 32-9p of the general statutes, as
 615 amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2010</i>	32-9p
Sec. 2	<i>July 1, 2010</i>	32-9r
Sec. 3	<i>from passage and applicable to assessment years commencing on or after October 1, 2010</i>	12-81(59)
Sec. 4	<i>from passage and applicable to income years commencing on or after January 1, 2010</i>	12-217e
Sec. 5	<i>July 1, 2010</i>	New section

Statement of Legislative Commissioners:

In subdivision (h) of section 1, "which was" was added after "part

thereof" and "such purposes which existed" was changed to "biomanufacturing purposes" for clarity and to insure cleanness and conciseness in phraseology. In subsection (c) of section 3, "a biomanufacturing facility" was changed to "such facility" for clarity and consistency with the style of the general statutes. In subsection (c) of section 4, a reference to the definition of biomanufacturing facility was added for clarity and consistency and "not less than" was changed to "the greater of" for clarity and to achieve the intent of the committee.

CE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Department of Revenue Services	GF - Revenue Impact	See Below	See Below
Policy & Mgmt., Off.	GF - None	None	None

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 11 \$	FY 12 \$
Various Municipalities	Revenue Impact	See Below	See Below

Explanation

The bill will result in a potentially significant net revenue impact to the General Fund from a decrease in revenue from the corporation business tax and an increase in revenue from the personal income tax. The bill creates a 50% corporation business tax credit for biomanufacturing facilities which employ at least 50 full-time employees.

The bill may result in an impact to the net grand list of certain towns as a result of increases in the assessed value of certain property and an 80% property tax exemption on those properties. The bill provides the tax exemption for certain biomanufacturing facilities for 7 years and requires the business to invest at least \$50 million in the facility to qualify for the exemption.

This bill expands the state reimbursement of 50% of the tax loss for distressed municipalities to include biomanufacturing facilities. Since the appropriation in the budget bill, sHB 5018, is not sufficient to fully fund the Distressed Municipalities grant reimbursement, all payments

are subject to a pro rata reduction. Thus, there is no state fiscal impact but all other municipalities receiving funds under this grant will experience a revenue decrease.

The bill will result in a revenue gain to the General Fund and certain municipalities to the extent the bill incentivizes economic activity that would have not occurred otherwise. Financial incentives for qualifying¹ biomanufacturing facilities identified by the bill include state-reimbursed property tax exemptions, corporation business tax credits, and withholding tax reductions.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ The bill requires that a biomanufacturing facility receive an eligibility certificate from the Department of Economic and Community Development (DECD) in order to receive the tax incentives. Among the qualifications for the certificate is a requirement that the business show it has an economic need for the exemption or that the facility would benefit the economy.

OLR Bill Analysis**sHB 5074*****AN ACT ENCOURAGING BIOMANUFACTURING JOBS IN DISTRESSED MUNICIPALITIES.*****SUMMARY:**

This bill authorizes tax incentives for businesses developing “biomanufacturing” facilities in the 25 state-designated distressed municipalities. A business qualifies for these incentives if it develops or acquires a biomanufacturing facility before July 1, 2014 that meets the bill’s criteria. The incentives are state-reimbursed property tax exemptions, corporation business tax credits, and withholding tax reductions.

EFFECTIVE DATE: July 1, 2010, except for (1) the property tax exemption, which takes effect October 1, 2010 and applies to assessment years beginning on or after that date and (2) the corporation business tax credit, which takes effect upon passage and applies to income years beginning on or after January 1, 2010.

ELIGIBILITY CRITERIA

A business qualifies for the incentives based on the facility’s location, status, and use and whether it applied for and received an eligibility certification from the Department of Economic and Community Development (DECD) commissioner.

Location

A business qualifies for the incentives only if its biomanufacturing facility is located in one of the state’s 25 distressed municipalities, which the commissioner annually designates based on economic and demographic criteria. The designation is an eligibility criterion for many economic development programs.

Facility's Status

The business must develop or acquire the facility between July 1, 2010 and July 1, 2014. If the business acquires the facility, it qualifies for the credit only if the owner is a business or entity that is unaffiliated with or unrelated to the business. The facility must also have been idle for at least one year before the business acquires it, regardless of how it was used. But the commissioner can waive the one-year idleness requirement if she determines that the facility will most likely remain idle for another year.

A business leasing a facility also qualifies for the incentives if it intends to occupy and use the facility for biomanufacturing for at least five years, with an option to purchase the facility when the term ends or extend the lease for at least 10 years.

Lastly, the business must invest at least \$50 million in the facility to qualify for the bill's property tax exemption.

Facility's Use

The business must use the facility to develop technologies that use living cells to make other things, including pharmaceuticals (i.e., biomanufacturing). If the facility houses biomanufacturing and other activities, the incentives apply only to the portion used for biomanufacturing. The facility does not qualify for benefits if, before July 1, 2010, it was used for biomanufacturing or could have been used for that purpose.

ACCESSING THE INCENTIVES

Businesses must apply to the commissioner for an eligibility certificate before they can claim the bill's incentives. The application process is the same as for obtaining eligibility certificates for enterprise zone incentives. The bill imposes additional requirements on eligibility certificates for biomanufacturing facilities.

The business must have started the process for acquiring or developing the facility before July 1, 2014 and must have been legitimately induced by the prospect of obtaining the bill's property

tax exemption. In addition, the business must show it has an economic need for the exemption or that the facility would benefit the economy.

TAX INCENTIVES

Property Tax Exemption

The bill authorizes a seven-year, 80% property tax exemption for biomanufacturing facilities. The exemption significantly reduces a facility's assessed value and consequently, its property tax bill. But, like the property tax exemptions for enterprise zone-based businesses, the bill requires the state to reimburse municipalities for 50% of the tax revenue they forgo. The exemption period starts with the full assessment year after the assessment year the business completed acquiring or developing the facility.

Corporation Business Tax Credit

The bill authorizes a 10-year, 50% corporation business tax credit against that portion of the tax attributed to a biomanufacturing facility. A business qualifies for this benefit if municipal residents hold 50 full-time jobs at the facility or 30% of the full-time jobs there, whichever is greater. The business must meet this standard as of the last quarter of its income year.

In determining whether it meets the standard, the bill requires businesses to count only those jobs resulting from the facility's acquisition or development. Specifically, these are the jobs that:

1. are performed or based at the facility,
2. did not exist before the facility was developed or acquired, and
3. would not have existed except for the facility.

The business may include jobs shifted from an existing biomanufacturing facility in the same municipality.

Withholding Tax

The bill reduces the amount of tax businesses operating an eligible

biomanufacturing facility must withhold from its employees. They must withhold an amount equal to 15% of the tax they would have otherwise withheld from these employees. The employees must still pay income taxes on the amounts the business did not take out of their wages.

BACKGROUND

Distressed Municipalities

The DECD commissioner annually ranks municipalities based on the extent to which they are economically distressed and designates the top 25 distressed municipalities. Based on rank, they are Hartford, New Haven, Waterbury, New Britain, Bridgeport, East Hartford, New London, West Haven, Meriden, Winchester, Windham, Plainfield, Norwich, Naugatuck, Torrington, Ansonia, Derby, Brooklyn, North Canaan, Killingly, Sprague, Putnam, Plymouth, Bristol, and Vernon.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 20 Nay 0 (03/23/2010)