



Substitute House Bill No. 5289

Public Act No. 14-222

AN ACT ESTABLISHING THE CONNECTICUT PORT AUTHORITY.

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

Section 1. (NEW) (*Effective October 1, 2015*) (a) There is hereby established and created a body politic and corporate, constituting a public instrumentality and political subdivision of the state of Connecticut established and created for the performance of an essential public and governmental function, to be known as the Connecticut Port Authority. The authority shall not be construed to be a department, institution or agency of the state. The purposes of the Connecticut Port Authority shall be to coordinate port development, with a focus on private and public investments, pursue federal and state funds for dredging and other infrastructure improvements to increase cargo movement through Connecticut ports, market the advantages of such ports to the domestic and international shipping industry, coordinate the planning and funding of capital projects promoting the development of such ports and develop strategic entrepreneurial initiatives that may be available to the state. The authority is authorized and empowered to:

(1) Have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of its affairs and the conduct of its business;

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(2) Adopt an official seal and alter the same at pleasure;

(3) Maintain an office at such place or places as it may designate;

(4) Sue and be sued in its own name, and plead and be impleaded;

(5) Develop an organizational and management structure that will best accomplish the goals of the authority concerning Connecticut ports;

(6) Create a code of conduct for the board of directors of the authority consistent with part I of chapter 10 of the general statutes;

(7) Adopt rules for the conduct of its business, which shall not be considered regulations as defined in subdivision (13) of section 4-166 of the general statutes; and

(8) Adopt an annual budget and plan of operations, including a requirement of board approval before the budget or plan may take effect.

(b) The authority shall continue as long as it has bonds or other obligations outstanding and until its existence is terminated by law, provided no such termination shall affect any outstanding contractual obligation of the authority and the state shall succeed to the obligations of the authority under any contract. Upon the termination of the existence of the authority, all its rights and properties shall pass to and be vested in the state of Connecticut.

(c) The powers of the authority shall be vested in and exercised by a board of directors, which shall consist of fifteen voting members as follows: (1) The State Treasurer, or the Treasurer's designee, the Commissioner of Energy and Environmental Protection, or the commissioner's designee, the Commissioner of Transportation, or the commissioner's designee, and the Commissioner of Economic and

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Community Development, or the commissioner's designee, all of whom shall serve ex officio; (2) one appointed by the speaker of the House of Representatives for a term of two years; (3) one appointed by the majority leader of the House of Representatives for a term of two years; (4) one appointed by the minority leader of the House of Representatives for a term of two years; (5) one appointed by the president pro tempore of the Senate for a term of four years; (6) one appointed by the majority leader of the Senate for a term of four years; (7) one appointed by the minority leader of the Senate for a term of four years; and (8) five appointed by the Governor, two for a term of four years and three for a term of two years. Thereafter, such members of the General Assembly and the Governor shall appoint members of the board to succeed such appointees whose terms expire and each member so appointed shall hold office for a period of four years from the first day of July in the year of his or her appointment. Appointed members shall have business and management experience and shall include individuals who have experience and expertise in one or more of the following areas: (A) International trade, (B) marine transportation, (C) finance, or (D) economic development. The board of directors shall select the chairperson from among the members of the board, who shall serve for a term of four years. The board of directors shall select a vice-chairperson from among its members and such other officers as it deems necessary.

(d) No appointed member of the board of directors may designate a representative to perform his or her respective duties under this section in such member's absence. Any appointed member who fails to attend three consecutive meetings of the board or who fails to attend fifty per cent of all meetings of the board held during any calendar year shall be deemed to have resigned from the board. Any vacancy occurring other than by expiration of term shall be filled not later than thirty days following the occurrence of such vacancy in the same manner as the original appointment for the balance of the unexpired

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term. The appointing authority for any member may remove such member for inefficiency, neglect of duty or misconduct in office after giving the member a copy of the charges against the member and an opportunity to be heard, in person or by counsel, in the member's defense, upon not less than ten days' notice. If any member shall be so removed, the appointing authority for such member shall file in the office of the Secretary of the State a complete statement of charges made against such member and the appointing authority's findings on such statement of charges, together with a complete record of the proceedings.

(e) The members of the board of directors shall appoint an executive director of the authority who shall not be a member of the board and shall serve at the pleasure of the board and receive such compensation as shall be fixed by the board. The executive director shall: (1) Have extensive experience in the development and management of multiuse port operations; (2) be the chief administrative officer of the authority and direct and supervise administrative affairs and technical activities in accordance with the directives of the board; (3) approve all accounts for salaries, allowable expenses of the authority or of any employee or consultant thereof, and expenses incidental to the operation of the authority; (4) perform such other duties as may be directed by the board in carrying out the purposes of this section; (5) be exempt from the classified service; and (6) attend all meetings of the board, keep a record of the proceedings of the authority and shall maintain and be custodian of all books, documents and papers filed with the authority and of the minute book or journal of the authority and of its official seal. The executive director may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

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(f) Each member of the board of directors shall serve without compensation, but shall be reimbursed for such member's actual and necessary expenses incurred during the performance of such member's official duties.

(g) Members of the board of directors may engage in private employment, or in a profession or business, subject to any applicable laws, rules and regulations of the state regarding official ethics or conflict of interest.

(h) Notwithstanding any provision of the general statutes, it shall not constitute a conflict of interest for a trustee, director, partner or officer of any person, firm or corporation, or any individual having a financial interest in a person, firm or corporation, to serve as a member of the board of directors of the authority, provided such trustee, director, partner, officer or individual shall comply with all applicable provisions of chapter 10 of the general statutes.

(i) Eight members of the board of directors of the authority shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. For the transaction of any business or the exercise of any power of the authority, and except as otherwise provided in this section, the authority may act by a majority of the members present at any meeting at which a quorum is in attendance.

(j) The board may delegate to eight or more members such board powers and duties as it may deem necessary and proper in conformity with the provisions of this section and its bylaws.

(k) The initial members of the board may begin service immediately upon appointment, but shall not serve past the sixth Wednesday of the next regular session of the General Assembly unless qualified in the manner provided in section 4-7 of the general statutes. Thereafter, all appointments shall be made with the advice and consent of both

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houses of the General Assembly, in the manner provided in section 4-19 of the general statutes.

(l) On or before December fifteenth of each year, the board shall report, in accordance with the provisions of section 11-4a of the general statutes, to the Governor and the joint standing committees of the General Assembly having cognizance of matters relating to transportation, commerce and the environment, summarizing the authority's activities, disclosing operating and financial statements and recommending legislation to promote the authority's purposes.

(m) Not later than seven days after receiving an audit of the authority conducted by an independent auditing firm, the board shall submit, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations, commerce, the environment and transportation a copy of each such audit.

Sec. 2. (*Effective from passage*) (a) There is established a Port Authority Working Group. Such working group shall prepare and submit recommendations to the Department of Economic and Community Development on the powers and duties of the board of directors of the Connecticut Port Authority, established pursuant to section 1 of this act, regarding: (1) Employment and personnel practices and policies, including those relating to hiring, promotion, compensation, retirement and collective bargaining; (2) issuance of bonds; (3) authority to acquire, lease, purchase, own, manage, hold and dispose of personal and real property; (4) authority to make and enter into contracts and agreements; and (5) any other powers, duties or functions of the Connecticut Port Authority. The Port Authority Working Group shall terminate on October 1, 2015.

(b) The Port Authority Working Group shall consist of the following

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members: (1) The Commissioner of Economic and Community Development, or the commissioner's designee; (2) the Treasurer, or the Treasurer's designee; (3) one appointed by the speaker of the House of Representatives who shall be a member of the Connecticut Marine Trades Association; (4) one appointed by the majority leader of the House of Representatives who shall be a representative of a coastal municipality with a population not greater than one hundred thousand; (5) one appointed by the minority leader of the House of Representatives who shall be a member of the Connecticut Pilot Commission; (6) one appointed by the president pro tempore of the Senate who shall be a member of the Connecticut Maritime Commission; (7) one appointed by the majority leader of the Senate who shall be a representative of New Haven; (8) one appointed by the minority leader of the Senate who shall be a member of the Connecticut Harbor Management Association; (9) one appointed by the cochairpersons of the joint standing committee of the General Assembly having cognizance of matters relating to transportation who shall be a representative of New London; (10) one appointed by the ranking members of the joint standing committee of the General Assembly having cognizance of matters relating to transportation who shall be a representative of Bridgeport; (11) three appointed by the Governor; and (12) any other member that the Commissioner of Economic and Community Development deems appropriate. All appointments shall be made not later than ninety days after the effective date of this section.

(c) The members of the Port Authority Working Group shall select a chairperson from among said group's membership who shall, in consultation with the Department of Economic and Community Development, be responsible for the scheduling and conducting of any such meeting.

(d) The Department of Economic and Community Development

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shall, within available appropriations, provide staff support to the Port Authority Working Group.

(e) The Commissioner of Economic and Community Development shall convene the first meeting of the Port Authority Working Group not later than ninety days after the effective date of this section, and the working group shall meet not less than once per month thereafter.

Sec. 3. (*Effective from passage*) The Commissioner of Economic and Community Development, after consultation with the Commissioner of Transportation, the Commissioner of Energy and Environmental Protection, the Secretary of the Office of Policy and Management and the Port Authority Working Group established pursuant to section 2 of this act, shall, within available appropriations, (1) develop a plan to transition the maritime functions of the Department of Transportation to the Connecticut Port Authority; (2) review and make recommendations for state policies that affect Connecticut's ports; (3) coordinate state, regional and local efforts to encourage the growth of Connecticut's ports; (4) develop a plan to transition the functions of the Connecticut Maritime Commission to the Connecticut Port Authority after the establishment of the Connecticut Port Authority; (5) develop a plan concerning the bonding authority of the Connecticut Port Authority; (6) develop a proposed business and operating plan for the consideration of the board of directors of the Connecticut Port Authority upon its creation; and (7) prepare and submit, on or before March 1, 2015, a report of activities, findings and recommendations concerning the establishment of the Connecticut Port Authority to the Governor and the joint standing committees of the General Assembly having cognizance of matters relating to commerce, transportation and the environment, in accordance with the provisions of section 11-4a of the general statutes.

Sec. 4. Subdivision (12) of section 1-79 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu

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thereof (*Effective October 1, 2015*):

(12) "Quasi-public agency" means Connecticut Innovations, Incorporated, [and] the Connecticut Health and Education Facilities Authority, the Connecticut Higher Education Supplemental Loan Authority, the Connecticut Housing Finance Authority, the State Housing Authority, the Connecticut Resources Recovery Authority, the Capital Region Development Authority, the Connecticut Lottery Corporation, the Connecticut Airport Authority, the Health Information Technology Exchange of Connecticut, the Connecticut Health Insurance Exchange, [and] the Clean Energy Finance and Investment Authority and the Connecticut Port Authority.

Sec. 5. Subdivision (1) of section 1-120 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(1) "Quasi-public agency" means Connecticut Innovations, Incorporated, [and] the Connecticut Health and Educational Facilities Authority, the Connecticut Higher Education Supplemental Loan Authority, the Connecticut Housing Finance Authority, the Connecticut Housing Authority, the Connecticut Resources Recovery Authority, the Capital Region Development Authority, the Connecticut Lottery Corporation, the Connecticut Airport Authority, the Health Information Technology Exchange of Connecticut, the Connecticut Health Insurance Exchange, [and] the Clean Energy Finance and Investment Authority and the Connecticut Port Authority.

Sec. 6. Section 1-124 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) Connecticut Innovations, Incorporated, the Connecticut Health and Educational Facilities Authority, the Connecticut Higher Education Supplemental Loan Authority, the Connecticut Housing

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Finance Authority, the Connecticut Housing Authority, the Connecticut Resources Recovery Authority, the Health Information Technology Exchange of Connecticut, the Connecticut Airport Authority, the Capital Region Development Authority, the Connecticut Health Insurance Exchange, [and] the Clean Energy Finance and Investment Authority and the Connecticut Port Authority shall not borrow any money or issue any bonds or notes which are guaranteed by the state of Connecticut or for which there is a capital reserve fund of any kind which is in any way contributed to or guaranteed by the state of Connecticut until and unless such borrowing or issuance is approved by the State Treasurer or the Deputy State Treasurer appointed pursuant to section 3-12. The approval of the State Treasurer or said deputy shall be based on documentation provided by the authority that it has sufficient revenues to (1) pay the principal of and interest on the bonds and notes issued, (2) establish, increase and maintain any reserves deemed by the authority to be advisable to secure the payment of the principal of and interest on such bonds and notes, (3) pay the cost of maintaining, servicing and properly insuring the purpose for which the proceeds of the bonds and notes have been issued, if applicable, and (4) pay such other costs as may be required.

(b) To the extent Connecticut Innovations, Incorporated, [and] the Connecticut Higher Education Supplemental Loan Authority, the Connecticut Housing Finance Authority, the Connecticut Housing Authority, the Connecticut Resources Recovery Authority, the Connecticut Health and Educational Facilities Authority, the Health Information Technology Exchange of Connecticut, the Connecticut Airport Authority, the Capital Region Development Authority, the Connecticut Health Insurance Exchange, [or] the Clean Energy Finance and Investment Authority or the Connecticut Port Authority is permitted by statute and determines to exercise any power to moderate interest rate fluctuations or enter into any investment or

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program of investment or contract respecting interest rates, currency, cash flow or other similar agreement, including, but not limited to, interest rate or currency swap agreements, the effect of which is to subject a capital reserve fund which is in any way contributed to or guaranteed by the state of Connecticut, to potential liability, such determination shall not be effective until and unless the State Treasurer or his or her deputy appointed pursuant to section 3-12 has approved such agreement or agreements. The approval of the State Treasurer or his or her deputy shall be based on documentation provided by the authority that it has sufficient revenues to meet the financial obligations associated with the agreement or agreements.

Sec. 7. Section 1-125 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

The directors, officers and employees of Connecticut Innovations, Incorporated, [and] the Connecticut Higher Education Supplemental Loan Authority, the Connecticut Housing Finance Authority, the Connecticut Housing Authority, the Connecticut Resources Recovery Authority, including ad hoc members of the Connecticut Resources Recovery Authority, the Connecticut Health and Educational Facilities Authority, the Capital Region Development Authority, the Health Information Technology Exchange of Connecticut, the Connecticut Airport Authority, the Connecticut Lottery Corporation, the Connecticut Health Insurance Exchange, [and] the Clean Energy Finance and Investment Authority and the Connecticut Port Authority and any person executing the bonds or notes of the agency shall not be liable personally on such bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof, nor shall any director or employee of the agency, including ad hoc members of the Connecticut Resources Recovery Authority, be personally liable for damage or injury, not wanton, reckless, wilful or malicious, caused in the performance of his or her duties and within the scope of his or her

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employment or appointment as such director, officer or employee, including ad hoc members of the Connecticut Resources Recovery Authority. The agency shall protect, save harmless and indemnify its directors, officers or employees, including ad hoc members of the Connecticut Resources Recovery Authority, from financial loss and expense, including legal fees and costs, if any, arising out of any claim, demand, suit or judgment by reason of alleged negligence or alleged deprivation of any person's civil rights or any other act or omission resulting in damage or injury, if the director, officer or employee, including ad hoc members of the Connecticut Resources Recovery Authority, is found to have been acting in the discharge of his or her duties or within the scope of his or her employment and such act or omission is found not to have been wanton, reckless, wilful or malicious.

Sec. 8. Section 13b-55a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) In addition to municipal requests for a grant-in-aid pursuant to section 13b-57, harbor improvement projects may be initiated by the Commissioner of Transportation on behalf of the state or for the state on behalf of the federal government. Recommendations on the prioritization or inclusion of projects shall be submitted to the commissioner by the Connecticut [Maritime Commission] Port Authority. The department shall contract for the provision of goods and services to harbors and waterways for such improvements, and shall provide the funding required under such contracts, except that the commissioner may enter into agreements with other state agencies or municipalities for such agencies or municipalities to provide the funding for any of such contracts. The department shall administer all contracts entered into under this section.

(b) All contracts are subject to final negotiation of the scope and budget for a given project. Contracting periods may vary depending

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on each project. Payments shall be made on a reimbursement basis for deliverables completed no later than the dates of service of an executed contract. Appropriate back-up information shall be included with each payment request indicating that services have been rendered. The department may elect to provide part or all of the funds necessary as an upfront payment, provided funds are held in a separate, noninterest bearing account and are expended not later than sixty days after such funds are provided.

(c) Harbor improvement projects include the preparation of plans, studies and construction for the alteration and improvement of various state, municipal and other properties in or adjacent to the waters of the state, for the purpose of improving the economy and infrastructure of the state.

Sec. 9. Subdivision (2) of subsection (b) of section 12-587 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(2) Gross earnings derived from the first sale of the following petroleum products within this state shall be exempt from tax: (A) Any petroleum products sold for exportation from this state for sale or use outside this state; (B) the product designated by the American Society for Testing and Materials as "Specification for Heating Oil D396-69", commonly known as number 2 heating oil, to be used exclusively for heating purposes or to be used in a commercial fishing vessel, which vessel qualifies for an exemption pursuant to section 12-412; (C) kerosene, commonly known as number 1 oil, to be used exclusively for heating purposes, provided delivery is of both number 1 and number 2 oil, and via a truck with a metered delivery ticket to a residential dwelling or to a centrally metered system serving a group of residential dwellings; (D) the product identified as propane gas, to be used exclusively for heating purposes; (E) bunker fuel oil, intermediate fuel, marine diesel oil and marine gas oil to be used in any vessel (i)

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having a displacement exceeding four thousand dead weight tons, or (ii) primarily engaged in interstate commerce; (F) for any first sale occurring prior to July 1, 2008, propane gas to be used as a fuel for a motor vehicle; (G) for any first sale occurring on or after July 1, 2002, grade number 6 fuel oil, as defined in regulations adopted pursuant to section 16a-22c, to be used exclusively by a company which, in accordance with census data contained in the Standard Industrial Classification Manual, United States Office of Management and Budget, 1987 edition, is included in code classifications 2000 to 3999, inclusive, or in Sector 31, 32 or 33 in the North American Industrial Classification System United States Manual, United States Office of Management and Budget, 1997 edition; (H) for any first sale occurring on or after July 1, 2002, number 2 heating oil to be used exclusively in a vessel primarily engaged in interstate commerce, which vessel qualifies for an exemption under section 12-412; (I) for any first sale occurring on or after July 1, 2000, paraffin or microcrystalline waxes; (J) for any first sale occurring prior to July 1, 2008, petroleum products to be used as a fuel for a fuel cell, as defined in subdivision (113) of section 12-412; (K) a commercial heating oil blend containing not less than ten per cent of alternative fuels derived from agricultural produce, food waste, waste vegetable oil or municipal solid waste, including, but not limited to, biodiesel or low sulfur dyed diesel fuel; (L) for any first sale occurring on or after July 1, 2007, diesel fuel other than diesel fuel to be used in an electric generating facility to generate electricity; (M) for any first sale occurring on or after July 1, 2013, cosmetic grade mineral oil; or (N) propane gas to be used as a fuel for a school bus.

Sec. 10. Subdivision (3) of subsection (a) of section 12-458 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(3) Said tax shall not be payable on such fuel as may have been (A)

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sold to the United States, (B) sold to a municipality of this state, (i) for use by any contractor performing a service for such municipality in accordance with a contract, provided such fuel is used by such contractor exclusively for the purposes of and in accordance with such contract, or (ii) for use exclusively in a school bus, as defined in section 14-275, (C) sold to a municipality of this state, a transit district of this state, or this state, at other than a retail outlet, for governmental purposes and for use in vehicles owned and operated, or leased and operated by such municipality, such transit district or this state, (D) sold to a person licensed as a distributor in this state under section 12-456, (E) transferred from storage within this state to some point without this state, (F) sold to the holder of a permit issued under section 12-458a for sale or use without this state, (G) sold to the holder of a permit issued under subdivision (63) of section 12-412, provided (i) such fuel is not used in motor vehicles registered or required to be registered to operate upon the public highways of this state, unless such fuel is used in motor vehicles registered exclusively for farming purposes, (ii) such fuel is not delivered, upon such sale, to a tank in which such person keeps fuel for personal and farm use, and (iii) a statement, prescribed as to form by the Commissioner of Revenue Services and bearing notice to the effect that false statements made under this section are punishable, that such fuel is used exclusively for farming purposes, is submitted by such person to the distributor, (H) sold exclusively to furnish power for an industrial plant in the actual fabrication of finished products to be sold, or for the fishing industry, (I) sold exclusively for heating purposes, (J) sold exclusively to furnish gas, water, steam or electricity, if delivered to consumers through mains, lines or pipes, (K) sold to the owner or operator of an aircraft, as defined in section 15-34, exclusively for aviation purposes, provided (i) for purposes of this subdivision, "aviation purposes" means for the purpose of powering an aircraft or an aircraft engine, (ii) such fuel is delivered, upon such sale, to a tank in which fuel is kept exclusively for aviation purposes, and (iii) a statement, prescribed as to form by

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the Commissioner of Revenue Services and bearing notice to the effect that false statements made under this section are punishable, that such fuel is used exclusively for aviation purposes, is submitted by such person to the distributor, (L) sold to a dealer who is licensed under section 12-462 and whose place of business is located upon an established airport within this state, [or] (M) diesel fuel sold exclusively for use in portable power system generators that are larger than one hundred fifty kilowatts, or (N) sold for use in any vessel (i) having a displacement exceeding four thousand dead weight tons, or (ii) primarily engaged in interstate commerce.

Approved June 13, 2014