



STATE OF CONNECTICUT

DEPARTMENT OF TRANSPORTATION

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Office of the
Commissioner

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Public Hearing – March 21, 2012

Government, Administration and Elections Committee

**Testimony submitted by Commissioner James P. Redeker
Department of Transportation**

H.B. 5519 - AN ACT CONCERNING THE CONVEYANCE OF CERTAIN PARCELS OF STATE LAND.

The Department of Transportation (ConnDOT) offers the following comments on sections of H.B. 5519, AAC the Conveyance of Certain Parcels of State Land that require the transfer of certain parcels of ConnDOT property.

Section 1 – Conveyance of .38 acres to the town of East Hartford at no cost.

The Department opposes this section as written. The conveyance should clarify the type of “municipal” purposes, (i.e. park, open space). In addition, the conveyance should be for an administrative fee equal to the cost of conveying the property. If the parcel is to be utilized for economic development, it should be conveyed for the appraised value.

The language should also include a reverter clause transferring property back to the Department if the property is required for future transportation projects.

Section 2 – Conveyance of .44 acres to the town of East Hartford at no cost.

The Department opposes this section as written. The conveyance should clarify the type of “municipal” purposes, (i.e. park, open space) and be conveyed for an administrative fee equal to the cost of conveying the property. This property was purchased with federal funding. Therefore, a conveyance for no monetary consideration must be approved by the Federal Highway Administration (FHWA). A conveyance for no monetary consideration not approved by FHWA would then require the state to reimburse FHWA the federal share of the value of the property.

The language should also include a reverter clause transferring property back to the Department if the property is required for future transportation projects.

Section 3 – Conveyance of .57 acres to the town of East Haven for administrative costs.

The Department opposes this bill as written. The parcel is actually .49± acres and is identified as DOT File No. 92-533-1B. Since this property was partially acquired with federal funds, the revenues generated from the sale of the property are required to be deposited into the state’s Transportation Fund to be used as a state match for other federally participating projects. Failure to comply with federal regulations, which requires the sale of excess property at fair market value as determined by FHWA, would require a reimbursement to FHWA of the federal share of the appraised value.

If the Town plans to use the property for economic development, the conveyance should be revised to transfer the property to the Town of East Haven for fair market value plus administrative fees. The Department is

actively marketing this property for sale under CGS 13a-80. Therefore, a legislative requirement to sell the property is not required.

Section 7- Conveyance of 2.8 acres to the town of Wilton for administrative costs.

The Department opposes this section as written. This property is already under lease agreement with the Town as part of a 35.8 acre recreational and storage use and is for no monetary consideration.

This property was acquired for the Super 7 Expressway and ConnDOT is not releasing any property in the corridor until a final determination is made for the future use of property. The Department is discussing options for future use with the Department of Energy and Environmental Protection (DEEP).

Section 10- Change in use of prior conveyance of .44 acres to a private entity in the town of Greenwich.

The Department opposes section 10 of the bill.

This property was transferred to the Greenwich Historical Society for parking purposes pursuant to Section 1 of Special Act 08-8. The Department cannot change the restriction to "municipal" purposes as the property is not owned by the municipality, it is owned by a private entity. The Greenwich Historical Society would need to return the parcel to the State and then it would have to be given to the Town of Greenwich for a specific municipal use. However, the State cannot compel the Greenwich Historical Society to return the parcel if they are in compliance with the use restriction.

Sections 12, 13, 14 and 15 – Conveyances of 65.3 acres to private individuals in the town of Andover.

The Department opposes the conveyances in sections 12, 13, 14 and 15 of the bill.

All four sections require ConnDOT to transfer property to a private entity for the appraised value. It should be noted that Special Act 07-11 section 22 also proposed the conveyance of state property to a private party (Agriventures). A third party filed a lawsuit contending that the Special Act's sole objective, to grant personal gain and advantage to a specific party, Agriventures, was in violation of Article First, Section 1 of the Connecticut Constitution where, "... no man is entitled to exclusive public emoluments or privileges from the community." As a result, the conveyance was repealed in Section 2 of Special Act 08-8 and the lawsuit was dropped. This proposed conveyance could lend itself to similar legal scrutiny.

Further, ConnDOT is developing plans with the Department of Energy and Environmental Protection on future land use of the Route 6 Expressway. This property should be retained until a plan is fully developed and vetted with state and local elected officials and the community as a whole.

Section 16 – Conveyance of 3.2 acres to the town of Tolland for administrative costs.

The Department opposes this section as written. All properties suitable for economic development should remain with the state and disposed of in accordance with Section 13a-80 as all revenues from the sales of DOT property are deposited in the State Transportation Fund for a match against federal funds for other transportation projects. If the town desires to use the property for economic development it should pay fair market value plus administrative fees.

Further, the Department has not yet conveyed the parcel contained in Section 6 of Special Act 11-16 (below) and is waiting to convey the property until the town resolves all commuter parking issues as stipulated in last year's special act.

Special Act 11-16, Sec. 6.

"(a)Notwithstanding any provision of the general statutes, the Commissioner of Transportation shall convey to the town of Tolland a parcel of land consisting of approximately 1.3 acres located in the town of Tolland in exchange for a parcel of land totaling approximately 2.2 acres located in the town of Tolland, provided the parcel conveyed by said town, at the time of conveyance, contains improvements that are comparable to those contained on the parcel conveyed by the department, as

determined by the commissioner, and further provided the commissioner approves the design and construction of the commuter lot on the parcel conveyed by the town of Tolland. Said improvements shall include, but not be limited to, a commuter parking lot of equal or greater size, a bus shelter and energy-efficient lighting. The exchange of said parcels of land shall be made simultaneously and each in consideration of the other. The parcel of land to be conveyed by the Commissioner of Transportation in said exchange is identified as the portion of Lot 142-61-5 containing a commuter lot on "Connecticut Department of Transportation Right of Way Map, Town of Tolland, Interstate 84, from the Vernon town line easterly to Cathole Road, Number 142-07, Sheet No. 9 of 11, dated February 4, 1994". The parcel of land to be conveyed by Tolland in said exchange is identified as Lot 1, Block L, on Tolland Tax Assessor's Map 28. The exchange of said parcels of land shall be subject to the approval of the State Properties Review Board.

(b) The State Properties Review Board shall complete its review of the exchange of said parcels of land not later than thirty days after it receives a proposed agreement from the Department of Transportation. The state land shall remain under the care and control of said department until a conveyance is made in accordance with the provisions of this section. The State Treasurer shall execute and deliver any deed or instrument necessary for a conveyance of state land under this section. The Commissioner of Transportation shall have the sole responsibility for all other incidents of such conveyance.

For further information or questions, please contact Pam Sucato, Legislative Program Manager for the Department of Transportation, at (860) 594-3013.