



# OLR RESEARCH REPORT

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## LEGISLATIVE HISTORY OF PA 10-138

By: Julia Singer Bansal, Legislative Analyst II

You asked for a legislative history of PA [10-138](#), *An Act Concerning (AAC) the State Plan of Conservation and Development and the Wolcottville School Society*.

### SUMMARY

PA 10-138 required (1) the Office of Policy and Management (OPM) to incorporate “cross-acceptance” into the process it uses to revise the State Plan of Conservation and Development (State Plan) and (2) state agencies to review grant applications for their compliance with the state’s smart growth principles. This act gave the state and local governments more time to prepare their conservation and development plans and delayed the date upon which noncompliant towns will be disqualified from receiving certain state funds. The act also dissolved the Wolcottville School Society.

The Planning and Development Committee proposed the original bill ([SB 199](#)), held a public hearing on it, and reported a substitute bill. Public hearing testimony focused on the benefits of adopting the cross-acceptance method, using smart growth principles when making state grant decisions, and extending deadlines for towns to prepare their local plans. The Senate and House discussions centered on explaining and

clarifying cross-acceptance and the impact of deadline extensions on state and local plans. The House amended the bill to officially dissolve the Wolcottville School Society. The Senate passed the bill in concurrence with the House on June 5, 2010.

The governor signed the act into law on June 8, 2010. It took effect upon passage, except the section on the delay for local plans went into effect on July 1, 2010 and the provision on compliance with smart growth principles went into effect on October 1, 2010.

### **PA 10-138**

PA 10-138 (sSB 199, as amended by [House Amendment "A"](#)), made changes to the laws that require the state, regions, and towns to prepare periodic plans for balancing the need to conserve and develop land. The act required OPM to develop a new process for adopting, revising, and implementing the five-year State Plan by incorporating "cross-acceptance" to compare and reconcile local, regional, and state plans. The act also postponed, from March 1, 2011 to March 1, 2012, the deadline for revising the next five-year State Plan. In doing so, it reset the schedule for revising the plan.

The law requires towns to prepare 10-year plans of conservation and development (local plans) and disqualifies those that fail to update their plans from receiving discretionary state funds until they do so or the OPM secretary waives the provision. PA 10-138 relieved town planning commissions of the obligation to prepare or amend local plans between July 1, 2010 and June 30, 2013, and suspended the disqualification provision until July 1, 2014, after the next time the state adopts its revised plan.

The act required state agencies to review grant applications for proposed development, rehabilitation, or other construction projects for their compliance with some or all of the smart growth principles set out in 2009 legislation (PA [09-230](#)).

The act also officially dissolved the obsolete Wolcottville School Society and transferred real or personal property it owns to the Center Cemetery Association of Torrington, Inc.

## **LEGISLATIVE HISTORY OF PA 10-138**

### ***Planning and Development Committee***

**SB 199.** The Planning and Development Committee raised SB 199, *AAA the State Plan of Conservation and Development*, in February 2010. The Continuing Legislative Committee on State Planning and Development Senator (Continuing Committee) made the recommendations upon which the bill was based. SB 199, as originally proposed, made technical changes to the State Plan statutes (i.e., changed subsection organization and made references to the OPM secretary gender neutral).

**Public Hearing.** The Planning and Development Committee held a public hearing on SB 199 on March 10, 2010. The public hearing testimony refers to substitute language handed out during the bill's public hearing. Based on the testimony, it appears that the distributed language was similar to the language in the substitute bill the committee favorably reported on March 22, 2010.

The only public official that submitted testimony on the bill was OPM undersecretary W. David LeVasseur. He spoke in favor of cross-acceptance, noting its goal is "increased consistency amongst state, regional, and local plans." He also said the bill would "clarify the role of municipalities and Regional Planning Organizations." Although in support of temporary relief for towns, he noted that the overall quality of the State Plan may be "compromised" by relying on information in local plans that may be more than 10 years old.

Written testimony was submitted on behalf of the Connecticut Fund for the Environment, Connecticut Rivers Alliance, Audubon Connecticut, Connecticut League of Conservation Voters, Connecticut Forest & Park Association, 1000 Friends of Connecticut, Working Lands Alliance, and the Windham Region Council of Governments. All of these organizations supported the bill. Their testimony focused on the benefits of the deadline extensions and use of smart growth principals when considering state grant applications.

**Joint Favorable Substitute.** The Planning and Development Committee favorably reported a substitute bill that (1) required OPM to adopt a cross-acceptance process, (2) created new deadlines for revising state and local plans, and (3) required state agencies to consider whether grant proposals comply with the state's smart growth principles.

### ***Senate Action***

The Senate took up the substitute bill on April 29, 2010. Senator Coleman, then-Planning and Development Committee chairman, summarized the bill, noting it does three major things: (1) extends the State Plan deadline by one year; (2) requires OPM to develop a cross-acceptance process, like New Jersey's; and (3) requires agencies to consider construction applications in light of the state's smart growth principles.

Senator Fasano testified in support of the bill, saying the State Plan "has caused nothing but problems" and the bill would give the legislature additional time to "get [its] act together." Senator Fasano said that under the existing system, state, regional, and local plans are often inconsistent, causing problems that the Continuing Committee has to resolve. Senator Coleman responded that the types of frustrations expressed by Senator Fasano were the impetus for the bill. The bill was then placed on the consent calendar, which passed by a vote of 33-0.

### ***House Action***

The House took up the substitute bill on May 4, 2010. Representative Sharkey, then-Planning and Development Committee chairman, summarized the bill, saying that it is the "next step in the development of our smart growth initiative around the state." He noted that often the State Plan "doesn't reflect at all what's actually happening at the [local level]."

Representative Aman spoke in support of the bill and then asked a series of questions to establish legislative intent. He asked Representative Sharkey:

1. how towns' noncompliance with the State Plan affects funding;
2. to describe the cross-acceptance method that OPM will be required to use;
3. how disputes between towns and the state, or within towns, regarding the State Plan will be handled; and
4. whether towns that are due for an updated plan must have updated plans in place on July 1, 2013.

In response to the first question, Representative Sharkey replied that if a town is noncompliant, it can be deprived of any discretionary state funding, for example Clean Water Act funds. He noted that compliance is a state agency-by-agency assessment and agencies' decisions are not always consistent. In regards to the question on cross-acceptance, he said that the process originated in New Jersey, and was implemented to increase local participation in the creation of their equivalent to our State Plan. Representative Sharkey responded to the question on dispute resolution that the Continuing Committee would likely continue to act "as a sort of zoning board of appeals." Lastly, in response to the question about plan implementation, Representative Sharkey responded "yes," towns are required to implement an updated plan by the time the bill's extension expires. During this exchange, Representative Sharkey also noted that the existing State Plan will remain in effect until the new plan is adopted.

Representative Sawyer asked Representative Sharkey whether the deadline extension for the State Plan is a cost-saving measure. Representative Sharkey said "no," it exists so that cross-acceptance can be implemented before the new State Plan is adopted. Later in the floor debate, he noted that the bill would save both the state and towns money. Representative Sawyer also asked how power will be divided between the state and local governments in making the State Plan. Representative Sharkey said that ultimately, it is the state's plan, but that the purpose of implementing cross-acceptance is to include towns in the decision-making process.

Representative Chapin asked Representative Sharkey whether (1) the locational guide map, which caused problems for towns in the past, would be subject to cross-acceptance and (2) towns are expected to update out-of-date plans before the new State Plan is adopted, specifically those towns in which the local plan was due for an update prior to July 1, 2010. Representative Sharkey said that OPM would decide whether the map was a necessary component of the State Plan, and whether cross-acceptance will be applied to it. Representative Sharkey also responded that since there is no updated State Plan for updated local plans to comply with, it would be more efficient for such towns to wait until state-level decisions are made. He noted that the state is not likely to enforce the penalties for failure to update until there is an updated State Plan.

Representative Mushinsky asked whether OPM can withhold funds for nonconformity with the state plan (including the locational guide map) between 2010 and 2014. Representative Sharkey said that because the existing State Plan will remain in effect until the new plan is adopted,

towns that are noncompliant with the existing State Plan may still be disqualified from receiving state funding. He noted that under existing law, state funding may be withheld for (1) noncompliance with the State Plan and (2) not updating a local plan every 10 years.

Representative Cook introduced Amendment “A” and summarized it. The amendment dissolved the obsolete Wolcottville School Society and transferred real or personal property it owns to the Center Cemetery Association of Torrington, Inc. House “A” was adopted on a voice vote.

The House then passed the bill, as amended, by a vote of 148-0.

### ***Return to the Senate***

The Senate took up the amended bill on May 5, 2010. It was placed on the consent calendar and adopted by a vote of 35-0, without discussion.

JB:mp

**Attachment 1**

Senate Session Transcript for 05/05/2010

SENATOR LOONEY:

Thank you, Mr. President.

And finally, calendar page 34, Calendar 272, Senate Bill 199, Mr. President, move to place that item on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, if the Clerk would call the consent calendar at this time.

THE CHAIR:

Mr. Clerk, would you please call the consent calendar and also make your announcement that the Chair has ordered.

Mr. Clerk, when you're ready, you may make the announcement that the Senate is in the progress of a roll call vote.

THE CLERK:

The Senate is now voting by roll on the consent calendar. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate on the consent calendar. Will all Senators please return to the chamber.

Mr. President, the items placed on the first consent calendar begin on calendar page 6, Calendar Number 344, Senate Bill 431.

Calendar page 7, Calendar 427, Senate Bill 110; Calendar 430, Substitute for Senate Bill 432.

Calendar page 24, Calendar 108, Substitute for Senate Bill 321.

Calendar page 25, Calendar 118, Substitute for Senate Bill 176.

Calendar page 30, calendar 274, Substitute for Senate Bill 305.

Calendar page 32, Calendar Number 337, Substitute for Senate Bill 433.

Calendar page 33, Calendar 424, Substitute for Senate Bill 444.

Calendar page 34, Calendar 149, Senate Bill 244; Calendar 191, Substitute for Senate Bill 405, 407; and Calendar 272, Substitute for Senate Bill 199.

Mr. President, that completes the items placed on the first consent calendar.

THE CHAIR:

The machine is opened.

THE CLERK:

The Senate is voting by roll on the consent calendar. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate on the consent calendar. Will all Senators please return to the chamber.

THE CHAIR:

Will Senators please check the board to make certain that your vote has been appropriately recorded? If all Senators have voted and all votes are properly recorded, the machine will be locked.

Would the Clerk please announce the tally?

THE CLERK:

Motion's on adoption Consent Calendar Number 1.



Total Number Voting 35

Those Voting Yea 35

Those Voting Nay 0

Those absent and not voting 1

THE CHAIR:

Consent Calendar 1 is passed.

## Attachment 2

Senate Session Transcript for 04/29/2010

Calendar page eight, Calendar number 272, file number 382, substitute for Senate Bill 199, An ACT CONCERNING THE STATE PLAN OF CONSERVATION AND DEVELOPMENT, favorable report by the Committee on Planning and Development.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Madam President. And might I say it's a delight to see you at the dais.

I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

A motion on adoption. Will you speak further?

SENATOR COLEMAN:

Yes, Madam President.

This bill seeks to do primarily three things. First, it extends the deadline for the revision of the five year plan of conservation and development, the State plan. It extends that deadline from March 1, 2011 to March 1, 2012.

And in extending the deadline for the revision it also resets the schedule for events that occur and must occur in connection with the process for the development of the plan. Secondly, under the bill OPM must develop a new process called cross-acceptance which is modeled on the State of New Jersey's Planning Commission's 2004 cross-acceptance manual and is designed to facilitate consistency between local, regional, and State plans of conservation and development in Connecticut.

And finally, under the bill State agencies are required to review proposed construction applications for compliance with smart growth principles. I urge passage of the bill, Madam President.

THE CHAIR:

Thank you, Senator.

Will you remark on this bill?

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President. I agree with Senator Coleman that we should pass this bill and for the reasons he stated however I would like to add a few more of my own. One reason why I like passing this bill because it stops the State from doing something and that's always a good thing. The State plan of conservation and development has caused nothing but problems in every single one of our senatorial districts.

Undoubtedly, without question in your district, your district is not in compliance with the State plan of conservation and development. I don't believe there is a district in the State of Connecticut that has not run afoul of the plan. And I would suggest that close to 80 percent don't even know they run afoul of the plan. And 80 percent therefore don't know that they're not entitled to certain monies and certain monies are at risk.

We adopted this plan and it's only when a particular area gets developed that we look at the plan and determine whether or not there's compliance and say oops, there isn't. This risk is great. And we don't make enough changes so we have something called a continuing committee on planning and development or some long title close to that. And we sit there as mini ZBAs, zoning board of appeals, and hear these little concerns of developments that don't fit in this master plan.

And this master plan's done at the 100,000 foot level and the real people, municipalities looking for developments, changing plans, are done at ground level. And they're, a

lot of times, ships that pass in the night. So if we, by delaying this plan we're really doing ourselves a favor because we've got to get our act together.

We have to get our act together. I do a lot of zoning. Consistency is important but to me it's got to start at the State level. We have three different groups. You have your local planning and development. You have your regional planning and development and you have the State plan and development. And it's like three cats in a room and asking them to get together. They all go different directions for different reasons. Without, they talk to each other but just pass by each other. This has caused nothing but problems now and in the future.

And we have to decide now policy wise in this chamber and the one downstairs, are we going to start from the State Plan of Conservation and Development, to State government, big brother, and look down and tell everybody how we're going to zone. Or are we going to start at ground level look up and come up with a government structure? That's two totally different philosophies of zoning in Connecticut. Right now we do both.

Local planning and zoning and their own fiefdom decide they want to go one way and the State says that's fine but if you want money, we're coming the other way. That's the clash. That's where the continuing planning and development committee comes in and tries to decipher what plan is better than the next.

And all we did was confuse people. And we sit there with OPM saying yes this is good or no this isn't good. Local legislator saying maybe the opposite. Local towns saying the opposite. We got to pick the winner and the losers. And it just doesn't work. It doesn't make any sense. So by stopping what we're doing and taking a deep breath especially when administrations are going to change and philosophies may change with it is a good thing. But when we restart the engine and restart that clock we have to be cognizant that this plan doesn't work as it is today.

I will tell you Town of North Branford is in an area that is deemed conservation and development. I will tell you, I'm sorry, North Branford. North Haven has an area that's deemed, where Pratt and Whitney is and that's deemed

conservation and development. You couldn't get further from the truth of either one of those two.

And I can go on and on and on and on and on. So the point is this is a good respite. But when we restart the engine we should make sure we have the policy right. We should make sure we do it right and make sure everybody's on the same page. That's the only way you're going to get a better State of Connecticut. Thank you, Madam President.

THE CHAIR:

Thank you, Senator.

Will you remark further?

Senator Coleman.

SENATOR COLEMAN:

Madam President, let me just very briefly say that Senator Fasano has expressed the same frustrations that he's expressed here on the floor of the Senate in the Planning and Development Committee's meetings as well as in the meetings of the continuing committee on conservation, on the State Plan of Conservation and Development. And we appreciate not only his expertise and his input into these kinds of issues.

And other members of those Committees have expressed the same types of frustrations. That's primarily the reason that this bill is before us today. I again, urge its passage. And I will note that in the Planning and Development Committee it received unanimous support and for that reason, Madam President, I'm going to move that this item be placed on the consent calendar if there is no further comment on the bill.

THE CHAIR:

If there are no objections.

SENATOR COLEMAN:

Thank you, Madam President.

THE CHAIR:

Senator.

You object, Senator? Okay. Thank you.

If there is no objection it shall be placed on the consent calendar.

**Attachment 3**

House Session Transcript for 05/04/2010

THE CLERK:

On page 20, Calendar 459 Substitute for Senate Bill Number 199, AN ACT CONCERNING THE STATE PLAN OF CONSERVATION AND DEVELOPMENT, favorable report of the Committee on Planning and Development.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Good afternoon, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Good afternoon.

REP. SHARKEY (88th):

Good to see you up there today.

DEPUTY SPEAKER O'CONNOR:

Thank you.

REP. SHARKEY (88th):

Mr. Speaker, I move acceptance of the joint committee's favorable report and passage of the bill.

DEPUTY SPEAKER O'CONNOR:

The question is acceptance of the joint committee's favorable report and passage of the bill.

Representative Sharkey, you have the floor.

REP. SHARKEY (88th):

Thank you, Mr. Speaker.

Mr. Speaker, I'm sure the chamber remembers that last year this Chamber and the upper Chamber and the Governor made the concept of smart growth of the law of the land. The way we did that is through what is now known as Public Act 09-230, which requires that smart growth be incorporated into our state land conservation and development.

In the course of our smart growth discussions, however, one of the things that came up fairly consistently was the issue of how do we do the state plan of C and D such that we incorporate local input into the plan and not have to be just a state plan that's imposed on our local communities. So what we did in Public Act 09-230 was to call upon the continuing committee on the state plan of C and D to study this issue and come back with recommendations to this assembly as to how best to try to incorporate that bottom-up as well as top-down approach, if you will.

The continuing committee completed its work earlier this year and has recommended that the Office of Policy and Management incorporate a concept that's already been in place in New Jersey, known as cross acceptance. And it's a concept where -- that involves gaining and gathering input from local communities as -- in terms of the development of the state plan of conservation and development, as well as having it also coming from the state -- from the state down. So we're developing both a methodology, where the local communities approve, if you will, what's happening at the state, and the state then also approves what's happening at the local level.

This is a key problem that we, I think, recognized over the years in the development of our state plan. Sometimes, very often, in fact, we have inconsistencies between what the state plan calls for and what's actually happening on the ground at the local level. This is particularly true with the locational guide map that accompanies the state plan, where we have a map that shows what should be happening and what our development priorities are at the local level that is dictated by a state -- someone in the state-level, either DEP or at OPM, but it doesn't reflect at all what's actually happening at the -- the local. This bill seeks to address that.



What this bill will do is call upon OPM to develop a methodology for the state plan of C and D that incorporates the New Jersey model of cross acceptance. It extends the deadline for the completion of the state plan of C and D to 2012 and also allows localities that have a local plan of C and D that is due in the next couple of years and extends that out until the state plan is completed. The final -- this bill also calls for the notion of smart growth to be considered by various state agencies when developing their grant programs.

This is a good bill. I think it has bipartisan support, Mr. Speaker. It's the next step in the development of our smart growth initiative around the state and I urge the Chamber's support. Thank you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Thank you, sir.

Representative Aman.

REP. AMAN (14th):

Thank you, Mr. Speaker.

I agree that this is a bill that the House should pass and that we should go forward on. It is one that has a very large impact on the state in the long way -- run. And, therefore, I will be asking a series of questions to establish very clearly what the legislative intent is. However, as the Chairman did say, I am supporting the bill. I think it is something that we should go ahead and do.

For the purpose of the chamber's discussion, I would request that the proponent of the bill go a little bit farther on the importance of the state plan of conservation and development, especially in regards to the type of funding that a community may not get if they're not following the state plan of conservation and development. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Thank you, Mr. Speaker.

Well, as the gentleman is aware, because he's been very active on these issues, and I commend him for his leadership in working with me and other members of the continuing committee, as well as on the Planning and Development Committee, the state plan of C and D actually dictates many of the state grants that we offer to cities and towns, because if a locality is not in compliance with the state plan of C and D, they can be deprived of any, in theory, any type of state funding that is discretionary.

The one, in particular, that adds some particular teeth to a lot of our local communities is the Clean Water Act. Many towns that want to utilize the Clean Water Act for extending sewer lines or doing sewer upgrades can place their -- their funding at risk if their overall local plan of C and D is not consistent with the state plan. That's a judgment that is made at the state level. And one of the things that this bill tries to do is set a system in place that prevents the kind of misunderstandings and the misapprehension that occurs between state and local in terms of making sure that they are both in compliance both at the local level and the state. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Aman.

REP. AMAN (14th):

Yes. And in regards -- as there are discussions and funding questions that are asked, I believe it's OPM through the Governor's office that has the major role in that, and yet, we regularly hear from other state agencies where the conflicts come in.

I was wondering if the chairman could discuss briefly the role of the OPM, DEP and the rest of the alphabet agencies that get involved with running state grants as to how they relate with the plan of development. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Chairman Sharkey.

REP. SHARKEY (88th):

Thank you, Mr. Speaker.

Through you, well, the interpretation of local compliance with the state plan is not only housed with the Office of Policy and Management, but actually is a judgment call that occurs with all the various state agencies that are involved in things at the local level. DEP is probably the best example of that, but DECD and others are also involved in this arena. And oftentimes, it's an interpretation that may occur within the Department of Environmental Protection that determines whether or not a community is in compliance. This oftentimes occurs with regard to development decisions and whether or not a local sewer extension, for example, is in compliance with the state plan of C and D. And sometimes we have agencies in conflict with each other or developing different opinions about what complies and what doesn't.

So each one of these agencies, to the extent that they have discretionary funds to give out to our municipalities, in effect, has a say in whether that community is actually in compliance with the state plan and that is, oftentimes, in that interpretation where problems occur. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Aman.

REP. AMAN (14th):

The Continuing Committee on the State Plan of Conservation and Development does handle regularly, probably in the last year a half a dozen times, disputes between various towns or between towns and various government agencies. In many ways, we operate similar to your zoning board of appeals in your local town of trying to get the information and coming up with a ruling as to whether a town or a development project is in compliance with the plan or if we have to waive conditions or change the plan to meet the needs or rule that the development cannot go forward the way it was decided.

I think this is a cumbersome process. It makes life, I think, very difficult for the agencies, for the municipalities, and also for the developers. And I'm hoping that the new plan, as it's being developed, will streamline the process and make the rules a little clearer and a little bit easier for everybody to continue to use.

We talked at length in the committee about the problem of bottom-up/top-down. Should the state have 169 communities deciding, each one locally, in a vacuum how they should develop, versus one bureaucrat sitting in Hartford saying, this is the way the entire state should develop.

The state plan of development, the way we're trying to have it redone is to try to take those two extreme positions, blend them together and come up with, again, something that is a statewide plan. But the local communities have a very large impact and influence on it, since, in my belief, that they know what is best for their own town. And unless it is doing something that very much hinders the state, my own personal feeling is that they should be allowed to continue to do it. We're not alone in facing this type of a problem. Recently, I think New Jersey spent a considerable amount of time doing it. And rather than start from scratch, we are going ahead and putting in this bill that, as they develop a new plan, they are to use the cross acceptance manual approved by the state of New Jersey.

And I do have some questions regarding that, again, to set the legislative intent as to what this manual is. And so I would ask the chairman to please explain what this manual does, if he can even get an idea of how it was put together, and how hard it was for the state of New Jersey to come up with this manual. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, well, this was a long process that the state of New Jersey used to develop this particular manual and process, but it was borne of the same kinds of complaints and concerns that were raised -- that are being raised right now in Connecticut. Essentially,

what happens is the state agency, the equivalent of, in our case, OPM, produces a preliminary plan which then disseminates out to the various communities around the state of New Jersey.

It is -- and in New Jersey, what happens is that the county government actually plays a key role in reviewing and seeking input from their local towns about whether or not the state plan, as proposed, is in conformance with their idea of what is actually happening on the ground.

Those regional entities actually then make recommendations back to the state for potential revisions to the state plan. A revised set of plans go out. There's a public hearing process that takes place as a result of that and that, ultimately, the state plan is adopted following that process. So what this process ensures is that local communities are not being shut out of the process of the development of the larger state plan, and that, in fact, there is input happening at the local level.

Again, what happens in our case here in Connecticut, oftentimes, is we do it planned from the 10,000-foot level. We adopt a map of where we think plans, you know, development should occur, should not occur. We just had an application that was before us earlier this year in which a plan of conservation -- our state plan actually prevented or called a conservation area the entire -- more or less the entire town of Wallingford and little did the map reflect that all of the town of Wallingford had sewers in it, which would have allowed for other types of development to occur, in theory.

So those kinds of mistakes, if you will, that occur in the development of a state plan of conservation and development are eliminated by having the towns participate in the development of the plan right from the beginning. They then approved, essentially, what the state is offering and then, at that point, after that state plan is adopted, then the local plans are developed in accordance with the state plan. And, in theory, this is all happening in harmony so that everyone understands what we're talking about, local communities have more input, and the state gets to keep -- maintain a the big picture approach to how we want the state to develop. Through you, Mr. Speaker

DEPUTY SPEAKER O'CONNOR:

Representative Aman.

REP. AMAN (14th):

The chairman spoke about the complications of doing the plan and trying to get the local input and the state input and then to try to get them aligned. And for you -- representatives thinking of your own town -- and this is a real case that we have -- is the Water Pollution Control Authority has one idea of where sewers should go, where expansion should go, the Planning Department, Planning Commission in a town has a different idea, the Zoning Commission has a third idea and the Economic Development Commission may have a fourth idea within a very small area about how development can come. I think the most extreme I heard on that was when I was talking to the one set of towns that had approved their town plan of development and the answer I got was, yeah, that was the approved plan, but after November it's going to be changed again.

And so there is I don't think anything that is more hotly discussed other than maybe the school system in a town than how it is going to have its land and available resources developed. So it does lead to a very complicated system of separate interest groups of people having different views on how things are going, which kind of leads me into the next question I have.

When we are finally going to come up with the state plan of development as to how we are going to handle and who is going to handle when we're going to have the inevitable disputes between, maybe, even parts of a municipality and the state or an entire municipality and the state, as to what area is going to be developed and which area is going to be protected, and so my question to the proponent is how is it envisioned that these questions of disputes are going to be handled in the development of the plan? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, I'm not sure that we know that quite yet, because what this bill calls for is for OPM to actually produce the plan for the development of the plan, if you will. So we are asking OPM to tell us what they think is the best process for the development of the plan along the lines of the New Jersey model that the good gentleman and I have been discussing.

So I imagine that what will come out of that is that we'll continue to have the Continuing Committee on the State Plan of C and D as a sort of a zoning board of appeals, if you will, or analogous to that, for determining disputes between, you know, competing agencies or towns in the state. But I think we'll actually have to utilize that system a lot less if everybody is in agreement right from the beginning as to what the plan is and how they will comply with it. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Aman.

REP. AMAN (14th):

Yes. The bill does call for OPM at some point near the end of the process when there is a dispute that's not resolved -- is to issue a written statement specifying the areas of agreement and disagreement and areas requiring modification by both parties to the regulation. By having them put it in writing, I hope that some of the problems of he said/she said, emotional ideas of, but they don't want us to do this, or that will be diminished, because we will have it in writing, and hopefully fairly, precisely, this is the area of conflict, this is the areas we agree. And so future discussions will be limited more to the areas of particular parts of the plan, rather than redoing the whole plan again.

The -- near the end of the bill there are areas talking about the delay in -- I'm trying to process. I'm looking at areas 136 through 139 and then, again, its lines 146 through 151. And the 136 to 139 talks about delaying the project -- or the plan that the municipalities have till June 30, 2013. And from my reading of that, I would just like for legislative intent, while the plan can be delayed implementation of it in a town until June 30th, it's my

understanding from reading this, on July 1st, however, they're going to have to have a plan in place, which means that they're going to have to be working on it right through that period of time. It does not mean that on June 30, 2013, the clock starts, the town can start developing its plan. Is that a correct reading of those lines? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, yes. I think that's a fair reading of that language.

DEPUTY SPEAKER O'CONNOR:

Representative Aman.

REP. AMAN (14th):

Probably more important to the towns is the areas between 146 and 151, where it talks about how towns can continue to receive discretionary funding even if their plans are not done. And I'm wondering how, if at all different from what we're currently doing, of having to come to the Continuing Committee for disputes, et cetera, until that 2014 period of time. Is there any change, really, from what we're doing or is this just an extension of the time -- and, therefore, this is an extension of the time to 2014. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. AMAN (14th):

Through you, Mr. Speaker, well until a new plan is adopted, the existing current plan will remain in effect, as will its interpretation, as will the process for challenging the current plan by local communities. So the current system of utilizing the continuing committee is a means of appealing,



if you will, interpretation of the state plan will remain in effect.

What the section merely does is say that, to the extent that a community has not completed a plan of C and D, that will not -- the delay, until we get a state plan in place, will not, in and of itself, render them out of compliance and, therefore, ineligible to receive state grants. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Aman.

REP. AMAN (14th):

The last part of the bill talks about the fact that the new plan of conservation and development is going to have be done with smart growth principles. And again, like we have used in the past when talking about smart growth principles, we talk about the fact that the plans have to agree with already part of smart growth. And that's a growth of us working on smart growth and realizing that there is a variety of different principles that make up smart growth. And you could have the same project that in one case would be meeting very well and, in fact, smart growth would say this is what we should do. And, yet, the same development on other parts of the smart growth guidelines would be saying, this is a terrible project and we shouldn't do it.

And this bill recognizes that inherent conflict sometimes in smart growth principles and gives the towns and the state the flexibility to meet the overall goal of smart growth without getting hung up on the individual details. I thank the proponent of the bill for his answers. I think he set the legislative intent very well and I urge my colleagues to vote in favor of the bill. Thank you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Thank you, sir.

Will you remark further?

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. Good afternoon.

DEPUTY SPEAKER O'CONNOR:

Good afternoon.

REP. SAWYER (55th):

Through you, questions to the proponent of the bill.

DEPUTY SPEAKER O'CONNOR:

Please proceed, madam.

REP. SAWYER (55th):

Could you please describe the commission that oversees the state plan of development and commission, the makeup of it; who sits on it; how often they meet? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

The -- I'm not sure I understood the gentlewoman's question. Through you, Mr. Speaker, is she referring to the entity that develops the plan of C and D or is she referring to the continuing committee that interprets and mediates the disputes in terms of the interpretation of the plan. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Madam, if you could please restate your question, please.

REP. SAWYER (55th):

Now that he said that, I would like him to clarify the difference between the two.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Well, through you, Mr. Speaker, in the former case, the development of a plan is not done by a commission. It's done by OPM itself, by staff. So with regard to the latter, the Continuing Committee, as I think Representative Aman alluded to it, the Continuing Committee is a statutory structure that is designed to serve as a mediator, if you will, in interpreting whether or not a particular development is in compliance with the state plan of C and D.

And I'll just give you a little example. It's made up of the chairs and ranking members of the Planning and Development Committee, as well as the Environment Committee and Commerce Committee, as well as other appointees from leadership in both in House and Senate.

For example, though a development may be proposed at the local level that the town supports and a local developer may be looking to produce. However, they're looking to produce it or develop in an area that a state locational guide map, for example, is calling out as a conservation area, meaning, it's an area that's not to be developed.

Oftentimes, that designation is there because of certain soil types that are to be protected, the lack of other available infrastructure like sewers and public water. And, therefore, its development would be detrimental to the environment or to some other natural resource. If there are facts on the ground that suggest otherwise, the local government, the town can apply to OPM for a reconsideration or what's called an interim change to the state plan of C and D and the locational guide map to allow that -- to allow for a change in the plan and the map so that development can occur and not be deemed out of compliance with the state plan.

If they don't follow that process, in theory, they could be held up in terms of getting state grants because they could be deemed out of compliance if they went ahead with that development in violation of the state plan. So that's the

role the Continuing Committee plays. We hear the -- the Continuing Committee hears the evidence presented by the town, the recommendations from the various state agencies and makes a judgment call as to whether there should be a change to the state plan or the locational guide map at that time. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sawyer.

REP. SAWYER (55th):

I thank the gentleman for his answer. I had the experience of having a town that was very interested in doing some development. The development that they wished to do was surrounding a major state road. That major state road, the land available, the Economic Development Commission was very interested in setting up a development plan around that intersection thinking that that would be an excellent way because the traffic flow was already easily established. It was a road that was nowhere near at capacity at that point and they thought that would be an excellent place to do it.

So they moved forward within the town and they got it all - - everybody was so happy with this plan. They had to get it through this like when they had to get it through zoning. They had it, you know -- it had done its normal steps and they had brought in a number of people who were very interested in that particular piece of land. Then I got the call. Things came to a screeching halt when they said, tell us about this plan of conservation and development and this commission that is involved, and so on and so forth.

Well, I had been in office for about a year and I had this very blank stare. I had no clue. And -- because my background is in education, in town, certainly not their economic development at the time, so we have this little discussion and I ran -- running around to find out who these people were. And they had not met -- they had not met in a long time, as a matter of fact, this was going to force them to meet, and so on and so forth.

So having told you that story and this experience, and the end to this sad tale is that they turned it down. And to

this day that particular area has not been developed. The issue has been whether it should be residential, whether or not it should be commercial development, and that's still an issue that has not been resolved.

So what we see in this particular bill, as long as I'm understanding it, is we're going to say that to save money, if my understanding is correct, we're going to put off redoing the plan of conservation and development. We're stepping it back for a year or so. We're allowing the towns then also to step back and not revisit their ten-year plan, and we're going to put off looking at any decision making as to what should be kept the same or what could be changed. Is that your -- my understanding? Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, respectfully to the gentlelady, no. That's not what we're doing actually. We are delaying the implementation of a new plan and allowing towns to hold off until the state completes its plan. But the purpose of our delaying the development of our plan is so that we can introduce a new methodology of developing the plan that would avoid the exact situation that the gentlewoman described.

This is this concept of cross acceptance that the state of New Jersey has adopted, which develops a plan based upon local input at the ground level and having the locals play a role in the development of the plan at the state level, so that both local and state are working together to reflect what's actually happening on the ground. So in order to be able to implement this, we're delaying the actual day -- deadline for adoption of our new plan and allowing our towns to do it.

It's not a cost-savings measure. It's just simply a practical measure to give us a little bit more time to finish our state plan so that it will incorporate this new methodology of developing the plan. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sawyer.

REP. SAWYER (55th):

I'm so glad he described that because that was not my understanding at all. So I'm very appreciative of the background because those are the pieces that help us in our decision-making process as to how we're going to vote on this.

But let me extrapolate that out just a little bit more. In your understanding of this methodology that they're looking to put forward, is there an equal weight to the decision process between the towns and the state or is there more of an omnipotence on the state level that they will have the most power and be able to stop the towns? Is there an appeal process perhaps for the towns that they might be able to have? Is that what you envision? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Represent Sharkey.

REP. SHARKEY (88th):

Well, the answer is yes. I do envision that. However, what this bill does is empower OPM to tell us how to best implement this cross-acceptance model. So, as the state of New Jersey has done, by virtue of the manual that's actually referenced in the bill itself, there is a whole process by which the state of New Jersey develops the plan, presents it to the local level and has input from the local level in how that plan looks from their point of view, from the ground level.

So the hope is that as a result of that, we will have more input directly from the communities that will be, obviously, directly affected and the plan will be more reflective of what's actually happening on the ground. I can't tell you that that doesn't mean that the state ultimately -- it's the state's plan, obviously. So I think at some level, you know, the state will be the final on this. But the hope is that by using this more iterative

process, we'll get more input from the locals who can essentially accept what the state is saying or object to it and have a right to complain about the way the plan is being developed through a formal process that will ultimately lead to the final plan that everybody agrees to. If that answers the gentlewoman's question. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. And through you, I appreciate those answers because that's -- that's very helpful. I'm going to put this now in fiscal terms because I looked at the fiscal note. There's no fiscal impact, which is very nice. Obviously, it costs to have OPM stop what they're doing, work on this, come up with these plans. It takes time away from what they're doing. There's a cost there. So I'm going to turn that back that it's a cost savings. I'm going to then turn around and say, when you're looking at what the -- it's expected for the towns to do for their piece of this, their participation, they're not going to have to do it just yet. There's a cost savings to that.

Would you say that that's a fair description in these tough economic times people are struggling with less staff, less people to do the job. They're trying to get through with as much as they can, small amounts of workers to do -- now something that is going to affect the state over the next ten years. Would you say that that is a true savings for the state and for the towns at the time -- for the time being? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, yes. I would. I think it's actually -- I mean not the original -- that's not really the intent of this, but I think the timing of this proposal is good because it also, in addition to hopefully setting

our state in the right direction with regard to the development of our plan, the incorporation of smart growth principles into that plan, and getting more input from the local level, which is what I think a lot of communities have been concerned about. It also is coming at a time when a lot of the towns can't really afford to be redoing their state plan -- their local plans of C and D, and this gives them a bit of a financial break.

It also allows for state agencies, the folks at OPM in particular, to take a little bit more time, too, in how they go about doing the development of the state plan as well. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sawyer.

REP. SAWYER (55th):

Mr. Speaker, we have a situation where we have towns that have a very great interest in how they are going to move forward on the future development. Each piece of development within our towns reflects back on money, on aesthetics, on the environment and the quality of life.

Have towns been stopped by this particular group? Yes, they have. I've had the experience, but I think it's well-meaning. I think it's -- but I also know there's frustration of the town's, particularly for small towns that feel they don't have the ability to stand up against the giant of the state. Now, having put those pieces together and you look at what this committee has done and in the explanation that I've just received from the chairman, that they're going to try and put together a significant change in dialogue, that there will be more dialogue. There will be more interaction, if my understanding is correct, between the towns, between the state in how they should be developing.

I think, Mr. Speaker, that that particular cautiousness in holding off, which will save some money right now in these tough economic times, but will allow it to be more thoroughly vetted, more thoroughly developed with one particular state's successful model in mind, so we're not necessarily totally reinventing the wheel. I think it's a



smart decision financially, but also was very respectful to the towns, whether they are very large and in the city bracket or whether they're very small and in the country bracket. So I would like to thank the chairman and the committee for putting this together. Its thoughtfulness. Because I think it is a direction that assists government on all levels, but also communities that are trying to move their towns in a specific direction or maintain it in another direction. So I want to thank the gentleman for his time and the answers that he gave.

DEPUTY SPEAKER O'CONNOR:

Thank you, madam.

Will you remark? Will you remark further?

Representative Chapin.

REP. CHAPIN (67th):

Thank you, Mr. Speaker.

So questions through you to the proponent of the bill, please.

DEPUTY SPEAKER O'CONNOR:

Please proceed sir.

REP. CHAPIN (67th):

Thank you, Mr. Speaker.

I know in the past there's been some -- I know in the past there's been some issues regarding the state plan of conservation and development as it relates or maybe is inconsistent with the locational guide map. Could the gentleman tell me if the locational guide map is part of this cross-acceptance process? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, it potentially could be. I think, again, what the bill calls for is for OPM to recommend a process for the development of the new plan of C and D, the question as to whether or not a map would be included in that, I think we'll be up to OPM to decide and recommend to us. As the gentleman knows, the locational guide map is oftentimes more -- more problematic and creates more problems than it my solve. There are those who believe we should -- I think the term is scrap the map, because it's so inexact that it can't really reflect everything that's happening on the ground. But I think that's up to OPM to tell us once they've evaluated how best to incorporate this cross-acceptance process into our own state of Connecticut. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Chapin.

REP. CHAPIN (67th):

Thank you, Mr. Speaker.

And, again, through you, I appreciate the answer and I -- I think there are those, both agencies as well as individuals, who feel the locational guide map is an important component and perhaps it's simply a matter of being more of a visual aid and more finite than some words themselves in the state plan.

But again, through you, Mr. Speaker, as I'm reading the OLR summary of the bill, it talks about the requirement on the municipalities to update their plan -- their plans every ten years. And it says that the bill relieves this obligation for a period between July 1, 2010 and June 30, 2013. Can the gentleman tell me what happens in those cases where plans should have been updated, but perhaps haven't been updated? In other words, the ten years have expired prior to July 1, 2010.

Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, in that particular scenario, we had already granted those towns an extension of time last year in our smart growth bill, which is now Public Act 09-230. Because at that time, we were empowering the continuing committee to make recommendations to this body as to how best to go forward in terms of this question of bottom-up versus top-down, as well as how to best implement smart growth principles.

So those towns are actually already in a suspension and I think under this bill they would be allowed a continued extension of time to complete their local plans of C and D for the simple reason that we don't -- we won't have a state plan for them to comply with, and, therefore, it's only fair to let them -- give them something to work with, rather than force them to do a plan and then perhaps have to change it to become compliant with the state plan once we get ours completed at the state level. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Chapin.

REP. CHAPIN (67th):

Thank you, Mr. Speaker.

And, again, through you, so in a case where a municipality last updated their plan in 1996 and -- so they would have been due in 2006. And as I recall, there really wasn't any penalty for being out of compliance until the law we passed, I think, last year, which involve discretionary funding or the ineligibility for this discretionary funding. If I understood the last response correctly, it would seem that even in that case, anybody who's plan had - - any municipalities' whose plan had last been updated even as long ago as 14 years ago, number one, wouldn't be at risk of losing any discretionary funding and number two, would also be thrown into the category here where they really wouldn't be required to have that update complete until, I guess, June 30th of 2013. Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, I think to the extent that it town has not -- has their most recent plan of C and D completed as of 1996, they would have been out of compliance if they had not completed their plan by 2006 because we have a ten-year requirement.

So unless they received some kind of extension for some other reason, I think that a town that has failed to do anything since 1996, you know, I think -- frankly, I think the state is a little hard-pressed right now to be going after towns to get -- enforce them to update their plan of C and D until we get our plan and our plan for our plan together, if you will.

So I'm not sure I have an answer to that specific scenario because as of 19 -- as of 2006, that town would have already been out of compliance and I imagine their noncompliance -- their status as being noncompliant, in theory, would continue in effect. Practically speaking, I'm not sure we should ask that town to update their plan right now because we're still in somewhat of a state of flux at the state level. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Chapin.

REP. CHAPIN (67th):

Thank you, Mr. Speaker.

And, again, through you, the update of a local plan can be both a cumbersome, as well as a timely process. My own municipality, I believe, at least a year and a half ago began that process and to the best of my knowledge, as of today, they haven't adopted or -- an updated plan. I guess I'm concerned as to what category they fall in.

Number one, if they adopt the plan sometime between today and July 1st of 2010, or number two, if they don't adopt it

at all, it would seem that perhaps they would be better off not adopting it, at this point, and waiting to see the outcome of what transpires if this bill were to pass. Would the gentleman concur with that? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, at the risk of sounding as though I'm encouraging noncompliance with these requirements, I think the gentleman makes a good point. I think it's fair that we should be -- we should not be imposing penalties upon towns that are -- currently don't have a plan completed until we get our plan put in place so that they have something to comply with. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Chapin.

REP. CHAPIN (67th):

Thank you, Mr. Speaker and I thank the gentleman for his answers. I think his last comments really highlighted a very key point here and that's that we've moved in this direction, where we're starting to look at penalties for municipalities to be out of compliance on these updates, but, at the same time, every year or every five year cycle it seems, when the state is due to have an update we come here and we extend it. It appears we're kind of doing the same thing here today and I just hope the chamber keeps in mind that penalties on municipalities for doing that same sort of delay shouldn't be one of our top priorities in this chamber.

I think the bill before us is a good bill. I think it's deserving of support today and I hope my colleagues will do so. Thank you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Thank you, sir.

Will you remark further?

Representative Cook.

REP. COOK (65th):

Good afternoon, Mr. Speaker. How are you?

DEPUTY SPEAKER O'CONNOR:

Good afternoon.

REP. COOK (65th):

Mr. Speaker, the Clerk has an amendment, LCO Number 4231. I ask that he call it and I receive permission to summarize.

DEPUTY SPEAKER O'CONNOR:

Will the Clerk please call LCO Number 4231, which will be designated House Amendment Schedule "A. "

We'll stand at ease.

(Chamber at ease. )

DEPUTY SPEAKER O'CONNOR:

Will the House please come back to order.

The amendment is not in the possession of the house clerk.

Will you remark further?

Representative Mushinsky.

REP. MUSHINSKY (85th):

Thank you, Mr. Speaker. A question to the proponent, through you.

DEPUTY SPEAKER O'CONNOR:

Please proceed, madam.

REP. MUSHINSKY (85th):

Representative Sharkey, if a project is seeking state funds today and the project is nonconforming on the locational guide map, today, then OPM can withhold funds from the project because it is not in compliance with the locational guide map. And the purpose of that existing law is to avoid taxpayer spending that promotes sprawl, such as running a sewer line into an undeveloped area of a town.

Under this bill, if we were to pass it, can OPM still withhold funds for nonconformity between now and 2014? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, yes because the current plan of conservation and development will remain in effect until the new plan is adopted. So therefore, lack of compliance with that state plan and the locational guide map would still be considered a violation that would be subject to withholding of funds. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Mushinsky.

REP. MUSHINSKY (85th):

One more question, through you, Mr. Speaker, then would you explain, again, what is the current discretionary funds that is being -- what is the prohibition on discretionary funds that is being withdrawn in this bill do? There's one stick in this bill, which is being removed, and towns will no longer be held liable. Could you explain what that stick is that's being lifted and when it would apply. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, I'm not sure I understand the gentlelady's question. I don't think there are any sticks that are being removed currently under this bill. All this bill is doing is calling on OPM to complete and recommend a process for the adoption of the next state plan of C and D. And in the interim, we are delaying the requirement that the state plan be adopted by 2011, which is currently the law and also allowing towns do not have to revise their local plans of C and D until 2013. So there's nothing about this bill that in any way removes a stick, if you will, in terms of the requirement that towns comply with the plan of C and D as it stands today. Through you, Mr. Speaker.

REP. MUSHINSKY (85th):

Through you, Mr. Speaker --

DEPUTY SPEAKER O'CONNOR:

Oh, Representative Mushinsky.

REP. MUSHINSKY (85th):

Thank you, Mr. Speaker.

Through you, according to the legislative review analysis, the bill disqualifies those that fail to update their plans from receiving discretionary state funds until they do so, that is prepare their ten year plan of conservation and development. So that means that there is no longer a penalty. They would be able to get funds even if their plan is not updated. Is that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, while the OLR report is referring to the town's obligation to update their local plans of C and D by a certain date, what this bill will do because the state plan is not in effect right now or the new plan is not in effect, as the previous discussion among the various



legislators, who were asking questions earlier, because the state plan is still -- the new state plan is still somewhat in flux, we're not going to ask our local towns to adopt brand new plans that may be due in this interim period because the plan that they adopt may be out of compliance with what the state ultimately produces.

Keep in mind that the state plan of C and D was supposed to have been produced originally by this year, by 2010. And we, last year, extended that to 2011 by Public Act 09-230 and now we're extending it a little bit further so that we can get a plan together so to speak. So we're just simply allowing towns that have not completed or are due to complete their local plans, a little extra time to do that until we get our plan in place. And -- and in this interim period for they will be declared in default simply because they haven't completed their plans. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Mushinsky.

REP. MUSHINSKY (85th):

Through you, Mr. Speaker -- thank you.

Just want to make -- ask one more clarifying question. So if, for example, a town adjacent to my town wanted to expand a sewer line into a rural part of my town, and my town objected or vice versa, and there was an appeal made to OPM to deny funds for the extension of this sewer line, OPM could still do that if the two towns did not disagree on the policy. Is that true? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, yes. That is true because the current plan of -- as long as that proposal is out of compliance with the current plan of C and D -- state plan of C and D, that is still what is the law, in effect, right now. So yes, that still would be subject to review.

DEPUTY SPEAKER O'CONNOR:

Representative Mushinsky.

REP. MUSHINSKY (85th):

Thank you, Representative Sharkey, for clarifying that. I now feel much better about this proposal than I did when I first looked at it now and I rise to support the bill.

I have actually tried myself to bring into conformity the state plans and town plans and it has been a horrendous, thankless and utterly futile task and the fact that you're willing to try this again, Representative Sharkey, my hat is off to you because if you can pull this off it's a wonderful thing, but if New Jersey can do it, well, certainly, Connecticut can do it, too. So let's give it a try.

And I hope you are successful with his merger of the plans. It will make us a stronger state. It will make us ready for the future. It will avoid a lot of needless fights and arguments that could be dealt with just by having a consistent, comprehensive plan. So I hope this works, Representative Sharkey and I will support the bill.

DEPUTY SPEAKER O'CONNOR:

Thank you, madam. Will you remark further?

Representative Hwang.

REP. HWANG (134th):

Thank you, Mr. Speaker.

I have some questions through you to the proponent of the bill.

DEPUTY SPEAKER O'CONNOR:

Please proceed, sir.

REP. HWANG (134th):

Thank you.

Representative Sharkey, I have a question as it relates to the cross-acceptance process as it relates to a town in my surrounding area, Bridgeport, which has about 137,000; Fairfield, about 58,000 people; and Trumbull, about 35. I'd like to be able to see how he would reconcile the differences in interest and, obviously, practices as it relates to each of those towns, large urban centers to residential communities and suburbs.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Well, through you, Mr. Speaker, I'm not sure that I'm qualified to take on that responsibility. I'm not sure that's really the subject of the bill because what the bill is doing is simply saying that, as the State develops its overall plan for conservation and development, that in the cross-acceptance process, the three towns that the gentleman is referring to will have a say in how that plan gets developed.

So it's not necessarily up to us here today in the chamber or me personally to decide how that will -- how those various interests may intersect or affect the state plan. That ultimately will be the process of the development of the next plan going forward and all this bill does is to empower OPM to develop a process to make that happen. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Hwang.

REP. HWANG (134th):

Through you, Mr. Speaker, when you say having a say, I think that leads to the question of, who will reach that consensus as to which party will lead in the interest of what is a cross-acceptance process? Meaning that when you talk about the say of whose interests shall preside -- proceed over those three parties. Through you, sir.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

I'm sorry, but Mr. Speaker. The gentleman please repeat the question.

DEPUTY SPEAKER O'CONNOR:

Representative Hwang.

REP. HWANG (134th):

Through you, sir.

When you say, in regards to a say of the cross acceptance, my question is which party will have a lead in initiating the process because, as I describe these three communities, they all have very different focuses, different priorities. So when you say, the State and the OPM office will have a say, how does that process go about? Who will take the lead in that? Is it going to be equally weighted among all three of those towns? Through you, sir.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Well, through you, Mr. Speaker, the idea of the state plan of C and D is that it's a consensus view of how the state, as a whole, should develop. So this is -- and it sets priorities for where and where not to develop, what areas of the state are appropriate for either new or -- new development or redevelopment and which ones are not.

So to the extent that there is a -- if any particular community -- well, I should say the new process now that is contemplated through this bill involves this cross acceptance, where local communities can share their opinions with OPM about how they think their communities should develop.

Now, OPM tries to keep -- and I think regionally speaking of OPM and the regional planning agencies and the

development of the regional plans try to incorporate and reflect the fact that there may be differences of opinion, there may be differences, just inherited differences between the various communities in our state.

So in that sense, the plan may reflect or should be reflecting all of those variations and to the extent that any particular community doesn't see their reality reflected in the plan, they will now have an opportunity to comment and hopefully get changes to those plans to be more reflective of what is happening for them on the ground.

Now, the interrelationship among the various towns themselves is not, you know, that's part of the plan, that's more of a function of the regional plan that's developed by the local council of governments and regional planning agencies. But I think how -- you know, the differences between the communities, that the gentleman is referring to, really is something that they individually can reflect back to the state and provide input to the state. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Hwang.

REP. HWANG (134th):

Through you, Mr. Speaker, and when you talk about that -- and thank you very much for that explanation. It was very helpful. My concern is when you look at weighting between those three towns and the decision-making process, is it -- are there criteria such as population size, economic or political? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Well, through you, Mr. Speaker it's -- the political is not so much a part of this. The plan -- the state plan C and D is designed to reflect the land uses and land conditions, the natural resource conditions on the ground. And is -- it designates certain areas of the state in certain ways to

reflect where development is appropriate versus where it may not be appropriate. Where development might occur versus where preservation should be occurring.

So it's not so much a document that reflects the societal realities, if you will, of particular communities. It's really more of a land-use tool to determine what's appropriate in terms of development and growth, as opposed to, you know, reflecting what the various income levels of a town may be or the density, if you will, of a community or what other needs might be -- social and cultural realities. It's more about the land use and physical realities, as opposed to the cultural and societal conditions of the political realities on the ground. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Hwang.

REP. HWANG (134th):

Through you, Mr. Speaker, when you look at development value, you're looking at three distinct towns that have such distinctly different economic values in land. And, you know, for this cross-acceptance process you're looking to reach agreement and reconciliation, but truly you are looking at three towns that have different economic land values assessment, different -- different focus in regards to the conservation and development philosophies through each zoning boards, as you can see.

How do you work about reconciling all that? That seems to be too much of a barrier to cross? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Well, through you, Mr. Speaker, we do it on a state level already. And basically we -- the state plan of conservation and development for the last few decades has been a

document to guide our land-use development from the 10,000 level, if you will.

What oftentimes -- you know, to the extent that there may be differences of intensity of use and other realities on the ground, the state plan, in theory, is designed to try to reflect that and proposed what might be or what shouldn't be. So, you know, and the criteria that are used are questions of, you know, what are the soil types in the area? What are the current natural resources the area? What infrastructure is already in place; the road system, the sewer systems, the water system, if they exist at all in those particular areas. And based upon those criteria, those areas wind up becoming designated as either a potential area for growth or an area where there should be no growth.

So the problem, though, has been over the decades is that that decision is made by bureaucrats in Hartford, which I'm not downplaying the, you know, the wisdom of our state workers, but one of the complaints is that it doesn't always reflect what a lot of the communities are concerned about locally. And sometimes there's a disconnect between the 10,000-foot level, the way we've always done it, and what's actually happening on the ground.

So I think, hopefully, what we'll have through this process is better input from the local level so that all of the variations that the gentleman is referring to between and among those communities can be reflected in the state plan and each individual community can have its own say in how that state plan addresses those concerns. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Hwang.

REP. HWANG (134th):

Thank you.

Through you, thank you very much for those answers. It was very helpful. Section 224, particularly as it relates to Fairfield and Bridgeport, it relates to Long Island Sound.

And talks about reasonable considerations in regards to combining services and reach maximum effect.

My question is an example of sewage treatment systems in those two communities. Fairfield has a system that is state-of-the-art, probably 15 to 20 years ahead in regards to its structure and its functionality. Bridgeport has a very good system, but its outreach and its extension out to the Sound is not nearly as arduous as Fairfield's. How do you reconcile when you say, reasonable consideration? They are difficult. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Through you, Mr. Speaker, I'm not sure to what document the gentleman is referring in terms of their use of reasonable consideration. If he could just tell me where he's pointing to on that.

DEPUTY SPEAKER O'CONNOR:

Representative Hwang.

REP. HWANG (134th):

Through you, Mr. Speaker, I'm looking at file 382, 224, for any municipality that is contiguous to Long Island Sound, such plan shall be, A, consistent with the municipal coast program requirements of Section 22a-101.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Well, through you, Mr. Speaker, this is existing statute. This particular provision to which the gentleman refers is existing law.

So I can comment on what I think it refers to back and tell you that it's not -- there's nothing about this bill that's



changing this particular section of the law as it stands today. I think the intent of this is, in the existing laws, is to reflect those three elements under A, B and C that are outlined in there. The municipal coastal program requirements, the restoration protection of ecosystems and habitats of Long Island Sound and the reduction of hypoxia pathogens toxic contaminants.

I think the plan, what it's saying, is that the state plan of C and D has to incorporate a concern for those three elements in any plan that develops. Again, nothing in this bill takes that. This is existing law. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Hwang.

REP. HWANG (134th):

Through you, Mr. Speaker, so if we were to cross accept each other and work together to reach reasonable consideration, state statute would rule first, if I may, through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

I'm sorry, Mr. Speaker. Can the gentleman please repeat the question.

DEPUTY SPEAKER O'CONNOR:

Please restate the question, Representative Hwang.

REP. HWANG (134th):

If the cross-acceptance process and the smart planning process was put into play, would state statute rule.

DEPUTY SPEAKER O'CONNOR:

Representative Sharkey.

REP. SHARKEY (88th):

Yes. There's nothing about what the bill is proposing -- the bill is talking about the methodology by which we develop the state plan. So in terms of the recommendations that OPM makes to us about how to incorporate cross acceptance into the plan and the development of the plan, nothing about that will change this particular provision, for example, in terms of how and what the plan, itself, must reflect. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Hwang.

REP. WOOD (141st):

Through you, sir. Thank you.

Thank you to the proponent. It was very helpful. I appreciate it.

DEPUTY SPEAKER O'CONNOR:

Thank you, sir.

Will you remark further?

Representative Cook.

REP. COOK (65th):

Good afternoon, Mr. Speaker. Let's try this again.

DEPUTY SPEAKER O'CONNOR:

Good afternoon.

REP. COOK (65th):

Mr. Speaker, the Clerk has an amendment, LCO 5511. I ask that he call it and I receive permission to summarize. LCO number 5511.

DEPUTY SPEAKER O'CONNOR:

Will the Clerk please call LCO number 5511, which will be designated House Amendment Schedule "A. "

THE CLERK:

LCO number 5511, House "A" offered by Representatives Cook, Willis, Senators Witkos and Roraback.

DEPUTY SPEAKER O'CONNOR:

The Representative seeks leave of the chamber to summarize the amendment.

Is there objection to summarization? Is there objection?

Hearing none, Representative Cook, you may proceed .

REP. COOK (65th):

Thank you, Mr. Speaker.

Mr. Speaker, in 1735, Wolcottville, Connecticut was founded. In the 1800s, it then became Torrington. In 1839, the town cemetery was under the Wolcottville School Society and was recognized in statute in 1857. The Wolcottville Society no longer exists. This amendment dissolves the Wolcottville School Society and transfers the cemetery to Center Cemetery Association of Torrington. I urge adoption.

DEPUTY SPEAKER O'CONNOR:

The question before the Chamber is adoption of House Amendment Schedule "A. "

Will you remark further?

Representative Sharkey.

REP. SHARKEY (88th):

Mr. Speaker, I rise in support of this amendment and appreciate Representative Cook's diligence on this effort and I urge my colleagues to support it.

DEPUTY SPEAKER O'CONNOR:

Will you remark further?

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker.

Just two questions, if I might, to the proponent of the amendment.

DEPUTY SPEAKER O'CONNOR:

Please proceed, sir.

REP. MINER (66th):

Thank you, Mr. Speaker.

Just looking, I guess, for consistency, is this the kind of transition that might exist in any document showing the normal transition in terms of funds or the corporation? Through you.

DEPUTY SPEAKER O'CONNOR:

Representative Cook.

REP. COOK (65th):

Mr. Speaker, I am unsure of that answer.

DEPUTY SPEAKER O'CONNOR:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. That's good enough.

DEPUTY SPEAKER O'CONNOR:

Thank you, sir.

Will you remark further?

Representative Miller.

REP. MILLER (122nd):

Thank you, Mr. Speaker.

I have a question or two.

DEPUTY SPEAKER O'CONNOR:

Please proceed, sir.

REP. MILLER (122nd):

Thank you.

The policies that -- establishing a large-scale state-funded capital project, can you tell me --

DEPUTY SPEAKER O'CONNOR:

Sir, would you please speak to the amendment, please.

REP. MILLER (122nd):

I want to speak on the bill. I'm sorry. I apologize.

DEPUTY SPEAKER O'CONNOR:

No problem, sir.

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker.

A question, through you, to the proponent of the amendment.

DEPUTY SPEAKER O'CONNOR:

Please proceed, madam.

REP. SAWYER (55th):

Thank you, Mr. Speaker.

In this particular situation, do you know if there are any funds in any extra accounts that might need to be transferred as well. Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Cook.

REP. COOK (65th):

Through you, Mr. Speaker, not to my knowledge.

DEPUTY SPEAKER O'CONNOR:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, sir.

And just one final question. Do you -- in your understanding, is the Center Cemetery Association in Torrington in good standing? Through you, Mr. Speaker.

DEPUTY SPEAKER O'CONNOR:

Representative Cook.

REP. COOK (65th):

Through you, Mr. Speaker, yes it is.

DEPUTY SPEAKER O'CONNOR:

Representative Sawyer.

REP. SAWYER (55th):

I thank the gentleman for her answers to those two questions and I would lend my endorsement to this particular amendment.

DEPUTY SPEAKER O'CONNOR:

Thank you, madam.

Will you remark further? Will you remark further on the amendment before us.

If not, let me try your minds.

All those in favor, please signify by saying, aye.

REPRESENTATIVES:

Aye.

SPEAKER DONOVAN:

All those opposed, nay.

The ayes have it. The amendment is adopted.

Will you remark further on the bill as amended? Will you remark further on the bill as amended?

If not, will staff and guests please come to the well of the House. Will the members please take their seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is voting by roll call. Members to the chamber.

DEPUTY SPEAKER O'CONNOR:

Have all the members voted? Have all the members voted? Will the members please check the board to determine if your vote is properly cast.

If all the members have voted, the machine will be locked and the Clerk will take a tally.

Will the Clerk announce the tally.

THE CLERK:

Senate Bill number 199 as amended by House "A. "

Total number voting 148

Necessary for adoption 75

Those voting Yea 148

Those voting Nay 0

Those absent and not voting 3

DEPUTY SPEAKER O'CONNOR:

The bill as amended passes.