



House of Representatives

General Assembly

File No. 581

January Session, 2015

Substitute House Bill No. 6830

House of Representatives, April 13, 2015

The Committee on Environment reported through REP. ALBIS of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE REMEDIAL ACTION AND REDEVELOPMENT MUNICIPAL GRANT PROGRAM, THE TARGETED BROWNFIELD DEVELOPMENT LOAN PROGRAM AND THE REMEDIATION OF STATE-OWNED AND FORMERLY STATE-OWNED BROWNFIELDS.

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

1 Section 1. Section 32-763 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2015*):

3 (a) There is established a remedial action and redevelopment
4 municipal grant program to be administered by the Department of
5 Economic and Community Development for the purpose of providing
6 grants to municipalities and economic development agencies for the
7 eligible costs of brownfield remediation projects, brownfield
8 assessment projects and reasonable administrative expenses not to
9 exceed five per cent of any grant awarded. A grant awarded under this
10 section shall not exceed four million dollars.

11 (b) A grant applicant shall submit an application to the

12 Commissioner of Economic and Community Development on forms
13 provided by the commissioner and with such information the
14 commissioner deems necessary, including, but not limited to: (1) A
15 description of the proposed project; (2) an explanation of the expected
16 benefits of the project in relation to the purposes of this section; (3)
17 information concerning the financial and technical capacity of the
18 applicant to undertake the proposed project; (4) a project budget; and
19 (5) with respect to a brownfield remediation project, a description of
20 the condition of the brownfield, including the results of any
21 environmental assessment of the brownfield in the possession of or
22 available to the applicant.

23 (c) The commissioner may approve, reject or modify any application
24 properly submitted in accordance with the provisions of this section.
25 In reviewing an application and determining the amount of the grant,
26 if any, to be provided, the commissioner shall consider the following
27 criteria: (1) The availability of funds; (2) the estimated costs of
28 assessing and remediating the brownfield, if known; (3) the relative
29 economic condition of the municipality in which the brownfield is
30 located; (4) the relative need of the project for financial assistance; (5)
31 the degree to which a grant under this section is necessary to induce
32 the applicant to undertake the project; (6) the public health and
33 environmental benefits of the project; (7) the relative benefits of the
34 project to the municipality, the region and the state, including, but not
35 limited to, the extent to which the project will likely result in a
36 contribution to the municipality's tax base, the retention and creation
37 of jobs and the reduction of blight; (8) the time frame in which the
38 contamination occurred; (9) the relationship of the applicant to the
39 person or entity that caused the contamination; (10) the length of time
40 the brownfield has been abandoned; (11) the taxes owed and the
41 projected revenues that may be restored to the community; (12) the
42 relative need for assessment of the brownfield within the municipality
43 or region; and (13) such other criteria as the commissioner may
44 establish consistent with the purposes of this section.

45 (d) The commissioner shall award grants on a competitive basis,

46 based on a request for applications occurring on or before October
47 first, annually. The commissioner may increase the frequency of
48 requests for applications and awards depending upon the number of
49 applicants and the availability of funding.

50 [(e) A grant recipient may make low-interest loans to a brownfield
51 redeveloper if (1) such recipient coapplied for the grant under this
52 section with such brownfield redeveloper, and (2) not later than ninety
53 days after receiving the grant, such recipient enters into a written
54 agreement with such brownfield redeveloper for an identified future
55 reuse of such brownfield after remediation. Loan principal and interest
56 payments shall be returned to the brownfield remediation and
57 development account established pursuant to section 32-762, minus
58 twenty per cent of the principal, which the eligible grant recipient shall
59 retain. If the eligible grant recipient provides a loan, such loan may be
60 secured by a state or municipal lien on the property.

61 (f) Any recipient of a loan pursuant to subsection (e) of this section,
62 as a condition of such loan, shall enter a program for remediation of
63 the property pursuant to section 22a-133x, 22a-133y, 32-768 or 32-769.]

64 (e) The commissioner, in consultation with the Commissioner of
65 Energy and Environmental Protection and following the award of a
66 grant to a municipality or economic development agency pursuant to
67 subsections (c) and (d) of this section, may award an additional grant
68 to such municipality or economic development agency to enable the
69 completion of a brownfield remediation or assessment project,
70 provided such project is identified as a priority by said commissioners
71 and such additional grant funds (1) will be used to address unexpected
72 cost overruns or costs related to remedial activities that will provide a
73 greater environmental benefit than originally proposed pursuant to
74 subsection (b) of this section, (2) do not exceed fifty per cent of the
75 original grant, and (3) will not result in more than four million dollars
76 in total grants being awarded for a single brownfield remediation or
77 assessment project.

78 (f) The commissioner may award grants to any municipality,

79 economic development agency or regional council of governments
80 organized under sections 4-124i to 4-124p, inclusive, for the eligible
81 costs of developing a comprehensive plan for the remediation and
82 redevelopment of multiple brownfields whenever such plan is
83 consistent with the state plan of conservation and development,
84 adopted pursuant to chapter 297, and the plan of conservation and
85 development, adopted pursuant to section 8-23, for each municipality
86 in which such brownfields are located. For purposes of this subsection,
87 "eligible costs" shall also include expenditures associated with the
88 development of any such plan for remediation and redevelopment.

89 (g) The provisions of sections 32-5a and 32-701 shall not apply to
90 grants provided pursuant to this section.

91 Sec. 2. Section 32-765 of the general statutes is repealed and the
92 following is substituted in lieu thereof (*Effective July 1, 2015*):

93 (a) The Department of Economic and Community Development
94 shall establish a targeted brownfield development loan program to
95 provide low-interest loans for the eligible costs of brownfield
96 remediation projects to potential brownfield purchasers and current
97 brownfield owners who (1) have no direct or related liability for the
98 conditions of the brownfield, and (2) seek to develop brownfields for
99 purposes of reducing blight or for industrial, commercial, residential
100 or mixed use development.

101 (b) Notwithstanding subsection (a) of this section, a current owner
102 of a brownfield on which a manufacturing facility is located shall be
103 eligible for a loan under this section, provided neither such owner nor
104 any partner, member, officer, manager, director, shareholder,
105 subsidiary or affiliate of such owner (1) is liable under section 22a-427,
106 22a-432, 22a-433, 22a-451 or 22a-452 with respect to the property; (2) is
107 otherwise responsible, directly or indirectly, for the discharge, spillage,
108 uncontrolled loss, seepage or filtration of the hazardous substance,
109 material or waste; (3) is a member, officer, manager, director,
110 shareholder, subsidiary, successor of, or affiliated with, directly or
111 indirectly, the person who is otherwise liable under section 22a-427,

112 22a-432, 22a-433, 22a-451 or 22a-452 with respect to the property; or (4)
113 has been found guilty of knowingly or wilfully violating any
114 environmental law.

115 (c) An applicant for a loan pursuant to this section shall submit an
116 application to the Commissioner of Economic and Community
117 Development on forms provided by the commissioner and with such
118 information the commissioner deems necessary, including, but not
119 limited to: (1) A description of the proposed project; (2) an explanation
120 of the expected benefits of the project in relation to the purposes of this
121 section; (3) information concerning the financial and technical capacity
122 of the applicant to undertake the proposed project; (4) a project budget;
123 and (5) a description of the condition of the brownfield involved,
124 including the results of any environmental assessment of the
125 brownfield in the possession of or available to the applicant. The
126 commissioner shall provide loans based upon project merit and
127 viability, the economic and community development opportunity,
128 municipal support, contribution to the community's tax base, past
129 experience of the applicant, compliance history and ability to pay.

130 (d) If a loan recipient is not subject to section 22a-134a, such
131 recipient shall enter a program for remediation of the property
132 pursuant to either section 22a-133x, 22a-133y, 32-768 or 32-769, as
133 determined by the commissioner, except if the loan funds are used for
134 the abatement of hazardous building materials that, based on the due
135 diligence of the Commissioners of Economic and Community
136 Development and Energy and Environmental Protection, represent the
137 sole or sole remaining environmental contamination issue on the
138 property.

139 (e) Loans made pursuant to this section shall have such terms and
140 conditions and be subject to such eligibility and loan approval criteria
141 as determined by the commissioner. Such loans shall be for a period
142 not to exceed twenty years.

143 (f) If a loan recipient sells a property subject to a loan granted
144 pursuant to this section before the loan is repaid, the loan shall be

145 payable upon closing of such sale, according to its terms, unless the
146 commissioner agrees otherwise. The commissioner may carry the loan
147 forward as an encumbrance to the purchaser with the same terms and
148 conditions as the original loan.

149 (g) A loan recipient may be eligible for a loan of not more than [two]
150 four million dollars per year, [for not more than two years,] subject to
151 agency underwriting and reasonable and customary requirements to
152 assure performance. If additional funds are required, the commissioner
153 may recommend that the project be funded through other programs
154 administered by the commissioner.

155 (h) The commissioner may modify the terms of any loan made
156 pursuant to this section to provide for forgiveness of interest,
157 principal, or both, or delay in repayment of interest, principal, or both,
158 when the commissioner determines such forgiveness or delay is in the
159 best interest of the state from an economic or community development
160 perspective.

161 (i) The provisions of sections 32-5a and 32-701 shall not apply to
162 loans provided pursuant to this section.

163 Sec. 3. Section 24 of public act 11-1 of the October special session is
164 repealed and the following is substituted in lieu thereof (*Effective July*
165 *1, 2015*):

166 (a) The Department of Economic and Community Development, in
167 consultation with the Department of Energy and Environmental
168 Protection, shall identify, market and remediate five geographically
169 diverse state-owned or formerly state-owned brownfields from the
170 priority [brownfield] list established pursuant to subsection (b) of this
171 section. Selection of brownfields shall be in accordance with the
172 provisions of subsection (c) of this section.

173 (b) On or before January 1, [2012] 2016, the Department of Economic
174 and Community Development shall develop a priority list of [eligible]
175 state-owned and formerly state-owned brownfields to be marketed

176 and remediated based on criteria to include, but not be limited to,
177 [state-owned] brownfields that (1) have economic development
178 viability, (2) [have a predetermined end use, (3)] are located in a
179 municipality with an unemployment rate that exceeds the state's
180 average unemployment rate, [(4)] (3) have access to transportation or
181 other infrastructure, [(5)] (4) are of an environmentally urgent nature,
182 [(6)] (5) the development of which would be consistent with the state
183 plan of conservation and development, and [(7)] (6) the transfer of
184 which to a private party would not conflict with state law or process.

185 (c) The Department of Economic and Community Development
186 shall solicit proposals from companies interested in purchasing any of
187 the state-owned brownfields on the priority list developed pursuant to
188 subsection (b) of this section. The Commissioner of Economic and
189 Community Development (1) shall review proposals, match up to five
190 of the state-owned brownfields with companies, and sell,
191 notwithstanding chapter 59 of the general statutes, prepermitted,
192 cleaned sites to the selected companies, and (2) may remediate [one of]
193 the brownfields on said priority list without identification of a specific
194 commercial purchaser.

195 Sec. 4. Section 25 of public act 11-1 of the October special session is
196 repealed and the following is substituted in lieu thereof (*Effective July*
197 *1, 2015*):

198 (a) For the purposes described in subsection (b) of this section, the
199 State Bond Commission shall have the power, from time to time to
200 authorize the issuance of bonds of the state in one or more series and
201 in principal amounts not exceeding in the aggregate twenty million
202 dollars.

203 (b) The proceeds of the sale of said bonds, to the extent of the
204 amount stated in subsection (a) of this section, shall be used by the
205 Department of Economic and Community Development for the
206 purpose of identifying, marketing and remediating five [state-owned]
207 brownfields pursuant to section 24 of [this act] public act 11-1 of the
208 October special session.

209 (c) All provisions of section 3-20 of the general statutes, or the
 210 exercise of any right or power granted thereby, which are not
 211 inconsistent with the provisions of this section are hereby adopted and
 212 shall apply to all bonds authorized by the State Bond Commission
 213 pursuant to this section, and temporary notes in anticipation of the
 214 money to be derived from the sale of any such bonds so authorized
 215 may be issued in accordance with said section 3-20 and from time to
 216 time renewed. Such bonds shall mature at such time or times not
 217 exceeding twenty years from their respective dates as may be provided
 218 in or pursuant to the resolution or resolutions of the State Bond
 219 Commission authorizing such bonds. None of said bonds shall be
 220 authorized except upon a finding by the State Bond Commission that
 221 there has been filed with it a request for such authorization which is
 222 signed by or on behalf of the Secretary of the Office of Policy and
 223 Management and states such terms and conditions as said commission,
 224 in its discretion, may require. Said bonds issued pursuant to this
 225 section shall be general obligations of the state and the full faith and
 226 credit of the state of Connecticut are pledged for the payment of the
 227 principal of and interest on said bonds as the same become due, and
 228 accordingly and as part of the contract of the state with the holders of
 229 said bonds, appropriation of all amounts necessary for punctual
 230 payment of such principal and interest is hereby made, and the State
 231 Treasurer shall pay such principal and interest as the same become
 232 due.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2015	32-763
Sec. 2	July 1, 2015	32-765
Sec. 3	July 1, 2015	PA 11-1 of the October Sp. Sess., Sec. 24
Sec. 4	July 1, 2015	PA 11-1 of the October Sp. Sess., Sec. 25

Statement of Legislative Commissioners:

In Section 1, technical changes were made in Subsecs. (e) and (f) for adherence to standard drafting conventions.

CE *Joint Favorable Subst. C/R* ENV

ENV *Joint Favorable Subst.-LCO*

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 16 \$	FY 17 \$
Treasurer, Debt Serv.	GF - Acceleration of Debt Service Costs	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes various changes that expand the Department of Economic and Community Development's brownfield grant and loan programs and state-owned brownfield program created in PA 11-1 of the October special session.

These programs are funded through General Obligation (GO) bond funds. The bill does not include any additional bond authorizations to support the programs.

Future General Fund debt service costs may be incurred sooner under the bill to the degree that the bill causes currently authorized GO bond funds to be expended more rapidly than they otherwise would have been.

As of April 13th, the unallocated balance for brownfield loans and grants is \$24.8 million and \$19.5 million specifically for the state-owned property brownfields.¹

¹ Since 2011, only \$500,000 of the \$20 million authorization for the state-owned brownfield program has been allocated. With regards to the brownfield grant and loan programs, \$55.2 million out of a total \$80 million has been allocated.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6830*****AN ACT CONCERNING THE REMEDIAL ACTION AND REDEVELOPMENT MUNICIPAL GRANT PROGRAM, THE TARGETED BROWNFIELD DEVELOPMENT LOAN PROGRAM AND THE REMEDIATION OF STATE-OWNED AND FORMERLY STATE-OWNED BROWNFIELDS.*****SUMMARY:**

This bill expands the Department of Economic and Community Development's (DECD) brownfield remediation programs. It adds new components to the Municipal Brownfield Grant Program, which provides grants to municipalities and economic development agencies for assessing and remediating contaminated property. One component allows DECD to make additional grants needed to complete an ongoing project. The other allows DECD to make grants for preparing comprehensive plans to remediate and redevelop multiple brownfields. The bill precludes recipients under the existing and the new components from lending grant proceeds to brownfield developers.

The bill increases maximum loan amounts under the Brownfield Loan Program from \$2 million per year for up to two years to \$4 million per year for an unlimited number of years. It also exempts developers, under narrow conditions, from participating in a state voluntary cleanup or liability relief program. The loan program finances investigation and assessment and remediation costs.

Lastly, the bill expands the range of brownfields DECD can remediate and market to include those the state owned and transferred to other parties (i.e., formerly state-owned brownfields). It allows DECD to select these brownfields for its priority list of brownfields, which is currently limited to those the state owns. The bill makes other

changes that expand the range of state-owned brownfields eligible for remediation and marketing. It also makes a conforming technical change.

EFFECTIVE DATE: July 1, 2015

BROWNFIELD REMEDIATION PROGRAMS

Municipal Brownfield Grant Program

The bill makes programmatic changes to the Municipal Brownfield Grant program, which provides up to \$4 million grants to municipalities and economic development agencies, including nonprofit regional development corporations and councils of government, for assessing and remediating contaminated property. The bill allows the DECD commissioner to award additional grants needed to complete a project or to prepare comprehensive brownfield remediation plans.

The bill sets conditions under which the commissioner may award an additional grant. She may award the grant if she and the Department of Energy and Environmental Protection (DEEP) commissioner identify the project as a priority for remediation and the grant:

1. is needed to cover unexpected cost overruns or fund cleanup activities that increase the project's environmental benefits,
2. does not exceed 50% of the original grant, and
3. will not increase the project's total grant funding to more than \$4 million.

The bill also allows the commissioner to award grants to municipalities and economic development agencies for preparing comprehensive plans for cleaning up and redeveloping multiple brownfields. These grants may cover only the costs of preparing the plans, which must be consistent with the state and local plans of conservation and development.

In addition to adding the new grant components, the bill precludes municipalities and economic development agencies from lending grant proceeds to a brownfield redeveloper. Current law allows them to do so when:

1. the municipality or agency and developer jointly apply for the grant and identify within 90 days how the remediated brownfield will be used and
2. the developer agrees to clean up the property under a DEEP voluntary remediation program or DECD liability protection program.

Brownfield Loan Program

The bill makes programmatic changes to DECD's Brownfield Loan Program, which provides loans for (1) investigating and assessing a property's environmental condition and (2) remediating any contamination. The bill increases the maximum loan amount from \$2 million per year for up to two years to \$4 million per year with no limit on the number of years.

The bill sets a narrow condition under which borrowers who are not subject to the Transfer Act may receive loans under the program without having to remediate the property under a DEEP voluntary cleanup program or a DECD liability protection program. (The Transfer Act requires parties involved in the sale or transfer of a potentially contaminated property to assess its environmental condition and remediate it if necessary.)

The bill exempts borrowers from this program requirement if the loan proceeds will be used to abate hazardous building materials. The exemption applies only if the DECD and DEEP commissioners determine, based on due diligence, that these materials constitute the property's only or only remaining environmental contamination issue.

PROGRAM FOR REMEDIATING AND MARKETING STATE-OWNED BROWNFIELDS

The bill expands the range of brownfields DECD can remediate and market for private development. It allows DECD to consider adding brownfields the state owned and transferred to other parties to its priority list of brownfields, which is currently limited to state-owned brownfields that meet statutory criteria. Under current law, DECD must select five geographically diverse state-owned brownfields from that list for marketing and remediation.

The bill gives DECD until January 1, 2016 to add formerly state-owned property to the priority list and further expands the range of eligible state-owned and formerly state-owned brownfields by eliminating the selection criterion that a brownfield must have a predetermined end use. DECD must still use the remaining criteria to select both types of brownfields. At a minimum, it must select brownfields that:

1. are economically viable,
2. can be developed in a way that is consistent with the State Plan of Conservation and Development,
3. are located in municipalities where the unemployment rate exceeds the state's average rate,
4. have access to transportation and other infrastructure,
5. require immediate environmental remediation, and
6. can be transferred to a private party without conflicting with any state law or process.

The bill also allows DECD to remediate any number of state-owned and formerly state-owned brownfields without first identifying a commercial purchaser. Current law limits DECD to one brownfield.

The bill makes no changes to the program under which DECD may solicit proposals from companies interested in purchasing state-owned brownfields.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute Change of Reference

Yea 21 Nay 0 (03/10/2015)

Environment Committee

Joint Favorable

Yea 29 Nay 0 (03/25/2015)