



General Assembly

February Session, 2012

Raised Bill No. 5540

LCO No. 2247

02247_____PD_

Referred to Committee on Planning and Development

Introduced by:
(PD)

AN ACT TRANSFERRING CERTAIN POWERS OF THE BRISTOL RESOURCE RECOVERY FACILITY OPERATING COMMITTEE TO THE WEST CENTRAL CONNECTICUT SOLID WASTE AND RECYCLING BOARD.

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

1 Section 1. Section 1 of special act 92-25, as amended by section 1 of
2 special act 01-10, is amended to read as follows (*Effective July 1, 2014*):

3 As used in special act 92-25, as amended by [this act, and] special
4 act 93-40, special act 01-10, section 67 of public act 04-2 of the May
5 special session and this act, section 8 of [this act] special act 01-10, as
6 amended by this act, and section 9 of this act:

7 (1) "Bonds" means bonds, notes or other obligations, including, but
8 not limited to, refunding bonds.

9 (2) "Inter-community agreement" means the agreement dated as of
10 August 1, 1985, by and among the towns and cities of Bristol and New
11 Britain and the towns of Berlin, Burlington, Plainville, Plymouth,
12 Southington and Washington, as such agreement has been amended to
13 include the towns of Wolcott, Warren, Hartland, Branford, Seymour

14 and Prospect and as such agreement may be further amended from
15 time to time.

16 [(3) "Original bonds" means the seventy-three million five hundred
17 twenty thousand dollars face amount of Connecticut Development
18 Authority Solid Waste and Electric Revenue Bonds, Ogden Martin
19 Systems of Bristol, Inc. Project -1985 Series, issued September 18, 1985.

20 (4) "Original project agreements" means all agreements or contracts
21 and amendments thereto entered into with respect to the issuance of
22 the original bonds and the security therefor, including, but not limited
23 to, the loan agreement, security agreement, service agreement, project
24 agreement, inter-community agreement, reimbursement agreement
25 and guarantee.]

26 [(5)] (3) "Project" means activities required to provide services to the
27 municipalities of the [committee] board that may include, but are not
28 limited to, (A) [the mass burn solid waste disposal, electric power
29 generating and resource recovery facility in the city of Bristol, financed
30 by the original bonds including any additions, renovations or other
31 improvements thereto, (B)] any landfill project, or [(C)] (B) any solid
32 waste disposal and resource recovery facility, including any electric
33 power generating facility in connection therewith, or recycling facility,
34 as defined in chapter 446d, or any plant, works, system or component
35 of such a facility, equipment, machinery or other element of such a
36 facility, or any part of such a facility, that the [committee] board or
37 other person or entity designated by the [committee] board plans,
38 designs, finances, constructs, manages, operates or maintains,
39 including real estate and improvements thereto and the extension or
40 provision of utilities and other appurtenant facilities deemed necessary
41 by the [committee] board for the operation of the facility or a portion
42 of the facility, including all property rights, easements and interests
43 required and any additions, renovations or other improvements
44 thereto.

45 [(6)] (4) "Refunding bonds" means bonds issued pursuant to [this

46 act] special act 92-25, as amended by special act 93-40, special act 01-10,
47 section 67 of public act 04-2 of the May special session and this act, to
48 refinance the project and to finance related [cost] costs of such
49 refinancing and to refinance any bonds issued by the [committee]
50 board.

51 [(7)] (5) "Committee" means the [resource recovery operating
52 committee] Bristol Resource Recovery Facility Operating Committee,
53 created pursuant to subsection (c) of section 22a-221 of the general
54 statutes and the inter-community agreement.

55 [(8)] (6) "Landfill project" means activities required to provide
56 landfill services to the municipalities of the [committee] board that
57 include, but are not limited to, the planning, acquiring, constructing,
58 closing or expanding the city of Bristol landfill; providing a new
59 landfill or access to a new landfill in any location; the payment of
60 engineering and consulting fees; site preparation; wetlands replication;
61 storm water management; landfill capping; monitoring, acquisition or
62 transfer of real property or interests therein; providing gas control
63 mechanisms, equipment, landscaping and all necessary and
64 appropriate appurtenances thereto or the financing of costs, including,
65 but not limited to, legal, printing, administrative, financing and related
66 costs or the [committee's] board's share of such costs pursuant to an
67 agreement to provide, develop or operate a landfill and share costs
68 with other entities in connection with the landfill project.

69 (7) "Board" means the interlocal advisory board known as the West
70 Central Connecticut Solid Waste and Recycling Board created
71 pursuant to the interlocal agreement, which shall be considered a
72 committee for the purposes of subsection (c) of section 22a-221 of the
73 general statutes.

74 (8) "Interlocal agreement" means the agreement dated _____, 2012,
75 and as amended from time to time, which establishes the board and
76 which may be made between, without limitation, the cities of Bristol,
77 Meriden and New Britain and the towns of Berlin, Branford,

78 Burlington, Hartland, Morris, Plainville, Plymouth, Prospect, Seymour,
79 Southington, Warren, Washington and Wolcott.

80 Sec. 2. Section 2 of special act 92-25, as amended by section 2 of
81 special act 01-10, is amended to read as follows (*Effective July 1, 2014*):

82 (a) The [committee] board is authorized to issue (1) [refunding
83 bonds to refinance all or any portion of the outstanding original bonds,
84 (2)] bonds to finance a project, and [(3)] (2) refunding bonds. Such
85 bonds may include the cost of issuance, debt service reserve, interest
86 on the bonds for a period not to exceed five years, credit enhancement,
87 call premium, fees and costs associated with any contract entered into
88 by the [committee] board pursuant to this section and notice of
89 redemption of the original or prior bonds, and in connection therewith
90 to enter into forward purchase agreements and agreements to issue
91 bonds at a future date. The [committee] board shall not issue any
92 bonds in amounts which would cause the total amount of bonds
93 issued by the [committee] board and outstanding at any time to exceed
94 one hundred million dollars. Bonds shall not be considered
95 outstanding to the extent they are payable from funds deposited in
96 escrow in an amount sufficient, together with the investment earnings
97 thereon which are to be retained in said escrow, to provide for the
98 payment when due of the principal of and interest and any
99 redemption premium on such bonds. The bonds shall not be
100 indebtedness of the municipalities which are parties to the [inter-
101 community] interlocal agreement, and no such municipality shall be
102 obligated to pay such bonds, directly or indirectly, unless the
103 municipality approves such obligation in accordance with the
104 provisions of the [inter-community] interlocal agreement.

105 (b) In connection with or incidental to the carrying of bonds or in
106 connection with or incidental to the issuance of bonds, the [committee]
107 board may enter into such contracts as it may determine to be
108 necessary or appropriate to place the obligations of the [committee]
109 board, as represented by the bonds, in whole or in part, on such

110 interest rate or cash flow basis as the [committee] board may
111 determine, including, but not limited to, interest rate swap agreements,
112 insurance agreements, forward payment conversion agreements,
113 futures contracts, contracts providing for payments based on levels of
114 or changes in interest rates, or market indices, contracts to manage
115 interest rate risk, including without limitation, interest rate floors or
116 caps, options, puts, calls and similar arrangements. Such contracts
117 shall contain such payment, security, default, remedy and other terms
118 and conditions as the [committee] board may deem appropriate and
119 shall be entered into with such party or parties as the [committee]
120 board may select, after giving due consideration, where applicable, to
121 the creditworthiness of the counter party or counter parties, including
122 any rating by a nationally recognized rating agency, the impact on any
123 rating of any outstanding bonds or any other criteria as the
124 [committee] board may deem appropriate, provided the long-term
125 obligations of the counter party is rated the same or higher than the
126 underlying rating of the [committee] board on the applicable bonds by
127 at least one nationally recognized rating agency. The [committee]
128 board may pledge the collateral that secures the applicable bonds or
129 notes to the [committee's] board's payment obligations under any
130 agreement entered into pursuant to this section. As part of a contract
131 between the [committee] board and the parties to any agreement
132 entered into pursuant to this section, appropriation of all amounts
133 necessary for the punctual payment of the obligations of the
134 [committee] board under such agreement is hereby made and the
135 [committee] board shall pay such amounts as the same become due.

136 (c) The [committee] board may obtain from a commercial bank or an
137 insurance company authorized to do business within or without this
138 state a letter of credit, line of credit or other liquidity facility or credit
139 facility for the purpose of providing funds for the payment in respect
140 of bonds required by the holder thereof to be redeemed or repurchased
141 prior to maturity or for providing additional security for such bonds.
142 In connection therewith, the [committee] board may enter into
143 reimbursement agreements, remarketing agreements, standby bond

144 purchase agreements or any other necessary or appropriate
145 agreements. The [committee] board may pledge the collateral that
146 secures the applicable bonds for the [committee's] board's payment
147 obligations under any agreement entered into pursuant to this section.
148 As part of the contract between the [committee] board and the parties
149 to any agreement entered into pursuant to this section, appropriation
150 of all amounts necessary for the punctual payment of the obligations of
151 the [committee] board under such agreement is hereby made and the
152 [committee] board shall pay such amounts as the same become due.

153 (d) Any pledge of collateral made pursuant to this section shall be in
154 effect until the obligation for which the pledge is made has been fully
155 paid or terminated, or provision has been made for such payment. Any
156 such pledge shall be valid and binding from the time when the pledge
157 is made; moneys or rents so pledged and thereafter received by the
158 [committee] board shall immediately be subject to the lien of such
159 pledge without any physical delivery thereof or further act; and the
160 lien of any such pledge shall be valid and binding as against parties
161 having claims of any kind in tort, contract, or otherwise, against the
162 [committee] board, irrespective of whether such parties have notice of
163 such lien. Neither the resolution, trust indenture pledge or security
164 agreement nor any other instrument by which a pledge is created need
165 be recorded.

166 Sec. 3. Section 3 of special act 92-25, as amended by section 9 of
167 special act 93-40, section 3 of special act 01-10 and section 67 of public
168 act 04-2 of the May special session, is amended to read as follows
169 (*Effective July 1, 2014*):

170 The principal of and interest on bonds issued by the [committee]
171 board, and any agreement as set forth in section 2 of special act 92-25,
172 as amended by [this act] special act 01-10 and this act, may be secured
173 by a pledge of any revenues and receipts of the [committee] board
174 derived from the project and may be additionally secured by the
175 assignment of a lease of the project or by an assignment of the

176 revenues and receipts derived by the [committee] board from any such
177 lease. The payment of principal and interest on such bonds may be
178 additionally secured by a pledge of any other property, revenues,
179 moneys or funds available to the [committee] board for such purpose,
180 including, without limitation, fees payable by the board's participating
181 municipalities. The resolution authorizing the issuance of bonds and
182 any such lease may contain or authorize agreements and provisions
183 respecting (1) the establishment of reserves to secure such bonds, (2)
184 the maintenance and insurance of the project covered thereby, (3) the
185 fixing and collection of rents for any portion thereof leased by the
186 [committee] board to others, (4) the creation and maintenance of
187 special funds from such revenues, (5) the rights and remedies available
188 in the event of default, (6) provision for a trust agreement by and
189 between the [committee] board and a corporate trustee or trustees
190 which may be any trust company or bank having the powers of a trust
191 company within or without the state, which agreement may provide
192 for the pledge or assigning of any assets or income from assets to
193 which or in which the [committee] board has rights or interest, the
194 vesting in such trustee or trustees of such property, rights, powers and
195 duties in trust as the [committee] board may determine, which may
196 include any or all of the rights, powers and duties of any trustee
197 appointed by the holders of any bonds and limiting or abrogating the
198 right of the holders of any bonds to appoint a trustee or limiting rights,
199 powers and duties of such trustee, and may further provide for such
200 other rights and remedies exercisable by the trustee as may be proper
201 for the protection of the holders of any bonds and not otherwise in
202 violation of law. Such trust agreement may provide for the restriction
203 of rights of any individual holder of bonds of the [committee] board
204 and may contain any provisions which are reasonable to delineate
205 further the respective rights, due safeguards, responsibilities and
206 liabilities of the [committee] board, persons and collective holders of
207 bonds of the [committee] board and the trustee, (7) covenants to do or
208 refrain from doing acts and things as may be necessary or convenient
209 or desirable in order to better secure bonds of the [committee] board,

210 or which, in the discretion of the [committee] board, will tend to make
211 any bonds to be issued more marketable, notwithstanding that such
212 covenants or things may not be enumerated in [this act] special act 92-
213 25, as amended by special act 93-40, special act 01-10, section 67 of
214 public act 04-2 of the May special session and this act, and (8) any
215 other matters of like or different character, which in any way affect the
216 security or protection of the bonds, all as the [committee] board shall
217 deem advisable and not in conflict with the provisions of [this act]
218 special act 92-25, as amended by special act 93-40, special act 01-10,
219 section 67 of public act 04-2 of the May special session and this act.
220 Each pledge, agreement or assignment of lease made for the benefit or
221 security of any bonds of the [committee] board shall be in effect until
222 the principal of and interest on the bonds for the benefit of which the
223 same were made have been fully paid, or until provision has been
224 made for the payment in the manner provided in the resolution or
225 resolutions authorizing the issuance. Any pledge made in respect of
226 such bonds shall be valid and binding from the time when the pledge
227 is made; moneys or rents so pledged and thereafter received by the
228 [committee] board shall immediately be subject to the lien of such
229 pledge without any physical delivery thereof or further act; and the
230 lien of any such pledge shall be valid and binding as against parties
231 having claims of any kind in tort, contract or otherwise against the
232 [committee] board, irrespective of whether such parties have notice
233 thereof. Neither the resolution, trust indenture nor any other
234 instrument by which a pledge is created need be recorded. The
235 [committee] board may, without further approval of the legislative
236 bodies of the municipalities which are [parties to the original project
237 agreements] participating municipalities of the board, assign, amend,
238 reaffirm, or terminate any or all of [such original project] the
239 agreements [to secure] securing the bonds and exercise the powers set
240 forth in this act by vote taken in accordance with the [inter-
241 community] interlocal agreement. The resolution authorizing the
242 issuance of such bonds may provide for the enforcement of any such
243 pledge or security in any lawful manner. The [committee] board shall

244 be considered a political subdivision of the state for purposes of
245 subdivision (14) of subsection (d) of section 42a-9-109 of the general
246 statutes, as amended by [this act] public act 04-2 of the May special
247 session.

248 Sec. 4. Section 4 of special act 92-25, as amended by section 12 of
249 special act 93-40 and section 4 of special act 01-10, is amended to read
250 as follows (*Effective July 1, 2014*):

251 The exercise of the powers granted by [this act] special act 92-25, as
252 amended by special act 93-40, special act 01-10, section 67 of public act
253 04-2 of the May special session and this act, constitutes the
254 performance of an essential governmental function and the
255 [committee] board shall not be required to pay any taxes or
256 assessments upon or in respect of any project, or any property or
257 moneys of the [committee] board, levied by any municipality or
258 political subdivision or special district having taxing powers of the
259 state, nor shall the [committee] board be required to pay state taxes of
260 any kind, and the [committee] board, its projects, property and money
261 and any bonds issued under the provisions of [this act] special act 92-
262 25, as amended by special act 93-40, special act 01-10, section 67 of
263 public act 04-2 of the May special session and this act, their transfer
264 and the income therefrom, including revenues derived from the sale
265 thereof, shall at all times be free from taxation of every kind by the
266 state except for estate or succession taxes and by the municipalities and
267 all other political subdivisions or special districts having taxing powers
268 of the state, provided nothing herein shall prevent the [committee]
269 board from entering into agreements to make payments in lieu of taxes
270 with respect to property acquired by it or by any person leasing a
271 project from the [committee] board or operating or managing a project
272 on behalf of the [committee] board and neither the [committee] board
273 nor its projects, properties, money or bonds shall be obligated, liable or
274 subject to lien of any kind for enforcement, collection or payment
275 thereof. If and to the extent the proceedings under which the bonds
276 authorized to be issued under the provisions of [this act] special act 92-

277 25, as amended by special act 93-40, special act 01-10, section 67 of
278 public act 04-2 of the May special session and this act, so provide, the
279 [committee] board may agree to cooperate with the lessee or operator
280 of the project in connection with any administrative or judicial
281 proceedings for determining the validity or amount of such payment
282 and may agree to appoint or designate and reserve the right in and for
283 such lessees or operators to take all action which the [committee]
284 board may lawfully take in respect of such payments and all matters
285 relating thereto, and such agreement may provide such lessee or
286 operator shall bear and pay costs and expenses of the [committee]
287 board thereby incurred at the request of such lessee or operator or by
288 reason of any such action taken by such lessee or operator in behalf of
289 the [committee] board. Any lessee or operator of a project which has
290 paid the amounts in lieu of taxes permitted by this section to be paid
291 shall not be required to pay any such taxes in which a payment in lieu
292 thereof has been made to the state or to any such municipality or other
293 political subdivision or special district having taxing powers, any other
294 statutes to the contrary notwithstanding.

295 Sec. 5. Section 5 of special act 92-25, as amended by section 10 of
296 special act 93-40 and section 5 of special act 01-10, is amended to read
297 as follows (*Effective July 1, 2014*):

298 (a) The bonds may be issued in one or more series in such aggregate
299 principal amounts and bearing rate or rates of interest, be executed by
300 manual or facsimile signatures, be issued as term bonds with
301 mandatory deposit of sinking fund payments, at par, a discount or an
302 original issue discount, with or without redemption provisions, with
303 principal and interest payments at such times and in such amounts, be
304 sold at public sale or by negotiation at such price or prices and at such
305 time or times, and contain and be issued in accordance with such other
306 terms, details and particulars as determined by the [committee] board,
307 or delegated by the [committee] board to such [committee] board
308 members as it shall determine.

309 (b) Any proceeds derived from the sale of the bonds, and revenues,
310 receipts and income pledged to the bonds, or from the project, may be
311 invested and reinvested in such obligations, securities or other
312 investments that are legal investments for the state, and in such
313 obligations, securities, and other investments, including time deposits
314 or certificates of deposit, as shall be provided in the resolution or
315 resolutions authorizing the issuance of the bonds.

316 (c) Whether or not the bonds are of such form and character as to be
317 negotiable instruments under article eight of title 42a of the general
318 statutes, the bonds shall be and are hereby made negotiable
319 instruments within the meaning of and for all the purposes of article
320 eight of said title 42a, subject only to the provisions of the bonds for
321 registration.

322 (d) The [committee] board may provide in any resolution
323 authorizing the issuance of bonds for the time and manner of and
324 requisites for disbursements to be made with respect to such bonds.

325 (e) The [committee] board is further authorized and empowered to
326 issue bonds under [this act] special act 92-25, as amended by special
327 act 93-40, special act 01-10, section 67 of public act 04-2 of the May
328 special session and this act, the interest on which may be excludable or
329 includable in the gross income of the holder or holders thereof under
330 the Internal Revenue Code of 1986, or any subsequent corresponding
331 internal revenue code of the United States, as from time to time
332 amended.

333 Sec. 6. Section 6 of special act 92-25, as amended by section 6 of
334 special act 01-10, is amended to read as follows (*Effective July 1, 2014*):

335 Bonds issued by the [committee] board under the provisions of [this
336 act] special act 92-25, as amended by special act 93-40, special act 01-10,
337 section 67 of public act 04-2 of the May special session and this act, are
338 hereby made securities in which all public officers and public bodies of
339 the state and its political subdivisions, all insurance companies, credit

340 unions, building and loan associations, investment companies, savings
341 banks, banking associations, trust companies, executors,
342 administrators, trustees and other fiduciaries and pension, profit-
343 sharing and retirement funds may properly and legally invest funds,
344 including capital in their control or belonging to them. Such bonds are
345 hereby made securities which may properly and legally be deposited
346 with and received by any state or municipal officer or any agency or
347 municipality of the state for any purpose for which the deposit of
348 bonds or obligations of the state is now or may hereafter be authorized
349 by law.

350 Sec. 7. Section 11 of special act 93-40, as amended by section 7 of
351 special act 01-10, is amended to read as follows (*Effective July 1, 2014*):

352 Bonds of the [committee] board issued pursuant to special act 92-25,
353 as amended by [this act] special act 93-40, special act 01-10, section 67
354 of public act 04-2 of the May special session and this act, shall not be
355 deemed to constitute a debt or liability of the state or of any
356 municipality thereof or a pledge of the faith and credit of the state or of
357 any such municipality, and shall not constitute bonds or notes issued
358 or guaranteed by the state within the meaning of section 3-21 of the
359 general statutes, but shall be payable solely from the revenues and
360 funds herein provided therefor. All such bonds shall contain on the
361 face thereof a statement to the effect that neither the state of
362 Connecticut nor any municipality thereof other than the [committee]
363 board shall be obligated to pay the same or the interest thereon and
364 that neither the faith and credit nor the taxing power of the state of
365 Connecticut or of any such municipality is pledged to the payment of
366 the principal of or the interest on such bonds.

367 Sec. 8. Section 8 of special act 01-10 is amended to read as follows
368 (*Effective July 1, 2014*):

369 In the performance of its duties and purposes under the [inter-
370 community] interlocal agreement, the [committee] board is granted the
371 powers afforded to municipal or regional resource recovery authorities

372 under subsection (a) of section 7-273bb of the general statutes in
 373 addition to any other powers it may otherwise have under the general
 374 statutes or any public or special act. It is the intention of [this act]
 375 special act 01-10, as amended by section 67 of public act 04-2 of the
 376 May special session and this act, that the [committee] board shall be
 377 granted all powers necessary to fulfill the purposes of [this act] special
 378 act 01-10, as amended by section 67 of public act 04-2 of the May
 379 special session and this act, and to carry out its responsibilities and
 380 that the provisions of [this act] special act 01-10, as amended by section
 381 67 of public act 04-2 of the May special session and this act, are to be
 382 construed liberally.

383 Sec. 9. (*Effective July 1, 2014*) The powers conferred upon the
 384 committee by special act 92-25, as amended by special act 93-40, special
 385 act 01-10, section 67 of public act 04-2 of the May special session and
 386 this act, shall be transferred to the board and the committee shall cease
 387 to possess such powers. This act shall have no effect on the other
 388 powers of the committee provided pursuant to any provision of the
 389 general statutes or the intercommunity agreement, and the committee
 390 shall continue to exist for the purpose of exercising such powers until
 391 such committee is terminated pursuant to the intercommunity
 392 agreement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2014</i>	SA 92-25, Sec. 1
Sec. 2	<i>July 1, 2014</i>	SA 92-25, Sec. 2
Sec. 3	<i>July 1, 2014</i>	SA 92-25, Sec. 3
Sec. 4	<i>July 1, 2014</i>	SA 92-25, Sec. 4
Sec. 5	<i>July 1, 2014</i>	SA 92-25, Sec. 5
Sec. 6	<i>July 1, 2014</i>	SA 92-25, Sec. 6
Sec. 7	<i>July 1, 2014</i>	SA 93-40, Sec. 11
Sec. 8	<i>July 1, 2014</i>	SA 01-10, Sec. 8
Sec. 9	<i>July 1, 2014</i>	New section

Statement of Purpose:

To transfer certain powers from the Bristol Resource Recovery Facility Operating Committee to the West Central Connecticut Solid Waste and Recycling Board.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]