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## **OLR Bill Analysis**

### **sSB 33**

#### ***AN ACT ESTABLISHING A NEW HAVEN REGION DEVELOPMENT AUTHORITY.***

#### **SUMMARY:**

This bill creates the quasi-public New Haven Region Development Authority (NRDA) to, among other things, stimulate economic development and promote tourism, art, culture, history, education, and entertainment in New Haven and the region. It authorizes NRDA to develop and redevelop property and manage facilities in a development district encompassing parts of downtown New Haven, Wooster Square, and the Hill (defined as "NRDA development district") and develop property in other parts of the city at the mayor's request (defined as "city projects"). The bill allows NRDA to assist with development efforts in the six municipalities contiguous to New Haven (East Haven, Hamden, North Haven, Orange, West Haven, and Woodbridge, defined as "greater New Haven").

The bill establishes a 13-member board to govern NRDA and gives it general powers to operate as a quasi-public agency and development-specific powers for projects within the NRDA development district. It authorizes NRDA to (1) issue bonds and other notes backed by its financial resources, with the State Bond Commission's approval, and (2) enter into a memorandum of understanding (MOU) with New Haven or another city authority for administrative support and services. It subjects NRDA to specific auditing and reporting requirements.

The bill also exempts the New Haven train station's physical development from local oversight when undertaken by NRDA or another state or public entity. The exemption specifically applies to the station's demolition, construction, repair, improvement, extension, and expansion. Under the bill, the state building inspector and state fire

marshal have original jurisdiction over the station, including conducting necessary reviews and inspections and issuing (1) building permits; (2) certificates of occupancy; or (3) other permits or certificates related to building construction, occupancy, and fire safety.

EFFECTIVE DATE: Upon passage

### **QUASI-PUBLIC AGENCY**

The bill makes NRDA a public instrumentality and political subdivision of the state, created to perform an essential public and government function, but specifies that it is not a state agency, department, or institution. It has perpetual succession as long as any of its obligations are outstanding. Its rights and properties vest in the state when it lawfully terminates.

The bill does not place NRDA under a number of existing laws that apply to quasi-public agencies. These include laws subjecting (1) board members and employees to the state ethics code and (2) the authority to biennial audits by the state auditors.

### **GOVERNANCE**

#### ***Board Membership***

Under the bill, NRDA's 13-member board consists of seven appointed directors; the chair of the South Central Regional Council of Governments (or vice-chair if the chair is New Haven's mayor); and five ex officio, voting directors: the New Haven mayor; the Office of Policy and Management (OPM) secretary; and the transportation, housing, and Department of Economic and Community Development (DECD) commissioners, or their designees.

Table 1 lists the appointed directors, their appointing authority, and initial terms. All appointments must be made within 30 days after the bill's passage.

**Table 1: NRDA Appointed Board Directors**

<b><i>Appointing Authority</i></b>	<b><i>Number of Appointments</i></b>	<b><i>Initial Term</i></b>
Governor	Three	Four years
New Haven mayor	Two, one of whom is a	Three

	nonelected, city employee responsible for economic development	years
House speaker and Senate president pro tempore (jointly)	One	Two years
House and Senate minority leaders (jointly)	One	Two years

After their initial terms, appointed directors serve four-year, staggered terms and may be reappointed. Each must take the constitutional oath of office. Directors (1) may be removed by the appointing authority for malfeasance or wilful neglect of duty and (2) are deemed to have resigned if they miss three consecutive meetings or 50% of the meetings in a calendar year.

### ***Duties***

The board must adopt a budget and bylaws. It must report twice a year to the appointing authorities about its operations, finances, and achievement of economic development objectives. The board is accountable to the state and must cooperate with it when it audits NRDA's operations and projects. It must grant the state reasonable access to NDRA projects and records.

### ***Board Deliberations***

A majority of the directors constitutes a quorum, and a majority of those present can act. Vacancies do not prevent a quorum from acting. The board may act by adopting resolutions at regular or special meetings, which take effect immediately, unless the resolution specifies otherwise. The board must keep records of its proceedings in a form it chooses, indicating each director's attendance and votes cast.

The board may delegate any of its powers and duties to three or more directors, agents, or employees.

### ***Chairperson and Executive Director***

The governor appoints the board chairperson. The board elects a vice-chairperson and other officers and appoints an executive

committee and executive director, who cannot be a board member.

***Surety and Compensation***

The bill requires the authority to provide either an individual surety bond for at least \$100,000 for each director and the executive director or a comprehensive bond covering the directors, executive director, and employees. The attorney general must approve the bond, which must be filed with the secretary of the state.

Board directors are not paid, but they are reimbursed for expenses.

***Conflict of Interest***

The bill prohibits directors from having a financial interest in a:

1. city project or authority development project,
2. project undertaken by the authority within the greater New Haven region,
3. property included or planned for inclusion in any such projects,  
or
4. contract or proposed contract for material or services used in the projects.

***Indemnification***

NRDA directors and employees are not personally liable for bonds NRDA issues or for any damage or injury caused by performing duties within the scope of their employment or appointment, as long as the actions are not willful, wanton, reckless, or malicious.

NRDA must indemnify its directors, officers, and employees from financial loss and expense arising from certain specified claims, demands, suits, or judgments involving their actions. This protection applies to individuals performing their duties or acting within the scope of their employment, as long as the act or omission was not wanton, reckless, willful, or malicious.

The bill also requires the state to indemnify NRDA and its directors,

officers, and employees from financial loss and expense resulting from a claim, demand, suit, or judgment connected to an act or omission connected to a NRDA development district project. The protection applies to individuals performing their duties or acting within the scope of their employment, as long as the act or omission was not wanton, reckless, willful, or malicious.

## **PURPOSE**

Under the bill, NRDA must (1) stimulate new investment in New Haven and economic development in the greater New Haven region and (2) promote tourism, art, culture, history, education, and entertainment by cooperating with city and regional organizations and DECD.

It must also:

1. encourage residential housing development;
2. manage facilities through contractual agreements or other legal instruments;
3. assist cities and towns in the region, at the request of their legislative bodies, in development and redevelopment efforts to stimulate the region's economy and increase tourism;
4. enter into a funding agreement to develop or redevelop property within the NRDA development district, at the OPM secretary's request; and
5. develop and redevelop property in New Haven outside the NRDA development district, at the mayor's request.

## **POWERS**

### ***General and Development-Specific Powers***

The bill gives NRDA general powers to function as a quasi-public agency and specific powers related to projects occurring within the NRDA development district's boundaries ("authority development projects"). The general powers allow it to:

1. have perpetual succession as a body corporate;
2. adopt and alter a corporate seal;
3. adopt procedures for regulating and conducting its affairs;
4. maintain offices in New Haven;
5. sue and be sued;
6. purchase insurance for its property, other assets, and employees;
7. enter into contracts and MOUs;
8. acquire, lease, and dispose of personal property;
9. invest funds not immediately needed in (a) U.S.- or state-issued or -guaranteed obligations, including the Short Term Investment Fund and Tax-Exempt Proceeds Fund, (b) legal investments for savings banks in Connecticut, and (c) time deposits, certificates of deposit, or similar arrangements; and
10. do all things necessary and convenient to carry out these powers.

The bill authorizes NRDA to employ necessary staff and specifies that they are not state employees under the state's collective bargaining law. NRDA may establish and modify personnel procedures, including employee compensation, and enter into collective bargaining agreements with labor unions.

With respect to projects occurring in the NRDA development district's boundaries, NDRA may:

1. acquire and dispose of property;
2. acquire property by eminent domain, in consultation with New Haven's mayor and according to the procedures redevelopment agencies use when taking property;

3. plan for, acquire, finance, construct, develop, operate, market, and maintain facilities;
4. collect fees and rents from the facilities it develops and adopt procedures for operating them;
5. enter into contracts;
6. borrow money, issue bonds, and enter into credit and other agreements to make the bonds more marketable;
7. engage independent professionals, such as lawyers, accountants, and architects;
8. adopt and amend procurement procedures; and
9. receive money, property, and labor from any source, including government sources.

***MOU with New Haven***

The bill authorizes NRDA to enter into an MOU with New Haven pursuant to which the city or another authority in the city (1) provides administrative support and services, including staff support and (2) administers NDRA's contracts and accounts. The MOU may also coordinate management and operational activities, including:

1. joint procurement and contracting;
2. sharing services and resources;
3. coordinating promotional activities; and
4. arrangements enhancing revenues, reducing operating costs, or achieving operating efficiencies.

The MOU can specify the terms and conditions for these relationships, including reimbursement by NRDA to the city or city authority.

***Bonding Authority***

Under the bill, NRDA can issue bonds and other notes with terms of

up to 30 years. The bonds are secured, unless expressly provided, by NRDA's financial resources. The bill prohibits NRDA from issuing any bonds without State Bond Commission approval. This approval is contingent on the commission finding that the bond issue is in the public interest.

The bill allows NRDA to determine how it will issue and repay the bonds and specifies the terms and conditions it may include in its agreement with bondholders.

Authority bonds are not backed by the state's full faith and credit or guaranteed by the state or any political subdivision of it and must say so on their face. They do not count toward the state's bond cap. NRDA may make whatever representations or agreements are needed to exempt its bonds from federal income tax.

The authority's pledge of its income, revenue, or other property is legally binding and subject to liens. The bill specifies that a lien on such a pledge is binding against all parties with a claim against NRDA, regardless of whether the parties received a notice of the lien.

The bill makes NRDA bonds fully negotiable and legal investments. It authorizes NRDA to buy insurance to cover debt service payments and allows the board to purchase, hold, and sell the authority's bonds in accordance with its agreements with bondholders.

It exempts board directors and those executing bonds or notes from personal liability. And it gives bondholders and their trustees the right, subject to the provisions of the bond resolution, to take legal action to force the board to perform its duties. The bill makes the bond proceeds and other revenue connected with the bonds trust funds, which must be used as the bond resolution specifies.

Under the bill, the state pledges not to limit or alter the authority's or its bondholders' or contractors' rights until the obligations are discharged, unless it adequately protects the bondholders and contractors. With respect to bondholders, the state's pledge applies to bonds for which the state has pledged "contract assistance." (The bill

does not define contract assistance or provide a mechanism for such assistance.) It authorizes NRDA to include this pledge in its bonds, other obligations, and contracts.

## **DUTIES**

### ***Written Procedures***

NDRA's board must adopt written procedures to:

1. adopt an annual budget and plan of operations and require board approval before either can take effect;
2. hire, dismiss, promote, and pay authority employees, develop an affirmative action policy, and require board approval before a position may be created or a vacancy filled;
3. acquire real and personal property and personal services, and require board approval for any non-budgeted expenditure of more than \$5,000;
4. contract for financial, legal, bond underwriting, and other professional services, and require the board to solicit proposals at least once every three years for these services;
5. issue and retire bonds and other authority obligations;
6. award financial assistance, including developing eligibility criteria, an application process, and determining the role played by employees and directors; and
7. use surplus funds.

NRDA must follow the same notice requirements quasi-public agencies follow before adopting the procedures.

### ***Coordinating Projects in New Haven and Region***

The bill requires NRDA to coordinate all state and municipal planning and financial resources for New Haven projects outside its development district and projects in greater New Haven in which it is involved and requires all state and municipal agencies to cooperate

with it in its efforts.

Applicants requesting state funds for a project in the city or region in which the NRDA is involved must submit a copy of their application, along with supporting documents, to the OPM secretary and NRDA. NRDA has 90 days to give the funding agency its written recommendations, which must include provisions regarding performance standards, including project timelines. The agency cannot spend funds on such a project until it receives NRDA's recommendations or after 90 days, whichever is sooner. It does not have to implement the recommendations, but must give NRDA a written explanation about any spending decision that is inconsistent with them.

### ***Annual Report***

Instead of the annual report quasi-public agencies must submit to the governor, state auditors, and the Program Review and Investigations Committee, the board must annually report, within 90 days after NRDA's fiscal year begins, to the governor, state auditors, and the Finance, Revenue, and Bonding Committee on NRDA's finances, procurement, and employment. This report must include:

1. a list of the bonds it issued in the preceding fiscal year and, for each issue, its face value and net proceeds, the names of financial advisors and underwriters, and whether the issue was competitive, negotiated, or privately placed;
2. the cumulative value of all bonds issued and outstanding;
3. the amount of the state's contingent liability;
4. a description of each project, its location, and the amount the authority spent on its construction;
5. a comprehensive financial report prepared according to generally accepted governmental accounting principles;
6. a list of individuals and firms, including their principal and

other major stockholders, who received more than \$5,000 for services;

7. a statement of the authority's affirmative action policy, a description of its workforce by race, sex, and occupation, and a description of its affirmative action efforts; and
8. a description of the activities planned for the current fiscal year.

### ***Independent Financial Audit***

The bill requires the board to annually contract with a certified public accounting firm to undertake a financial audit, according to generally accepted auditing standards. It must submit the audit to the governor, state auditors, and the Finance, Revenue, and Bonding Committee. The bill also subjects NRDA to annual audits by state auditors.

### ***Compliance Reports***

Instead of the biennial compliance audit the state auditors conduct on quasi-public agencies, the board must annually contract with a person or firm for a compliance audit. It must submit it to the governor, state auditors, and the Finance, Revenue, and Bonding Committee. The compliance audit must check NRDA's performance against its written procedures on personnel and affirmative action, procurement, and use of surplus funds.

The bill also requires NRDA to designate a contract compliance officer to monitor NDRA's operations, or those of facilities under its control, for compliance with state law and contracting requirements relating to (1) set-asides for small contractors and minority business enterprises and (2) required efforts to hire available and qualified minorities and New Haven residents. The compliance officer must file an annual written report, including findings and recommendations, with NDRA.

### ***Connecticut Innovations, Incorporated (CII) Loans***

The bill makes NRDA eligible for CII loans if (1) the OPM secretary and state treasurer agree; (2) CII authorizes bonds for the amount of

the loan; and (3) the bonds have the same validity, security, and tax status as would be required for a fully marketable instrument. CII loans for a hotel or convention center project must satisfy CII's terms and conditions for using its general obligation bond proceeds. (The bill does not contemplate a hotel or convention center project.)

**FREEDOM OF INFORMATION ACT**

The bill exempts the financial, credit, and proprietary information in applications or requests filed with NRDA for funding from freedom of information laws.

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea 9 Nay 6 (03/12/2014)