



# Senate

General Assembly

**File No. 86**

February Session, 2010

Substitute Senate Bill No. 206

*Senate, March 23, 2010*

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING LOCAL LAND USE AGENCIES AND THE SITING OF TELECOMMUNICATION TOWERS.***

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

1 Section 1. Section 16-50x of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) Notwithstanding any other provision of the general statutes,  
4 except as provided in section 16-243, the council shall have exclusive  
5 jurisdiction over the location and type of facilities and over the location  
6 and type of modifications of facilities subject to the provisions of  
7 subsection (d) of this section. When evaluating an application for a  
8 telecommunication tower within a particular municipality, the council  
9 shall consider any location preferences or criteria (1) provided to the  
10 council pursuant to section 16-50gg, or (2) that may exist in the zoning  
11 regulations of said municipality as of the submission date of the  
12 application to the council. In ruling on applications for certificates or  
13 petitions for a declaratory ruling for facilities and on requests for  
14 shared use of facilities, the council shall give such consideration to

15 other state laws and municipal regulations as it shall deem  
16 appropriate. Whenever the council certifies a facility pursuant to this  
17 chapter, such certification shall satisfy and be in lieu of all  
18 certifications, approvals and other requirements of state and municipal  
19 agencies in regard to any questions of public need, convenience and  
20 necessity for such facility.

21 (b) Whenever the council has certified a facility pursuant to this  
22 chapter, any person joining in the application for such certification  
23 shall be empowered to exercise its powers of eminent domain, granted  
24 by the general statutes or any special act, to acquire property for such  
25 facility for the benefit of all persons receiving such certificates.

26 (c) Whenever the council has certified a facility pursuant to this  
27 chapter and the applicant for such certificate thereafter initiates  
28 condemnation proceedings to acquire property for such facility, and it  
29 shall appear to the court or judge before whom such proceedings are  
30 pending that the public interest will be prejudiced by delay, said court  
31 or judge may direct that said applicant be permitted to enter  
32 immediately upon the property to be taken and devote it temporarily  
33 to the public use specified in the application instituting such  
34 proceeding upon the deposit with said court of a sum to be fixed by  
35 said court or judge, upon notice to the parties of not less than ten days,  
36 and such sum when fixed and paid shall be applied to the payment of  
37 any assessment of damages which may be made, with interest thereon  
38 from the date of such entry upon said property, and the remainder, if  
39 any, returned to said applicant. If such application is dismissed, no  
40 assessment of damages is made, or the proceedings are abandoned by  
41 said applicant, said court or judge shall direct that the money so  
42 deposited, so far as it may be necessary, shall be applied to the  
43 payment of any damages that the owner of said property or other  
44 parties in interest may have sustained by such entry upon and use of  
45 such property, including reasonable attorneys', engineers' and  
46 appraisers' fees and other reasonable expenses incurred by such owner  
47 or other parties in interest in connection with such proceedings, and  
48 the costs and expenses of such proceedings. Such damages shall be

49 ascertained by said court or judge or a committee to be appointed for  
50 that purpose, and if the sum so deposited shall be insufficient to pay  
51 such damages and all costs and expenses so assessed, judgment shall  
52 be entered against said applicant for the deficiency to be enforced and  
53 collected in the same manner as a judgment in the Superior Court, and  
54 the possession of such property shall be restored to the owner or  
55 owners thereof.

56 (d) Any town, city or borough zoning commission and inland  
57 wetland agency may regulate and restrict the proposed location of a  
58 facility, as defined in subdivisions (3), [and] (4) and (6) of subsection  
59 (a) of section 16-50i. Such local bodies may make all orders necessary  
60 to the exercise of such power to regulate and restrict, which orders  
61 shall be in writing and recorded in the records of their respective  
62 communities, and written notice of any order shall be given to each  
63 party affected thereby. Such a local body shall make any such order (1)  
64 not more than sixty-five days after an application has been filed with  
65 the council for the siting of a facility described in subdivision (3) of  
66 subsection (a) of section 16-50i, [or] (2) not more than thirty days after  
67 an application has been filed with the council for the siting of a facility  
68 described in subdivision (4) of subsection (a) of section 16-50i, or (3)  
69 not more than sixty days after an application has been filed with the  
70 council for the siting of a facility described in subdivision (6) of  
71 subsection (a) of section 16-50i. Each such order, except an order  
72 concerning a facility, as defined in subdivision (6) of subsection (a) of  
73 section 16-50i, shall be subject to the right of appeal within thirty days  
74 after the giving of such notice by any municipality required to be  
75 served with a copy of the application under subdivision (1) of  
76 subsection (b) of section 16-50i or by any party aggrieved to the  
77 council, which shall have jurisdiction, in the course of any proceeding  
78 on an application for a certificate or otherwise, to affirm, modify or  
79 revoke such order or make any order in substitution thereof by a vote  
80 of six members of the council.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	16-50x

**ENV**      *Joint Favorable Subst.*

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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.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:**

Municipalities	Effect	FY 11 \$	FY 12 \$
All Municipalities	Potential Cost	Potential	Potential

**Explanation**

The bill permits local zoning commissions or inland wetland agencies to regulate and restrict the proposed locations of telecommunications towers. To the extent that municipalities exercise their authority under the bill, they could incur minimal administrative and procedural costs.

**The Out Years**

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

**OLR Bill Analysis****sSB 206*****AN ACT CONCERNING LOCAL LAND USE AGENCIES AND THE SITING OF TELECOMMUNICATION TOWERS.*****SUMMARY:**

Under current law, the siting council has exclusive jurisdiction over the siting of telecommunication towers and must consider location preferences or criteria provided by the municipality or in existing zoning regulations. This bill allows a town, city, or borough zoning commission or inland wetland agency to regulate and restrict the proposed location of telecommunications towers and associated telecommunications equipment that may have a substantial adverse environmental effect. The local body must make a written order, recorded in the community records and given to each affected party, within 60 days after the filing of an application with the siting council.

The law gives a zoning commission or inland wetland agency this same authority regarding petitions to the siting council for most electric power plants and electric substations. Unlike with these petitions, the bill does not allow an appeal of the zoning commission's or inland wetland agency's decision regarding a telecommunications tower to the council. It is unclear whether the zoning commission or inland wetland agency decision could be appealed under the statutes that generally authorize appeals from decisions by these entities (CGS §§ 8-8(b) and 22a-43).

EFFECTIVE DATE: October 1, 2010

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 29 Nay 0 (03/05/2010)