



House of Representatives

General Assembly

File No. 649

February Session, 2010

Substitute House Bill No. 5255

House of Representatives, April 27, 2010

The Committee on Finance, Revenue and Bonding reported through REP. STAPLES of the 96th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING MUNICIPAL MANDATE RELIEF.

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

1 Section 1. (NEW) (*Effective July 1, 2010*) Notwithstanding any
2 general statute, special act or charter, any municipality may, by
3 ordinance, establish a schedule of fees and charge such fees to users of
4 services provided by such municipality. As used in this section,
5 "municipality" means any town, city or borough, consolidated town
6 and city or consolidated town and borough and "services" means
7 architectural and engineering services, traffic studies and safety
8 inspections.

9 Sec. 2. Section 47a-42 of the general statutes is repealed and the
10 following is substituted in lieu thereof (*Effective July 1, 2010*):

11 (a) Whenever a judgment is entered against a defendant pursuant to
12 section 47a-26, 47a-26a, 47a-26b or 47a-26d for the recovery of
13 possession or occupancy of residential property, such defendant and

14 any other occupant bound by the judgment by subsection (a) of section
15 47a-26h shall forthwith remove himself or herself, such defendant's or
16 occupant's possessions and all personal effects unless execution has
17 been stayed pursuant to sections 47a-35 to 47a-41, inclusive. If
18 execution has been stayed, such defendant or occupant shall forthwith
19 remove himself or herself, such defendant's or occupant's possessions
20 and all personal effects upon the expiration of any stay of execution. If
21 the defendant or occupant has not so removed himself or herself upon
22 entry of a judgment pursuant to section 47a-26, 47a-26a, 47a-26b or
23 47a-26d, and upon expiration of any stay of execution, the plaintiff
24 may obtain an execution upon such summary process judgment, and
25 the defendant or other occupant bound by the judgment by subsection
26 (a) of section 47a-26h and the possessions and personal effects of such
27 defendant or other occupant may be removed by a state marshal,
28 pursuant to such execution, and [such possessions and personal effects
29 may be set out on the adjacent sidewalk, street or highway] delivered
30 to a storage facility designated by the chief executive officer for such
31 purposes.

32 (b) Before any such removal, the state marshal charged with
33 executing upon any such judgment of eviction shall give the chief
34 executive officer of the town twenty-four hours notice of the eviction,
35 stating the date, time and location of such eviction as well as a general
36 description, if known, of the types and amount of property to be
37 removed from the premises and delivered to the designated storage
38 facility. Before giving such notice to the chief executive officer of the
39 town, the state marshal shall use reasonable efforts to locate and notify
40 the defendant of the date and time such eviction is to take place and of
41 the possibility of a sale pursuant to subsection (c) of this section. Such
42 notice shall include service upon each defendant and upon any other
43 person in occupancy, either personally or at the premises, of a true
44 copy of the summary process execution. Such execution shall be on a
45 form prescribed by the Judicial Department, shall be in clear and
46 simple language and in readable format, and shall contain, in addition
47 to other notices given to the defendant in the execution, a conspicuous
48 notice, in large boldface type, that a person who claims to have a right

49 to continue to occupy the premises should immediately contact an
50 attorney, and clear instructions as to how and where the defendant
51 may reclaim any possessions and personal effects removed and stored
52 pursuant to this section.

53 (c) Whenever the possessions and personal effects of a defendant
54 are [set out on the sidewalk, street or highway, and are not
55 immediately removed by the defendant, the chief executive officer of
56 the town shall remove and store the same] removed by a state marshal
57 under this section, such possessions and effects shall be delivered to
58 the designated storage facility. Such removal, delivery and storage
59 shall be overseen by the state marshal and shall be at the expense of
60 the defendant, but (1) the landlord shall pay the cost of removal and
61 delivery of the possessions and effects and shall submit receipts of
62 such cost to the chief executive officer of the town, and (2) the town
63 shall pay the cost of storage. To reclaim such possessions and effects,
64 the defendant shall pay to the chief executive officer, not later than the
65 date fifteen days after the date of the eviction, the cost of removal,
66 delivery and storage, except that the town may, by ordinance adopted
67 by its legislative body, waive payment by the defendant of the cost of
68 storage. Upon receipt of such payment by the defendant, the chief
69 executive officer shall reimburse the landlord for the cost of removal
70 and delivery. If such possessions and effects are not [called for]
71 reclaimed by the defendant [and the expense of such removal and
72 storage is not paid to the chief executive officer within fifteen days
73 after such] by the date fifteen days after the date of the eviction, the
74 chief executive officer shall sell the same at public auction, after using
75 reasonable efforts to locate and notify the defendant of such sale and
76 after posting notice of such sale for one week on the public signpost
77 nearest to the place where the eviction was made, if any, or at some
78 exterior place near the office of the town clerk. Upon receipt of moneys
79 from such sale, the chief executive officer shall reimburse the landlord
80 for the cost of removal and delivery. The chief executive officer shall
81 deliver to the defendant the net proceeds of such sale, if any, after
82 deducting the cost of removal and delivery and a reasonable charge for
83 [removal and] storage of such possessions and effects. If the defendant

84 does not demand the net proceeds within thirty days after such sale,
85 the chief executive officer shall turn over the net proceeds of the sale to
86 the town treasury.

87 Sec. 3. Subsection (a) of section 12-80a of the general statutes is
88 repealed and the following is substituted in lieu thereof (*Effective*
89 *October 1, 2010, and applicable to assessment years commencing on or after*
90 *said date*):

91 [(a) Any (1) taxpayer which, prior to January 1, 1990, was subject to
92 tax under chapter 211 with respect to the rendering of
93 telecommunications service and which, on or after January 1, 1990, is
94 subject to tax under chapter 219 for rendering telecommunications
95 service and (2) other taxpayer that is subject to tax under chapter 219
96 for rendering telecommunications service and which has elected in the
97 manner specified in this section to have personal property taxed as
98 provided in this section, shall be required to submit to the
99 Commissioner of Revenue Services and the Secretary of the Office of
100 Policy and Management, not later than the thirtieth day of November
101 of each year during which it is subject to tax under chapter 219, a list of
102 all personal property on a town-by-town basis that is owned by such
103 taxpayer in this state on the first day of October of such year and that
104 is used solely and exclusively for rendering telecommunications
105 service, as defined in said chapter 219, including the location of each
106 item of such property and the fair market value thereof, recognizing
107 depreciation of such property to the maximum extent allowed for
108 purposes of the corporation business tax in this state, as certified by
109 the Commissioner of Revenue Services. Each such taxpayer shall also
110 submit said list to each municipality in which such taxpayer owns
111 property, provided the list submitted to a municipality shall contain
112 only the personal property owned by such taxpayer that is located in,
113 or allocated pursuant to this subsection to, said municipality. If the
114 records of a taxpayer subject to the requirements of this subsection do
115 not contain the data necessary to develop the list as required without
116 undue cost, the taxpayer may, for purposes of requirements under this
117 subsection, petition the Commissioner of Revenue Services for

118 approval of an alternate method of determining the value of the plant
119 used solely and exclusively to render telecommunications services, but
120 not including central office or switching equipment of that taxpayer,
121 located in each town in the state. If the commissioner finds that the
122 alternative method proposed results in a reasonable approximation of
123 the value of the property of the taxpayer located in each town and
124 used solely and exclusively for rendering telecommunications service,
125 the commissioner shall notify the taxpayer that the proposed alternate
126 method is acceptable and the taxpayer shall be permitted to use the
127 alternate method in developing the list required under this
128 subsection.]

129 (a) (1) As used in this section, "taxpayer" means any person for
130 which the Secretary of the Office of Policy and Management calculated
131 a property tax pursuant to the provisions of this section for personal
132 property the person owned on October 1, 2009, and "eligible property"
133 means personal property owned by a taxpayer and used solely and
134 exclusively for rendering telecommunications services, as defined in
135 chapter 219.

136 (2) Any taxpayer that owns eligible property shall, not later than the
137 thirtieth day of November of each year, submit to the assessor of the
138 town in which such property is located a declaration of eligible
139 property owned by such taxpayer as of the first day of October of such
140 year. Such declaration shall be on a form prescribed by the assessor
141 and shall require the taxpayer to report the value of such property as
142 follows: (A) With respect to any eligible property acquired on or before
143 October 1, 2009, the taxpayer's report of value shall recognize
144 depreciation to the maximum extent allowed for purposes of the
145 corporation business tax in this state, as certified by the Commissioner
146 of Revenue Services; and (B) with respect to any eligible property
147 acquired after October 1, 2009, the taxpayer's reported value shall
148 recognize depreciation as allowed for purposes of the corporation
149 business tax in this state, except that the total of such depreciation shall
150 not exceed seventy per cent.

151 Sec. 4. Section 1-225 of the general statutes is repealed and the
152 following is substituted in lieu thereof (*Effective October 1, 2010*):

153 (a) The meetings of all public agencies, except executive sessions, as
154 defined in subdivision (6) of section 1-200, shall be open to the public.
155 The votes of each member of any such public agency upon any issue
156 before such public agency shall be reduced to writing and made
157 available for public inspection within forty-eight hours and shall also
158 be recorded in the minutes of the session at which taken. [Within] Not
159 later than seven days [of] after the date of the session to which such
160 minutes refer, such minutes shall be available for public inspection and
161 posted on such public agency's Internet web site, if available, except
162 that no public agency of a political subdivision of the state shall be
163 required to post such minutes on an Internet web site. Each [such]
164 public agency shall make, keep and maintain a record of the
165 proceedings of its meetings.

166 (b) Each such public agency of the state shall file not later than
167 January thirty-first of each year in the office of the Secretary of the
168 State the schedule of the regular meetings of such public agency for the
169 ensuing year and shall post such schedule on such public agency's
170 Internet web site, if available, except that such requirements shall not
171 apply to the General Assembly, either house thereof or to any
172 committee thereof. Any other provision of the Freedom of Information
173 Act notwithstanding, the General Assembly at the commencement of
174 each regular session in the odd-numbered years, shall adopt, as part of
175 its joint rules, rules to provide notice to the public of its regular,
176 special, emergency or interim committee meetings. The chairperson or
177 secretary of any such public agency of any political subdivision of the
178 state shall file, not later than January thirty-first of each year, with the
179 clerk of such subdivision the schedule of regular meetings of such
180 public agency for the ensuing year, and no such meeting of any such
181 public agency shall be held sooner than thirty days after such schedule
182 has been filed. The chief executive officer of any multitown district or
183 agency shall file, not later than January thirty-first of each year, with
184 the clerk of each municipal member of such district or agency, the

185 schedule of regular meetings of such public agency for the ensuing
186 year, and no such meeting of any such public agency shall be held
187 sooner than thirty days after such schedule has been filed.

188 (c) The agenda of the regular meetings of every public agency,
189 except for the General Assembly, shall be available to the public and
190 shall be filed, not less than twenty-four hours before the meetings to
191 which they refer, (1) in such agency's regular office or place of
192 business, and (2) in the office of the Secretary of the State for any such
193 public agency of the state, in the office of the clerk of such subdivision
194 for any public agency of a political subdivision of the state or in the
195 office of the clerk of each municipal member of any multitown district
196 or agency. For any such public agency of the state, such agenda shall
197 be posted on the public agency's and the Secretary of the State's web
198 sites. Upon the affirmative vote of two-thirds of the members of a
199 public agency present and voting, any subsequent business not
200 included in such filed agendas may be considered and acted upon at
201 such meetings.

202 (d) Notice of each special meeting of every public agency, except for
203 the General Assembly, either house thereof or any committee thereof,
204 shall be posted not less than twenty-four hours before the meeting to
205 which such notice refers on the public agency's Internet web site, if
206 available, and given not less than twenty-four hours prior to the time
207 of such meeting by filing a notice of the time and place thereof in the
208 office of the Secretary of the State for any such public agency of the
209 state, in the office of the clerk of such subdivision for any public
210 agency of a political subdivision of the state and in the office of the
211 clerk of each municipal member for any multitown district or agency.
212 The secretary or clerk shall cause any notice received under this section
213 to be posted in his office. Such notice shall be given not less than
214 twenty-four hours prior to the time of the special meeting; provided, in
215 case of emergency, except for the General Assembly, either house
216 thereof or any committee thereof, any such special meeting may be
217 held without complying with the foregoing requirement for the filing
218 of notice but a copy of the minutes of every such emergency special

219 meeting adequately setting forth the nature of the emergency and the
220 proceedings occurring at such meeting shall be filed with the Secretary
221 of the State, the clerk of such political subdivision, or the clerk of each
222 municipal member of such multitown district or agency, as the case
223 may be, not later than seventy-two hours following the holding of such
224 meeting. The notice shall specify the time and place of the special
225 meeting and the business to be transacted. No other business shall be
226 considered at such meetings by such public agency. In addition, such
227 written notice shall be delivered to the usual place of abode of each
228 member of the public agency so that the same is received prior to such
229 special meeting. The requirement of delivery of such written notice
230 may be dispensed with as to any member who at or prior to the time
231 the meeting convenes files with the clerk or secretary of the public
232 agency a written waiver of delivery of such notice. Such waiver may be
233 given by telegram. The requirement of delivery of such written notice
234 may also be dispensed with as to any member who is actually present
235 at the meeting at the time it convenes. Nothing in this section shall be
236 construed to prohibit any agency from adopting more stringent notice
237 requirements.

238 (e) No member of the public shall be required, as a condition to
239 attendance at a meeting of any such body, to register the member's
240 name, or furnish other information, or complete a questionnaire or
241 otherwise fulfill any condition precedent to the member's attendance.

242 (f) A public agency may hold an executive session, as defined in
243 subdivision (6) of section 1-200, upon an affirmative vote of two-thirds
244 of the members of such body present and voting, taken at a public
245 meeting and stating the reasons for such executive session, as defined
246 in section 1-200.

247 (g) In determining the time within which or by when a notice,
248 agenda, record of votes or minutes of a special meeting or an
249 emergency special meeting are required to be filed under this section,
250 Saturdays, Sundays, legal holidays and any day on which the office of
251 the agency, the Secretary of the State or the clerk of the applicable

252 political subdivision or the clerk of each municipal member of any
253 multitown district or agency, as the case may be, is closed, shall be
254 excluded.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2010</i>	New section
Sec. 2	<i>July 1, 2010</i>	47a-42
Sec. 3	<i>October 1, 2010, and applicable to assessment years commencing on or after said date</i>	12-80a(a)
Sec. 4	<i>October 1, 2010</i>	1-225

FIN *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: None

Municipal Impact:

Municipalities	Effect	FY 11 \$	FY 12 \$
All Municipalities	Savings	Greater than \$100,000	Greater than \$100,000
All Municipalities	Grand List Impact	See Below	See Below

Explanation

There will be a revenue gain to municipalities if they elect to charge fees for the services listed in Section 1. The amount of the revenue gain for each municipality will depend on the number of services that are performed and the amount of the fees that are charged.

The bill requires that property acquired after 10/1/09 retain a residential value of at least 30% of its declared value. This will result in future grand list increases to towns because under current practice property is permitted to fully depreciate to zero (i.e. it retains no residual value).

The bill would generate savings for municipalities, estimated to be greater than \$100,000 annually in aggregate, by shifting from municipalities to state marshals the responsibility of removal of the possessions and personal effects of any evicted tenant. It is estimated that each year 2,200 tenants remain in their dwellings when eviction is complete. On average, it costs \$400 to remove the possessions of someone who has been evicted.

The bill would result in a savings to municipalities who currently

do not have the ability to post meeting minutes online by exempting them from certain provisions of the Freedom of Information Act.

The Out Years

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

OLR Bill Analysis**sHB 5255*****AN ACT CONCERNING MUNICIPAL MANDATE RELIEF.*****SUMMARY:**

This bill:

1. allows municipalities to establish fees and charge for architectural and engineering services, traffic studies, and safety inspections they provide;
2. makes state marshals, rather than a town's chief executive officer, responsible for overseeing the removal, delivery, and storage of an evicted tenant's possessions and personal property and requires the landlord to pay for removal and delivery and the town to pay storage expenses unless and until reimbursed in both cases by the tenant or the proceeds of a public auction;
3. limits (a) the scope of a law under which certain telecommunications companies pay property tax on their personal property at a statewide mill rate and (b) the amount of depreciation they can take on property they acquire after October 1, 2009 to 70%; and
4. stipulates that the meeting minutes of a municipal agency need not be posted on the Internet in order to comply with the Freedom of Information Act's requirements.

EFFECTIVE DATE: July 1, 2010 for the municipal fees and charges and tenant provisions; October 1, 2010 for (1) the Internet posting provision and (2) the property tax provisions, which are applicable to assessment years beginning on and after that date.

§ 1 — MUNICIPAL FEES AND CHARGES

The bill allows municipalities to enact ordinances that establish a fee schedule and charge for those who use the following municipal services: architectural and engineering services, traffic studies, and safety inspections.

§ 2 — TREATMENT OF TENANT PROPERTY

Current law requires the state marshal who executes an eviction order to move the tenant's possessions and personal property to the sidewalk or street. Before doing so, the marshal notifies the town's chief executive officer, who must remove and store the items for 15 days. Within that time, the former tenant can claim the items and reimburse the town for the moving and storage expenses. After that time and an attempt to locate and notify the owner, the chief executive officer can sell the property at public auction, after posting a notice of the sale. He or she must give the former tenant the proceeds of the sale after deducting the town's costs for removal and storage. After 30 days, if the tenant does not claim the sale proceeds, they are deposited in the town treasury.

Under the bill, the state marshal in charge of the eviction (rather than the town) must arrange to remove the possessions and deliver them to a storage facility the town's chief executive officer designates. It requires the marshal to include on the eviction notice clear instructions on how and where the tenant can reclaim his or her possessions in storage. Though the tenant remains responsible for the costs of removal, delivery, and storage of the possessions, the landlord initially pays the removal and delivery costs and the town pays for the storage. In order to reclaim his or her possessions, the tenant must pay the town's chief executive officer for the removal, delivery, and storage costs, within 15 days of the eviction. The officer must reimburse the landlord for the removal and delivery expenses based on receipts the landlord gave the officer. In the event the possessions are sold at auction, the proceeds must be used to reimburse the landlord.

The bill allows towns to adopt an ordinance that would waive the cost of storing possessions.

§ 3 — PROPERTY TAXES FOR TELECOMMUNICATIONS COMPANIES

Under current law, some telecommunications companies must, and others may, provide a list of their personal property used solely to provide telecommunications services to the Office of Policy and Management (OPM), the Department of Revenue Services (DRS), and the town where the property is located. The lists that go to OPM and DRS must list the property on a town-by-town basis; the list that goes to an individual town must just identify the property that is located in or allocated to that town. Each list must identify where the property is located and give its fair market value, depreciated to the maximum extent allowed under the corporation business tax. The OPM secretary must calculate the taxable value of the property at 70% of its depreciated value, which is subject to a statewide tax rate of 47 mills. The tax revenue goes to the towns.

The bill limits these provisions to companies that owned property on October 1, 2009 that was subject to the statewide mill rate. It thus subjects telecommunications companies that entered the state after this date to property tax laws that apply to other companies, i.e., their property is subject to the town's mill rate and to generally applicable rules regarding depreciation.

The bill requires, with regard to the list submitted to the towns, that the depreciation of property acquired after October 1, 2009 not exceed 70%. This provision will affect tax bills payable starting in 2011.

The bill eliminates the requirement that companies subject to the statewide mill rate provide OPM and DRS with a list of their property. Since the bill continues to require OPM to submit tax bills to these companies, it implies that the towns will still submit their lists to OPM.

Under current law, companies subject to the statewide mill rate for personal property included in the list submitted to OPM are not subject to the locally assessed property tax for this property. As noted above, the bill eliminates the requirement that the list be submitted to OPM.

The bill repeals a provision that allows a company to petition DRS for an alternate method to determine its property's value. Under current law, if a company's records do not contain the data necessary to develop the required lists without undue cost, the company may petition the DRS commissioner to approve an alternate method of determining the value of the company's facilities used solely to render telecommunications services, other than central office or switching equipment, located in each town. If the commissioner finds that the alternative method proposed results in a reasonable approximation of the value of this property, the commissioner must notify the company that the proposal is acceptable and the company may use this method in developing the list.

§ 4 – MUNICIPAL MEETING MINUTES

The Freedom of Information Act requires agencies of the state and its political subdivisions to make the minutes of public meetings available for public inspection and, if the agency has an Internet website, to post them on it. The bill exempts an agency of a town, city, borough, or district from the requirement to post minutes on the Internet.

BACKGROUND

Legislative History

On April 19, the Finance, Revenue and Bonding Committee reported a substitute bill that changed the original (File 421) by (1) shifting responsibility for paying for storage of a tenant's possessions after eviction from the landlord (as under the original file) to the town and making the town chief executive officer rather than the marshal (as under the original file) responsible for conducting the auction (reverting back to current law) and (2) limits application of the property tax provisions to telecommunication companies, rather than all utilities, and to property acquired after October 1, 2009.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 14 Nay 6 (03/22/2010)

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 41 Nay 5 (04/19/2010)