



House of Representatives

General Assembly

File No. 356

February Session, 2012

Substitute House Bill No. 5492

House of Representatives, April 11, 2012

The Committee on Planning and Development reported through REP. GENTILE of the 104th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT PROVIDING MUNICIPAL STORMWATER AUTHORITIES WITH CERTAIN CORPORATE POWERS.

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

1 Section 1. (NEW) (*Effective October 1, 2012*) A municipal stormwater
2 authority created pursuant to section 22a-498 of the general statutes
3 shall constitute a body politic and corporate and the ordinance
4 establishing such authority shall confer upon such authority the
5 following powers as are provided in the ordinance: (1) To sue and be
6 sued; (2) to acquire, hold and convey any estate, real or personal; (3) to
7 contract; (4) to borrow money, including by the issuance of bonds; (5)
8 to recommend to the legislative body of the municipality in which
9 such authority district is located the imposition of a levy upon the
10 taxable interests in real property within such authority district, the
11 revenues from which may be used in carrying out any of the powers of
12 such authority; (6) to construct, own, operate and maintain public or
13 common improvements; (7) to provide, within such authority district,
14 some or all of the other services which such municipality is authorized

15 to provide therein, except that no such ordinance may confer upon any
 16 such authority the power to provide elementary or secondary public
 17 education services, and provided further no such ordinance may
 18 confer upon any such authority the power to provide services which
 19 are then being provided within any portion of the area included in
 20 such authority district by any multitown body or authority; (8) to
 21 deposit and expend funds; and (9) to enter property to make surveys,
 22 soundings, borings and examinations to accomplish the purposes of
 23 section 22a-498 of the general statutes.

24 Sec. 2. (NEW) (*Effective October 1, 2012*) Any charge due to a
 25 municipal stormwater authority and not paid within thirty days of the
 26 due date shall thereupon be delinquent and shall bear interest from the
 27 due date at the rate and in the manner provided by the general statutes
 28 for delinquent property taxes. Any such unpaid charge shall constitute
 29 a lien upon the real estate against which such charge was levied from
 30 the date it became delinquent. Each such lien may be continued,
 31 recorded and released in the manner provided by the general statutes
 32 for continuing, recording and releasing property tax liens.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>October 1, 2012</i>	New section

Statement of Legislative Commissioners:

In Subdiv. (5), the first reference to "authority" was changed to "authority district" for accuracy, and in Subdiv. (7), the second and third references to "authority district" were changed to "authority" for accuracy.

PD *Joint Favorable Subst.-LCO*

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 13 \$	FY 14 \$
Various Municipalities	Potential Revenue Gain/ Potential Savings	See Below	See Below

Explanation

The bill authorizes certain powers to municipal stormwater authorities. Under the bill, stormwater authorities are allowed to levy fees on property owners and to recommend to municipalities a tax levy. These provisions could result in increased revenues to cover the costs of authorities. Municipalities may realize a savings as certain infrastructure and maintenance costs may be covered by the stormwater authority.

The Out Years

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

OLR Bill Analysis**sHB 5492*****AN ACT PROVIDING MUNICIPAL STORMWATER AUTHORITIES WITH CERTAIN CORPORATE POWERS.*****SUMMARY:**

This bill makes a municipal stormwater authority authorized under a pilot program (PA 07-154) a body politic and corporate and requires the municipality, by ordinance, to grant it powers including the power to issue bonds.

The bill specifies that any charge due to any municipal stormwater authority that is not paid within 30 days of the due date is delinquent and collects interest from the due date at the rate, and is delinquent as, property taxes are under existing law. Any unpaid charge constitutes a lien on the property from the date it became delinquent and the lien may be continued, recorded, and released as under existing law for property tax liens.

EFFECTIVE DATE: October 1, 2012

MUNICIPAL STORMWATER AUTHORITIES

PA 07-154 required the then Department of Environmental Protection (now Department of Energy and Environmental Protection) commissioner to create a municipal stormwater authority pilot program in up to four municipalities adjoining Long Island Sound by September 1, 2007, and authorized the commissioner to provide up to \$1 million in grants to the participating towns. Under the law, New Haven, New London, Norwalk, and Stonington were the eligible municipalities.

The bill outlines certain powers that the ordinances establishing authorities in each municipality must grant.

Powers

The bill requires a municipal ordinance to grant a municipal stormwater authority the power to:

1. sue and be sued;
2. acquire, hold, and convey any real estate or personal property;
3. contract;
4. recommend to the municipality's legislative body where the authority is located to tax real property within the authority's district and use those revenues to carry out the authority's powers;
5. construct, own, operate, and maintain public or common improvements;
6. provide, within the authority district, some or all of the other services which the municipality is authorized to provide, excluding elementary and secondary education and services any multi-town body or authority are providing within the authority district;
7. deposit and expend funds;
8. enter property to make surveys, soundings, borings and examinations to accomplish the law's purposes (e.g., control and abatement of stormwater pollution) (see BACKGROUND); and
9. borrow money, including issuing bonds.

The bill does not specify the type of bonds (revenue or general obligation bonds) the stormwater authority may issue but typically, entities with powers similar to those the bill grants a stormwater authority would issue revenue bonds.

Additionally, current law authorizes a stormwater authority to levy fees. It appears those fees would be separate from a tax the authority

recommends under the bill and which it already has the power to recommend under current law (CGS § 22a-498(b)).

BACKGROUND

Stormwater Authorities

PA 07-154 set population criteria that four priority municipalities had to meet to participate in the stormwater authority pilot program, and allowed other, non-priority municipalities to apply if a priority town chooses not to participate. New Haven, New London, Norwalk, and Stonington met the criteria.

Stormwater Management Program

By law, the authority must develop and administer a stormwater management program. The program must include provisions for (1) construction and post-construction site stormwater runoff control, including control detention and prevention of stormwater runoff from development sites, or (2) controlling and abating pollution from existing land uses, and detecting and eliminating connections to the stormwater system that threaten the public health, welfare, or the environment.

The authority must also (1) provide public education and outreach relating to stormwater management activities and establish procedures for public participation; (2) set boundaries for the stormwater authority district; and (3) recommend to the town's legislative body a levy on taxable real property in the stormwater district to permit the authority to plan, lay out, acquire, construct, reconstruct, repair, maintain, supervise, and manage stormwater control systems.

Assessment of Fees

By law, a stormwater authority may levy fees on property owners to achieve its purposes. In setting fees, it may consider (1) the amount of impervious surfaces generating stormwater runoff, (2) land use types that result in higher concentrations of stormwater pollution, and (3) the property's grand list valuation. The authority may reduce or defer such fees for land classified as, or consisting of, farm, forest, or open

space. This apparently refers to land classified as “490” land for property tax purposes, as well as land not so classified.

Property Tax Lien

By law, the interest of each person in real estate that has been legally included on a municipality's assessment list is subject to a lien for taxes. The tax is based on the value of the real estate, and the lien exists from October 1 or another assessment date in the year before the tax became due until two years after the tax became due. The lien may be enforced by levy and sale of the real estate (CGS § 12-172).

The law allows a municipality to assign, for consideration, any liens filed to secure unpaid taxes on real property (CGS § 12-195h).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 11 Nay 9 (03/23/2012)