



Senate

General Assembly

File No. 424

February Session, 2012

Substitute Senate Bill No. 333

Senate, April 16, 2012

The Committee on Energy and Technology reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE MEMBERSHIP OF THE CONNECTICUT RESOURCES RECOVERY AUTHORITY'S BOARD OF DIRECTORS AND ESTABLISHING A TASK FORCE CONCERNING THE CONNECTICUT RESOURCES RECOVERY AUTHORITY.

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

1 Section 1. (*Effective from passage*) (a) There is established a task force
2 to study the responsibilities of the Connecticut Resources Recovery
3 Authority. Such study shall include, but not be limited to, (1) an
4 examination of the authority's control and operation of the Mid-
5 Connecticut Project facility; (2) the composition of the authority; (3) the
6 relationship between the authority and the Mid-Connecticut Project
7 facility, including financial and contractual relationships and
8 obligations; (4) the existing operating structure of the Mid-Connecticut
9 Project facility, including the contractual relationship between the
10 authority and any operator of said facility; (5) the authority's request
11 for proposals process; (6) the operational performance of the Mid-
12 Connecticut Project facility; and (7) the creation of a Mid-Connecticut

13 Project board, comprised of board members from municipalities
14 served by the Mid-Connecticut Project facility, that would manage the
15 operations of the Mid-Connecticut Project facility.

16 (b) The task force shall consist of the following members:

17 (1) One municipal official of a municipality having (A) a population
18 of thirty thousand or more, and (B) a contractual relationship with the
19 authority, appointed by the speaker of the House of Representatives;

20 (2) One municipal official of a municipality having (A) a population
21 of thirty thousand or less, and (B) a contractual relationship with the
22 authority, appointed by the president pro tempore of the Senate;

23 (3) One municipal official of a municipality having (A) a population
24 of thirty thousand or more, and (B) a contractual relationship with the
25 authority, appointed by the minority leader of the House of
26 Representatives;

27 (4) One municipal official of a municipality having (A) a population
28 of thirty thousand or less, and (B) a contractual relationship with the
29 authority, appointed by the minority leader of the Senate;

30 (5) One municipal official from the city of Hartford, appointed by
31 the Governor;

32 (6) The chairpersons and ranking members of the joint standing
33 committee of the General Assembly having cognizance of matters
34 relating to energy and technology, or their designees;

35 (7) The chairpersons and ranking members of the joint standing
36 committee of the General Assembly having cognizance of matters
37 relating to the environment, or their designees;

38 (8) The Commissioner of Energy and Environmental Protection, or
39 the commissioner's designee; and

40 (9) The chairperson of the board of directors of the Connecticut
41 Resources Recovery Authority.

42 (c) All appointments to the task force shall be made not later than
43 July 1, 2012. Any vacancy shall be filled by the appointing authority.

44 (d) The speaker of the House of Representatives and the president
45 pro tempore of the Senate shall select the chairpersons of the task force
46 from among the members of the task force. Such chairpersons shall
47 schedule the first meeting of the task force, which shall be held not
48 later than sixty days after the effective date of this section.

49 (e) Not later than January 1, 2013, the task force shall submit a
50 report on its findings and recommendations to the joint standing
51 committees of the General Assembly having cognizance of matters
52 relating to the environment and energy and technology, in accordance
53 with the provisions of section 11-4a of the general statutes, including
54 any recommendation concerning the appropriate control and
55 operation of the Mid-Connecticut Project facility. The task force shall
56 terminate on the date that it submits such report or January 1, 2013,
57 whichever is later.

58 Sec. 2. Section 22a-261 of the general statutes is repealed and the
59 following is substituted in lieu thereof (*Effective July 1, 2012*):

60 (a) There is hereby established and created a body politic and
61 corporate, constituting a public instrumentality and political
62 subdivision of the state of Connecticut established and created for the
63 performance of an essential public and governmental function, to be
64 known as the Connecticut Resources Recovery Authority. The
65 authority shall not be construed to be a department, institution or
66 agency of the state.

67 [(b) On and before May 31, 2002, the powers of the authority shall
68 be vested in and exercised by a board of directors, which shall consist
69 of twelve directors: Four appointed by the Governor and two ex-officio
70 members, who shall have a vote including the Commissioner of
71 Transportation and the Commissioner of Economic and Community
72 Development; two appointed by the president pro tempore of the
73 Senate, two by the speaker of the House, one by the minority leader of

74 the Senate and one by the minority leader of the House of
75 Representatives. Any such legislative appointee may be a member of
76 the General Assembly. The directors appointed by the Governor under
77 this subsection shall serve for terms of four years each, from January
78 first next succeeding their appointment, provided, of the directors first
79 appointed, two shall serve for terms of two years, and two for terms of
80 four years, from January first next succeeding their appointment. Any
81 vacancy occurring under this subsection other than by expiration of
82 term shall be filled in the same manner as the original appointment for
83 the balance of the unexpired term. Of the four members appointed by
84 the Governor under this subsection, two shall be first selectmen,
85 mayors or managers of Connecticut municipalities; one from a
86 municipality with a population of less than fifty thousand, one from a
87 municipality of over fifty thousand population; two shall be public
88 members without official governmental office or status with extensive
89 high-level experience in municipal or corporate finance or business or
90 industry, provided not more than two of such appointees shall be
91 members of the same political party. The chairman of the board under
92 this subsection shall be appointed by the Governor, with the advice
93 and consent of both houses of the General Assembly and shall serve at
94 the pleasure of the Governor. Notwithstanding the provisions of this
95 subsection, the terms of all members of the board of directors who are
96 serving on May 31, 2002, shall expire on said date.]

97 [(c) On and after] (b) From June 1, 2002, to September 30, 2012,
98 inclusive, the powers of the authority shall be vested in and exercised
99 by a board of directors, which shall consist of eleven directors as
100 follows: Three appointed by the Governor, one of whom shall be a
101 municipal official of a municipality having a population of fifty
102 thousand or less and one of whom shall have extensive, high-level
103 experience in the energy field; two appointed by the president pro
104 tempore of the Senate, one of whom shall be a municipal official of a
105 municipality having a population of more than fifty thousand and one
106 of whom shall have extensive high-level experience in public or
107 corporate finance or business or industry; two appointed by the
108 speaker of the House of Representatives, one of whom shall be a

109 municipal official of a municipality having a population of more than
110 fifty thousand and one of whom shall have extensive high-level
111 experience in public or corporate finance or business or industry; two
112 appointed by the minority leader of the Senate, one of whom shall be a
113 municipal official of a municipality having a population of fifty
114 thousand or less and one of whom shall have extensive high-level
115 experience in public or corporate finance or business or industry; two
116 appointed by the minority leader of the House of Representatives, one
117 of whom shall be a municipal official of a municipality having a
118 population of fifty thousand or less and one of whom shall have
119 extensive, high-level experience in the environmental field. No director
120 may be a member of the General Assembly. Not more than two of the
121 directors appointed by the Governor shall be members of the same
122 political party. The appointed directors shall serve for terms of four
123 years each, provided, of the directors first appointed for terms
124 beginning on June 1, 2002, (1) two of the directors appointed by the
125 Governor, one of the directors appointed by the president pro tempore
126 of the Senate, one of the directors appointed by the speaker of the
127 House of Representatives, one of the directors appointed by the
128 minority leader of the Senate and one of the directors appointed by the
129 minority leader of the House of Representatives shall serve an initial
130 term of two years and one month, and (2) the other appointed
131 directors shall serve an initial term of four years and one month. The
132 appointment of each director for a term beginning on or after June 1,
133 2004, shall be made with the advice and consent of both houses of the
134 General Assembly. The Governor shall designate one of the directors
135 to serve as chairperson of the board, with the advice and consent of
136 both houses of the General Assembly. The chairperson of the board
137 shall serve at the pleasure of the Governor. Any appointed director
138 who fails to attend three consecutive meetings of the board or who
139 fails to attend fifty per cent of all meetings of the board held during
140 any calendar year shall be deemed to have resigned from the board.
141 Any vacancy occurring other than by expiration of term shall be filled
142 in the same manner as the original appointment for the balance of the
143 unexpired term. As used in this subsection, "municipal official" means

144 the first selectman, mayor, city or town manager or chief financial
145 officer of a municipality that has entered into a solid waste disposal
146 services contract with the authority and pledged the municipality's full
147 faith and credit for the payment of obligations under such contract.
148 Notwithstanding the provisions of this subsection, the terms of all
149 members on the board of directors who are serving on September 30,
150 2012, shall expire on said date.

151 (c) On and after October 1, 2012, the powers of the authority shall be
152 vested in and exercised by a board of directors, which shall consist of
153 thirteen directors as follows: Five municipal officials, one each
154 appointed by the Governor, the president pro tempore of the Senate,
155 the speaker of the House of Representatives, the minority leader of the
156 Senate and the minority leader of the House of Representatives; three
157 representatives of municipalities having a population of thirty
158 thousand or more, each of whom shall be elected by the vote of all
159 municipalities having a contractual relationship with the authority;
160 one municipal official from the city of Hartford, selected by the city's
161 legislative body; and four representatives of municipalities having a
162 population of less than thirty thousand, each of whom shall be elected
163 by the vote of all municipalities having a contractual relationship with
164 the authority. The appointed directors shall serve for terms of four
165 years each, provided, of the directors first appointed for terms
166 beginning on October 1, 2012, the directors appointed by the president
167 pro tempore of the Senate and the speaker of the House of
168 Representatives shall serve an initial term of two years and one month
169 and the other appointed directors shall serve an initial term of four
170 years and one month. Four of the elected directors shall serve an initial
171 term of two years and four of the elected directors shall serve an initial
172 term of four years. No director shall serve more than eight consecutive
173 years. The board shall elect one of the directors to serve as chairperson
174 of the board for a term of two years but not more than four consecutive
175 years. Any director who fails to attend three consecutive meetings of
176 the board or who fails to attend fifty per cent of all meetings of the
177 board held during any calendar year shall be deemed to have resigned
178 from the board. Any vacancy occurring other than by expiration of

179 term shall be filled in the same manner as the original appointment for
180 the balance of the unexpired term. As used in this subsection,
181 "municipal official" means the first selectman, mayor, city or town
182 manager or chief financial officer of a municipality that has entered
183 into a solid waste disposal services contract with the authority and
184 pledged the municipality's full faith and credit for the payment of
185 obligations under such contract.

186 (d) The chairperson shall, with the approval of the directors,
187 appoint a president of the authority who shall be an employee of the
188 authority and paid a salary prescribed by the directors. The president
189 shall supervise the administrative affairs and technical activities of the
190 authority in accordance with the directives of the board.

191 (e) Each director shall be entitled to reimbursement for said
192 director's actual and necessary expenses incurred during the
193 performance of said director's official duties.

194 (f) Directors may engage in private employment, or in a profession
195 or business, subject to any applicable laws, rules and regulations of the
196 state or federal government regarding official ethics or conflict of
197 interest.

198 (g) [~~Six~~] Seven directors of the authority shall constitute a quorum
199 for the transaction of any business or the exercise of any power of the
200 authority, provided, two directors from municipal government shall be
201 present in order for a quorum to be in attendance. For the transaction
202 of any business or the exercise of any power of the authority, and
203 except as otherwise provided in this chapter, the authority shall have
204 power to act by a majority of the directors present at any meeting at
205 which a quorum is in attendance. If the legislative body of a
206 municipality that is the site of a facility passes a resolution requesting
207 the Governor to appoint a resident of such municipality to be an ad
208 hoc member, the Governor shall make such appointment upon the
209 next vacancy for the ad hoc members representing such facility. The
210 Governor shall appoint with the advice and consent of the General
211 Assembly ad hoc members to represent each facility operated by the

212 authority provided at least one-half of such members shall be chief
213 elected officials of municipalities, or their designees. Each such facility
214 shall be represented by two such members. The ad hoc members shall
215 be electors from a municipality or municipalities in the area to be
216 served by the facility and shall vote only on matters concerning such
217 facility. The terms of the ad hoc members shall be four years.

218 [(h) There is established, effective June 1, 2002, a steering committee
219 of the board of directors, consisting of at least three but not more than
220 five directors, who shall be jointly appointed by the Governor, the
221 president pro tempore of the Senate and the speaker of the House of
222 Representatives. Said committee shall consist of at least one director
223 who is a municipal official, as defined in subsection (c) of this section.
224 The steering committee shall forthwith establish a financial
225 restructuring plan for the authority, subject to the approval of the
226 board of directors, and shall implement said plan. The financial
227 restructuring plan shall determine the financial condition of the
228 authority and provide for mitigation of the impact of the Connecticut
229 Resources Recovery Authority-Enron-Connecticut Light and Power
230 Company transaction on municipalities which have entered into solid
231 waste disposal services contracts with the authority. The steering
232 committee shall also review all aspects of the authority's finances and
233 administration, including but not limited to, tipping fees and
234 adjustments to such fees, the annual budget of the authority, any
235 budget transfers, any use of the authority's reserves, all contracts
236 entered into by or on behalf of the authority, including but not limited
237 to, an assessment of the alignment of interests between the authority
238 and the authority's contractors, all financings or restructuring of debts,
239 any sale or other disposition or valuation of assets of the authority,
240 including sales of electricity and steam, any joint ventures and
241 strategic partnerships, and the initiation and resolution of litigation,
242 arbitration and other disputes. The steering committee (1) shall have
243 access to all information, files and records maintained by the authority,
244 (2) may retain consultants and utilize other resources necessary to
245 carry out its responsibilities under this subsection, which have a total
246 cost of not more than five hundred thousand dollars, without the

247 approval of the board of directors, and may draw on accounts of the
248 authority for such costs, and (3) shall submit a report to the board of
249 directors and the General Assembly, in accordance with section 11-4a,
250 on its findings, progress and recommendations for future action by the
251 board of directors in carrying out the purposes of this subsection, not
252 later than December 31, 2002. Said report shall also include a report on
253 any loans made to the authority under section 22a-268d. The steering
254 committee shall terminate on December 31, 2002, unless extended by
255 the board.]

256 [(i)] (h) The board may delegate to three or more directors such
257 board powers and duties as it may deem necessary and proper in
258 conformity with the provisions of this chapter and its bylaws. At least
259 one of such directors shall be a municipal official, as defined in
260 subsection (c) of this section, and at least one of such directors shall not
261 be a state employee.

262 [(j)] (i) Appointed directors may not designate a representative to
263 perform in their absence their respective duties under this chapter.

264 [(k)] (j) The term "director", as used in this section, shall include
265 such persons so designated as provided in this section and this
266 designation shall be deemed temporary only and shall not affect any
267 applicable civil service or retirement rights of any person so
268 designated.

269 [(l)] (k) The appointing authority for any director may remove such
270 director for inefficiency, neglect of duty or misconduct in office after
271 giving the director a copy of the charges against the director and an
272 opportunity to be heard, in person or by counsel, in the director's
273 defense, upon not less than ten days' notice. If any director shall be so
274 removed, the appointing authority for such director shall file in the
275 office of the Secretary of the State a complete statement of charges
276 made against such director and the appointing authority's findings on
277 such statement of charges, together with a complete record of the
278 proceedings.

279 [(m)] (l) The authority shall continue as long as it has bonds or other
 280 obligations outstanding and until its existence is terminated by law.
 281 Upon the termination of the existence of the authority, all its rights and
 282 properties shall pass to and be vested in the state of Connecticut.

283 [(n)] (m) The directors, members and officers of the authority and
 284 any person executing the bonds or notes of the authority shall not be
 285 liable personally on such bonds or notes or be subject to any personal
 286 liability or accountability by reason of the issuance thereof, nor shall
 287 any director, member or officer of the authority be personally liable for
 288 damage or injury, not wanton or wilful, caused in the performance of
 289 such person's duties and within the scope of such person's
 290 employment or appointment as such director, member or officer.

291 [(o)] (n) Notwithstanding the provisions of any other law to the
 292 contrary, it shall not constitute a conflict of interest for a trustee,
 293 director, partner or officer of any person, firm or corporation, or any
 294 individual having a financial interest in a person, firm or corporation,
 295 to serve as a director of the authority, provided such trustee, director,
 296 partner, officer or individual shall abstain from deliberation, action or
 297 vote by the authority in specific respect to such person, firm or
 298 corporation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>July 1, 2012</i>	22a-261

Statement of Legislative Commissioners:

Section 1(b), added subparagraph designations for clarity; in section 1(b)(9), "authority" was changed to "Connecticut Resources Recovery Authority" for clarity; in section 2(b), "June 30, 2012" was changed to "September 30, 2012" for internal consistency and to reflect the committee's intent; and in section 2(h), "as defined in subsection [(c)] (b)" was changed to "as defined in subsection (c)" for clarity.

ET *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:

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Various State Agencies; Legislative Mgmt.	GF - Potential Cost	See Below	None

Note: GF=General Fund

Municipal Impact: See Below

Explanation

The bill may result in a cost in FY 13 of less than \$1,000 to agencies participating in the task force to reimburse legislators and agency staff for mileage expenses.

The fiscal impact of dissolving the Connecticut Resources Recovery Authority's (CRRA) current board of directors on municipalities that have contracts with the authority is unclear.

CRRA had a \$26.9 million outstanding balance of bonds backed by a special capital reserve fund¹ as of February 1, 2012.

The Out Years

The fiscal impact identified for the state task force is limited to FY 13.

¹ Bonds that are secured by a special capital reserve fund (SCRF) are a contingent liability of the state, which does not count against the state's statutory limit on General Obligation (GO) bonds in CGS Sec. 3-21. That liability would only be realized in the event that the SCRF fell below the minimum required reserve and the state had to appropriate funds in order to maintain the SCRF minimum balance. If the state were required to do this, there would be a negative effect on the state's cash flow and a loss of short-term interest on the appropriated funds.

OLR Bill Analysis**sSB 333****AN ACT CONCERNING THE MEMBERSHIP OF THE CONNECTICUT RESOURCES RECOVERY AUTHORITY'S BOARD OF DIRECTORS AND ESTABLISHING A TASK FORCE CONCERNING THE CONNECTICUT RESOURCES RECOVERY AUTHORITY.****SUMMARY:**

This bill makes several changes to the composition of the Connecticut Resource Recovery Authority's (CRRA) board of directors. It dissolves the current board on September 30, 2012 and ends the terms of any sitting directors on that date. For the new board, which assumes the current board's powers and responsibilities on October 1, 2012, the bill:

1. increases the board's membership from 11 to 13;
2. decreases the number of legislative and gubernatorial appointments;
3. removes expertise requirements for board members;
4. increases municipal representation and allows participating municipalities to elect members;
5. increases representation from smaller towns;
6. requires election of the board's chair;
7. imposes term limits; and
8. increases the members needed for a quorum, from six to seven, consistent with the increase in the board's size.

The bill also (1) establishes a task force to study CRRA's

responsibilities, including its authority and control of the Mid-Connecticut Project facility and (2) deletes an obsolete provision establishing a CRRA steering committee that the board dissolved in 2005.

EFFECTIVE DATE: July 1, 2012, except the provision for a CRRA task force, which is effective upon passage.

CRRA BOARD OF DIRECTORS

Selection & Qualifications of Members

Under current law, the governor and legislative leadership choose all 11 directors for the CRRA board. The governor picks three, one of whom must be a municipal official (first selectman, mayor, city or town manager, or chief financial officer from the municipality that has contracted for solid waste disposal services with CRRA) from a town with a population of 50,000 or less; and one an energy expert. Each of the four legislative leaders picks two directors. Of these, two must be municipal officials from towns with populations of 50,000 or less; two must be municipal officials from towns with populations over 50,000; three must be experts in either finance, business, or industry; and one must be an expert on environmental issues. All members serve a four-year term, with no term limits. The governor chooses the board's chair, who serves at the governor's pleasure, from among the 11 directors.

Under the bill, the governor and legislative leadership appoint five of the board's 13 directors. The governor and the four legislative leaders each select one director, who must be a municipal official (under current law's definition).

The bill requires that seven directors be elected by a vote of all municipalities that contract with CRRA. It does not require that they be municipal officials, but three of them must represent towns with populations of 30,000 or more, and four must represent towns with populations less than 30,000. The bill does not specify how to determine a director's affiliation with a town, or how to administer the election of these municipal representatives.

The 13th director is a municipal official from Hartford who is selected by that city's legislative body.

The bill does not require any of the directors to have any particular expertise. It eliminates current law's (1) requirement that directors be confirmed by the General Assembly, (2) prohibition against General Assembly members serving on the board, and (3) prohibition against all of the governor's appointees being from the same political party (the governor only selects one director).

Table 1 shows the board's composition under current law and the bill.

Table 1: Changes To The CRRRA Board Of Directors Under The Bill

	<i>Current Law</i>	<i>The bill</i>
Total number of members	11	13
Legislative and gubernatorial appointments	11 Legislative confirmation required.	5 No legislative confirmation required.
Expertise requirements	3 experts in finance, business, or industry; 1 energy expert; 1 environmental expert.	None.
Municipal representation & town size	5 municipal officials, including: 2 officials from towns with populations over 50,000; 3 officials from towns with 50,000 or less.	6 municipal officials, including one from Hartford. 7 elected municipal representatives, including: 3 representatives from towns with populations over 30,000. 4 representatives from towns with 30,000 or

		less.
Chair	Chosen by governor; serves at the pleasure of the governor.	Elected by the board; serves a two-year term with a two-term limit as chair.

Terms of Office

As under current law, the bill staggers the directors' terms. It requires the first municipal officials appointed by the Senate president pro tempore and the speaker of the house to serve initial two-year and one-month terms. The three other appointed municipal officials serve initial four-year and one-month terms. As under current law, the directors appointed after these initial terms serve four-year terms.

The bill also staggers the initial terms of the elected municipal representatives. It requires four of them to serve initial two-year terms and four of them to serve initial four-year terms. The bill prohibits any director from serving on the board for more than eight consecutive years.

(Under the bill, there are only seven, not eight, elected municipal representatives. The representative from Hartford is selected by the city's legislative body. The bill does not specify how to determine which representatives will serve the initial two-year terms. It also does not specify the term lengths for any of the elected representatives, or the Hartford representative, after the initial staggered terms expire.)

CRRA TASK FORCE

The bill creates a task force to study:

1. various aspects of CRRA's control, operation, and financial and contractual relationship with the Mid-Connecticut Project facility;
2. the Mid-Connecticut Project facility's operational performance;
3. CRRA's composition;

4. CRRA's request for proposals process; and
5. the creation of a Mid-Connecticut Project board to manage the facility's operations.

The task force must report its findings and recommendations to the Energy and Technology and Environment committees by January 1, 2013, and terminate on that date.

The task force has 15 members, who must be appointed by July 1, 2012, with chairpersons chosen by the House speaker and Senate president pro tempore from among the 15 members. The chairpersons must schedule the first meeting, which must be held within 60 days of the bill's passage. The members include:

1. two municipal officials from towns with populations over 30,000 that have a contractual relationship with CRRA, one each appointed by the House speaker and House minority leader;
2. two municipal officials from towns with populations under 30,000 that have a contractual relationship with CRRA, one each appointed by the Senate president pro tempore and Senate minority leader;
3. one municipal official from Hartford, appointed by the governor;
4. the four Energy and Technology Committee chairpersons and ranking members, or their designees;
5. the four Environment Committee chairpersons and ranking members, or their designees;
6. the Department of Energy and Environmental Protection commissioner, or his designee; and
7. the chairperson of the CRRA board of directors.

BACKGROUND

Related Bill

sHB 5125, reported favorably by the Environment Committee, also makes changes to the CRRA board's composition, among other things.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/28/2012)