



Senate

General Assembly

File No. 708

February Session, 2014

Substitute Senate Bill No. 1

Senate, April 29, 2014

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

***AN ACT ENCOURAGING ECONOMIC DEVELOPMENT THROUGH
THE REMEDIATION OF STATE-OWNED BROWNFIELDS.***

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

1 Section 1. Section 22a-133m of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) An urban sites remedial action program is established to
4 identify, evaluate, plan for and undertake the remediation of polluted
5 real property.

6 (b) The Commissioner of Economic and Community Development,
7 in consultation with the Commissioner of Energy and Environmental
8 Protection, shall establish the priority of sites for evaluation and
9 remediation based upon the following factors: (1) The estimated cost of
10 evaluating and remediating the site, if known; (2) the anticipated
11 complexity of an evaluation of the site; (3) the estimated schedule for
12 completing an evaluation; (4) the potential economic development

13 benefits of the site to the state of Connecticut; (5) whether the site
14 would not otherwise be remediated without the assistance of this
15 program; and (6) any other factors which the commissioners deem
16 relevant. No real property shall be eligible for evaluation or
17 remediation under this section unless the Commissioner of Economic
18 and Community Development finds that the state owns the site or
19 otherwise has or obtains the power to approve the type of
20 development which first occurs on the site after remediation. Except
21 for any site proposed for acquisition under subsection (e) of this
22 section, no real property shall be eligible for evaluation or remediation
23 under this section unless (A) the site is located in a distressed
24 municipality, as defined in section 32-9p, or a targeted investment
25 community, as defined in section 32-222, or (B) the Commissioner of
26 Economic and Community Development determines that a significant
27 economic benefit to the region or the state will result from remediation
28 and development of such site. For purposes of this section,
29 "responsible party" means any person, as defined in section 22a-2, who
30 created a source of pollution on the site or an owner of the site during
31 the investigation or remediation funded pursuant to this section.

32 (c) The cost of evaluating and remediating sites pursuant to this
33 section shall be paid from (1) funds authorized pursuant to subsection
34 (a) of section 29 of special act 89-52, and (2) funds authorized for such
35 evaluation or remediation pursuant to any other public or special act.

36 (d) Whenever funds are used pursuant to this section for purposes
37 of evaluating or remediating a polluted site, the Commissioner of
38 Energy and Environmental Protection may seek reimbursement of the
39 costs and expenses incurred by requesting the Attorney General to
40 bring a civil action to recover such costs and expenses from any party
41 responsible for such pollution provided no such action shall be
42 brought separately from any action to recover costs and expenses
43 incurred by the commissioner in pursuing action to contain, remove or
44 mitigate any pollution on such site. The costs and expenses recovered
45 may include but shall not be limited to (1) the actual cost of
46 identifying, evaluating, planning for and undertaking the remediation

47 of the site; (2) any administrative costs not exceeding ten per cent of
48 the actual costs; (3) the costs of recovering the reimbursement; and (4)
49 interest on the actual costs at a rate of ten per cent a year from the date
50 such expenses were paid. The defendant in any civil action brought
51 pursuant to this subsection shall have no cause of action or claim for
52 contribution against any person with whom the commissioner has
53 entered into a covenant not to sue pursuant to sections 22a-133aa and
54 22a-133bb with respect to pollution on or emanating from the property
55 which is the subject of said civil action.

56 (e) The Commissioner of Economic and Community Development,
57 in consultation with the Commissioner of Energy and Environmental
58 Protection, or a regional economic development entity using funds
59 allocated under subsection (f) of this section, may acquire polluted
60 commercial or industrial property for the purpose of remediation of
61 the pollution and for the lease or sale of such property in order to
62 promote business growth or expansion through the reuse or
63 redevelopment of such property. Such acquisition may include, but not
64 be limited to, condemnation of the property in accordance with the
65 provisions of part I of chapter 835. For purposes of this subsection, the
66 Commissioner of Economic and Community Development shall be
67 exempt from all of the requirements of sections 22a-134 to 22a-134e,
68 inclusive, section 4b-3, and section 4b-21. When acquiring polluted
69 property under this subsection, the Commissioner of Economic and
70 Community Development may accept on behalf of the state of
71 Connecticut the liability, at the time of the acquisition, for all costs of
72 remediation of the polluted property provided the transferor shall be
73 liable for all costs in excess of fifteen million dollars and further
74 provided the commissioner shall not accept any liability under federal
75 law. The Commissioner of Economic and Community Development
76 may enter into lease, sale, or other agreements for the use of the real
77 property acquired pursuant to this subsection. All moneys received by
78 the state pursuant to any such agreement shall be deposited into the
79 Urban Site Remediation Fund established under subsection (f) of this
80 section.

81 (f) There is established an Urban Site Remediation Fund. The fund
82 may contain any moneys required by law to be deposited in the fund
83 and shall be held by the Treasurer separate and apart from all other
84 moneys, funds and accounts. Any balance remaining in the fund at the
85 end of any fiscal year shall be carried forward in the fund for the fiscal
86 year next succeeding. The fund shall be used (1) by the Commissioner
87 of Energy and Environmental Protection (A) for costs incurred in the
88 assessment and remedial activities conducted at real property acquired
89 pursuant to subsection (e) of this section, or (B) to reimburse the costs
90 to obtain directors' and officers' liability and general liability insurance
91 of (i) a municipal economic development agency or entity created or
92 operating under chapter 130 or 132, or (ii) a nonprofit economic
93 development corporation formed to promote the common good,
94 general welfare and economic development of a municipality that is
95 funded, either directly or through in-kind services, in part by a
96 municipality, or a nonstock corporation or limited liability company
97 controlled or established by a municipality, municipal economic
98 development agency or entity created or operating under chapter 130
99 or 132; and (2) by the Commissioner of Economic and Community
100 Development to pay any local property taxes on real property acquired
101 pursuant to subsection (e) of this section and the costs of administering
102 the program. The Commissioner of Economic and Community
103 Development may allocate money from the fund to a regional
104 economic development entity organized for the purpose of
105 remediating contaminated real property.

106 (g) The Commissioner of Energy and Environmental Protection
107 shall conduct an assessment to evaluate the potential cost of remedial
108 activities of any site proposed for acquisition under subsection (e) of
109 this section prior to the transfer of the real property to the
110 Commissioner of Economic and Community Development. The
111 Commissioner of Energy and Environmental Protection, after transfer
112 of the property to the Commissioner of Economic and Community
113 Development, shall conduct remedial actions necessary to remediate
114 the pollution at or on the site and shall certify to the Commissioner of
115 Economic and Community Development that such actions have

116 minimized and mitigated any threat to human health or the
117 environment and have contained, removed or otherwise mitigated the
118 effects of any pollution in the property. The Commissioner of Energy
119 and Environmental Protection may use funds authorized pursuant to
120 subsection (a) of section 29 of special act 89-52 and funds authorized
121 for such purpose pursuant to any other public or special act for the
122 purposes of this subsection. The Commissioner of Economic and
123 Community Development shall adopt regulations, in accordance with
124 the provisions of chapter 54, to carry out the provisions of this
125 subsection and subsections (e) and (f) of this section.

126 (h) The Commissioner of Energy and Environmental Protection and
127 the Commissioner of Economic and Community Development shall
128 jointly identify urban community sites known to have, or suspected to
129 have, environmental contamination which, if remediated and
130 developed, will improve the urban environment. The Commissioner of
131 Energy and Environmental Protection and the Commissioner of
132 Economic and Community Development shall jointly establish the
133 priority of such sites for evaluation and remediation based upon the
134 following factors: (1) The potential benefits of remediation to the
135 environment; (2) the estimated cost of evaluating and remediating the
136 site, if known; (3) the potential benefits to the local community of such
137 site; (4) community support for remediation and redevelopment of
138 such site; (5) the commitment from investors or the municipality to
139 redevelop the site; and (6) any other factors which the commissioners
140 deem relevant. No real property shall be eligible for evaluation and
141 remediation under this subsection unless (A) the site is located in a
142 distressed municipality, as defined in section 32-9p, a targeted
143 investment community, as defined in section 32-222, or an enterprise
144 corridor zone, as defined in section 32-80, or in such other municipality
145 as the Commissioner of Economic and Community Development may
146 designate, and (B) the site is not undergoing evaluation or remediation
147 under subsections (a) to (g), inclusive, of this section.

148 (i) On or before January 1, 2015, the Commissioner of Economic and
149 Community Development and the Commissioner of Energy and

150 Environmental Protection shall jointly select three sites prioritized
 151 pursuant to subsection (b) or (h) of this section for expedited
 152 evaluation and remediation. For each site selected pursuant to this
 153 subsection: (1) Said commissioners, in consultation with municipal
 154 officials, business leaders and residents of the municipality in which
 155 such site is located, shall identify the appropriate use of such site once
 156 remediated, and (2) on or before March 1, 2015, the Department of
 157 Energy and Environmental Protection shall commence evaluation and
 158 remediation of such site to the standards established pursuant to
 159 section 22a-133k appropriate for such use.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2014	22a-133m

FIN *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
Treasurer, Debt Serv.	GF - Cost	Potential	Potential
Department of Energy and Environmental Protection	GF - Cost	See Below	See Below
Comptroller- Fringe Benefits ¹	GF - Cost	23,829	24,544

Municipal Impact: None

Explanation

The bill requires the Department of Energy and Environmental Protection (DEEP), on or before March 1, 2015, to commence evaluation and remediation of three contaminated sites listed and prioritized for expedited remediation under the Urban Sites Remedial Action Program ("Urban Sites").

The bill will result in a cost of \$88,829 in FY 15 and \$91,494 in FY 16 to the Department of Energy and Environmental Protection (DEEP) for an Environmental Analyst III position. The new position will manage the expedited site selection process, public involvement with stakeholders, contractor bidding and negotiation, oversight for investigation and remediation, and review of permit applications associated with selecting and remediating three contaminated sites under the "Urban Sites" program.

The estimated cost to fully investigate and remediate the three contaminated sites could range between \$50 million and \$100 million.

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.66% of payroll in FY 15 and FY 16.

Actual costs will depend on the degree of existing contamination and the planned end-use of the sites.

The low-end of the cost range is based on an average example of \$17 million total cost for DEEP investigation and remediation of one 11-acre site.² Therefore, the total cost for three comparable sites could be approximately \$50 million.

The high-end of the estimate is based on the complete cost of investigation, remediation and demolition of a 90-acre site, at a cost of approximately \$55 million.³ If DEEP were to evaluate and remediate three sites of this size and contamination level, costs could approach \$100 million for three comparable sites.

The unallocated bond balance for the “Urban Sites” program on April 4, 2014 was \$32.1 million and PA 13-239, the FY 14 bond bill, authorizes an additional \$5 million for the program in FY 15. It is anticipated that the bill would result in future General Fund debt service costs because additional General Obligation (GO) bonds will need to be authorized for the program to pay the cost of the projects.

The Out Years

The bill may result in significant costs in the outyears for additional GO bond authorization for increased debt service costs. The annualized ongoing fiscal impact for the other costs identified above would continue into the future subject to inflation.

² Meriden Rolling Mills

³ Century Brass Mills site, also in Meriden

OLR Bill Analysis**sSB 1*****AN ACT ENCOURAGING ECONOMIC DEVELOPMENT THROUGH THE REMEDIATION OF STATE-OWNED BROWNFIELDS.*****SUMMARY:**

This bill imposes a March 1, 2015 deadline for the Department of Energy and Environmental Protection (DEEP) commissioner to begin evaluating and remediating three contaminated sites listed and prioritized for expedited remediation and redevelopment under the Urban Sites Remedial Action Program (“Urban Sites”). DEEP must evaluate and remediate these sites according to its property remediation standards.

The DEEP and Department of Economic and Community Development (DECD) commissioners must jointly select the sites for expedited evaluation and remediation by January 1, 2015. The commissioners must identify the appropriate uses for these sites in consultation with municipal officials, business leaders, and the residents of the municipalities where the sites are located.

The commissioners must select the sites from the lists they prepare under the Urban Sites Program for cleanup and reuse based on statutory criteria. One list, which the DECD commissioner prepares in consultation with the DEEP commissioner, consists of sites whose remediation could produce economic benefits. This list includes (1) state-acquired contaminated sites whose cleanup and redevelopment could produce significant economic benefits and (2) those in the 25 state-designated distressed municipalities or the 17 targeted investment communities (see BACKGROUND) that the state owns or whose future use it has the power to control (site control). The bill allows the DECD commissioner to include property in other municipalities if she determines their remediation and development

benefits the region's or the state's economy.

The other list, which the DEEP and DECD commissioners jointly prepare, may include sites the state does not own or control and whose remediation could produce environmental and community benefits. These sites may be in targeted areas, which are distressed municipalities, targeted investment communities, enterprise corridor zones, or other areas the DECD commissioner designates. The bill does not open this list to sites outside these designated areas.

EFFECTIVE DATE: October 1, 2014

BACKGROUND

Property Eligible for Remediation under the Remedial Sites Program

The property eligible for remediation under the Urban Sites Program must be located in a distressed municipality or targeted investment community. As Table 1 shows, some municipalities have multiple designations.

Table 1: Designated Municipalities

<i>Municipality</i>	<i>Distressed Municipality</i>	<i>Targeted Investment Community</i>	<i>Enterprise Corridor Zone Municipality</i>
Ansonia	X		X
Beacon Falls			X
Bridgeport	X	X	
Bristol	X	X	
Derby	X		X
East Hartford	X	X	
Enfield	X		
Griswold			X
Groton	X	X	
Hamden		X	
Hartford	X	X	
Killingly	X		X
Lisbon			X
Meriden	X	X	
Montville	X		
Middletown		X	
Naugatuck	X		X
New Britain	X	X	
New Haven	X	X	

New London	X	X	
North Canaan	X		
Norwalk		X	
Norwich		X	
Plainfield	X		X
Plymouth	X		
Putnam	X		X
Seymour			X
Southington		X	
Sprague	X		X
Stamford		X	
Sterling			X
Thompson			X
Torrington	X		X
Waterbury	X	X	
West Haven	X		
Winchester	X		X
Windham	X	X	

Legislative History

The Senate referred the original bill (File 366) to the Finance, Revenue and Bonding Committee, which favorably reported a substitute that eliminates the maximum \$10 million state general obligation bond authorization for the Labor Department's Subsidized Training and Employment Program.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/20/2014)

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 37 Nay 13 (04/22/2014)