

Government Administration and Elections Committee
JOINT FAVORABLE REPORT

Bill No.: SJ-35

RESOLUTION PROPOSING AN AMENDMENT TO THE STATE
CONSTITUTION TO PROTECT REAL PROPERTY HELD OR CONTROLLED

Title: BY THE STATE.

Vote Date: 3/23/2018

Vote Action: Joint Favorable

PH Date: 3/19/2018

File No.: 302

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REASONS FOR BILL:

This bill is a proposal to amend the state constitution to prohibit the legislature from enacting legislation requiring a state agency to sell, transfer or dispose of real property or interest in real property to non-state entities. The legislature may require an agency to take such actions only if a public hearing on the property is held or passes an act whose subject matter is limited to sale, transfer or disposal. Further, any act concerning the disposition of property owned by the Departments of Agriculture or Energy and Environmental Protection or their successor agencies, must pass by a two-thirds vote of the membership of each chamber.

RESPONSE FROM ADMINISTRATION/AGENCY:

Commissioner Robert J. Klee: DEEP supports the proposed amendment to ensure there is sufficient public process before state park and conservation land is diverted to another use by the General Assembly. Further, it provides assurances that publicly held lands will be better protected against any uniformed sale or disposition that would end their availability to future generations.

State of Connecticut, Council on Environmental Quality (CEQ), Karl J. Wagener, Executive Director: CEQ urges adoption of this resolution. Proponents of land exchanges or conveyances submit information about the characteristics of the land in question. Often the information is selective and puts the land in an unfavorable light while the factual information about the land comes late in the process or not at all. Meanwhile, people who know something about the land are not asked for their information and sometimes do not know that the public land in their community might soon be conveyed. By amending the constitution and holding a hearing, you are more than likely to receive accurate information from informed individuals, organizations and agencies. The more demanding process described in this resolution is likely to have the additional benefit of discouraging wildly-optimistic proposals of the type that in the past, have wasted the time of state agencies, legislators and others.

NATURE AND SOURCES OF SUPPORT:

Connecticut Land Conservation Council (CLCC), Amy Blaymore Paterson, Executive Director: A constitutional amendment will help to protect the millions in public and private investments that have been made in acquiring the lands that protect our air and water, provide for critical habitat, enable us to grow our food, generate revenue through business and tourism and provide the public with an opportunity to recreate and enjoy the landscapes that make Connecticut special. A constitutional amendment will help restore the confidence of the public, especially landowners who want to conserve their land-that there is a system in place to ensure that land entrusted to the state for conversation, agriculture and recreation will be protected for those purposes to the greatest extent possible. The state is not even close to being on track to meeting its goal of conserving 21% of our open space by 2023 and

at a time of fiscal uncertainty, the state can ill-afford allowing the land we do have to be conveyed without the highest degree of scrutiny.

Connecticut Fund for the Environment/Save the Sound (CFE/Save the Sound), Melissa J. Schlag: CFE/Save the Sound strongly supports SJ 35. A constitutional amendment would ensure important conservation, agricultural, and recreational land will not be conveyed to another party without sufficient scrutiny, transparency, public debate and strong approval by a two-thirds vote in both chambers. Our state parks, preserves and wildlife management areas protect our drinking water supply and provide habitat to countless species. Additionally, our public lands add immense value to our state, bringing in over \$1 billion in revenue and creating thousands of jobs for or state residents.

Connecticut League of Conservation Voters (CTLCV): Lori Brown, Executive Director: CTLCV supports SJ 35. How Connecticut disposes of public land through the annual Land Conveyance Bill has been increasingly abused to bypass any reasonable review of the land being sold and ultimately masks some transfers from even a minimum assessment of the land's significance. It makes sense to hold public hearings and to guarantee that there is overwhelming support in the House and Senate that the action taken is in the public's interest. The resolution would provide additional safeguards around the sale or disposal of state park and open space lands, including requiring public hearings and two-thirds votes in the House and Senate. In this particularly difficult time for our state's finances, legislators should consider that our public lands are currently generating over \$ 1 billion in revenues and supporting over 9,000 private sector jobs per year.

The Nature Conservancy, David Sutherland, Director of Government Relations: The Nature Conservancy supports SJ 35. Many of the benefits of conservation lands, such as wildlife habitat and protection of water supplies, can be best provided for only after the land's forests and other natural resources have matured or been managed over many decades. These benefits, including many recreational features, cannot simply be transferred to another parcel of land. Some of the features of these lands are truly irreplaceable, once they have been altered, they cannot be bought back or reconstructed. It should be stressed that this proposed amendment would not prevent the transfer of state-owned lands. It would subject such transfers to a reasonable process that would ensure that the public has an opportunity to openly and deliberatively review the merits of any change in use of these critical public resources.

Rivers Alliance of Connecticut: Rivers Alliance urges the committee to support SJ 35. The purpose of this resolution is to be sure that legislators and their constituents have all the information they need to understand whether conveyance is truly in the public interest or not. Note that the constitutional amendment proposed in this resolution does not apply to conveyances made by administrative agencies. For almost ten years the annual conveyance acts have been difficult to understand due to opaque language and the absence of maps or other obvious aids. Some of the most important conveyances were very small (such as the publicly owned fraction of an acre that opened up the Griswold Airport adjacent to Hammonasset State Park for private development). Some have presented as involving junk land of no public use (Haddam land swamp). Especially troubling are conveyances whose consequences are not discovered until years later if ever.

Connecticut Forest and Park Association (CFPA), Eric Hammerling, Executive Director:

CPFA strongly supports SJ 35. CPFA has suggested a minor clarification for Section 19(b) to ensure that the existing ability to convey land between state agencies using established public processes is not inadvertently undermined by this resolution. The ability for state agencies to do this is clearly stated in Section 19 (a) as it was in Resolution Act 16-1 , but this is unclear in 19 (b) and should be fixed.

Sec.19. (a) the general assembly shall not enact any legislation requiring a state agency to sell, transfer or otherwise dispose of any real property or interest in real property that is under the custody or control of such agency to any person or entity other than another state agency unless a committee of the general assembly has held a public hearing regarding such sale, transfer or disposition of such property or interest and the act of the general assembly requiring such sale, transfer or disposition of real property or interest in real property is limited in subject matter to provisions concerning such sale, transfer or disposition.

(b) In the case of real property or an interest in real property that is under the custody or control of the Department of Agriculture or the Department of Energy and Environmental Protection, or a successor agency of either department, in addition to complying with the requirements of subsection (a) of this section, any act requiring the sale, transfer or disposition of such property or interest to **any person or entity** shall pass upon roll call by a ye a vote of at least two-thirds of the total membership of each house.

Attachment A; a copy of Resolution Act 16-1 as adopted on May 4, 2016;

Attachment B; a list of the 135 + organizations who are on record supporting this effort;

Attachment C: a Frequently Asked Questions (FAQ) sheet on SJ 35;

Attachment D: a list of the statues that govern how state agencies can convey state lands;

Attachment E: a flowchart prepared by CEQ showing how the current state land transfer process works

Connecticut River Gateway Commission, J.H. Torrance Downes, Deputy Director, River COG, Staff to the Connecticut River Gateway Commission:

The commission is in strong support of SJ 35. The Connecticut River Gateway Commission, enabled through Connecticut State Statute Sections 25-102a through 102 was directly and adversely impacted by the event that “triggered” the need for this amendment, the “Tylerville Swap”. Members of the commission took great exception to the “Tylerville Swap”, sending many letters of opposition to the Department of Energy and Environmental Protection, the State Legislature and Governor Malloy as well as providing testimony to the General Assembly in an attempt to stop what was seen as an attack on the conservations community’s ability to securely protect open space from development .Gateway heard from many constituents and potential donors who indicated that they would not donate land to Gateway and the State again because of the proposed “swap” and the possibility that their preservation efforts could be undone with a vote of the State Legislature. The “swap” did not occur and Gateway has been supportive of efforts to formalize a review process in the hopes it will prevent such a plan from ever coming forth again or if a plan does come forth it will be fully vetted before consideration of transferring land placed in conservation for purposes other than such preservation.

North Branford Land Conservation Trust Incorporated, David Sargent, President:

SJ 35 is strongly supported. Connecticut’s public lands belong to its citizens. The citizens of Connecticut have a right to a voice in any disposition or change of use of these lands.

Passage of this amendment would allow the people a voice in decisions made on these lands. Our members are concerned about the state's forests, parks and open spaces. Our state's open spaces produce more tax dollars than they consume in services. Equally important they provide habitat for wildlife, sources for clean drinking water, buffers for noise and flooding while providing residents with the most economical source of welfare a state can provide. These lands are the embodiment of the health and wealth of our state.

Brookfield Open Space Legacy, Louis C. Memoli, President: SJ 35 has the full support of its members. Public lands are owned by the public, not by elected or appointed officials and should be managed by public agencies. Our members are dedicated stewards of open space, our concern is conservation for future of Connecticut residents who may have the opportunity to enjoy Connecticut's natural beauty if open public lands are sporadically sold or given away over the coming years. SJ 35 offers a reasonable level of protection for public lands which are owned by the public and are an important part of our state's legacy now and for future generations. The people of Connecticut deserve an opportunity to vote on this important resolution and your support is critical to ensure this opportunity.

Groton Open Space Association, Inc.(GOSA), Joan Smith, President: We urge support of SJ 35. GOSA has an organizational interest in Haley Farm State Park and Buff Point State Park and Coastal Reserve. We started the "Save the Haley Farm" raising matching funds and continue as a friend of the state parks performing stewardship activities. In addition, we raised matching funds in 2017 for CT DEEP to purchase Candlewood Hill Management Area and we perform stewardship services. We opposed a proposed conveyance of high-value DEEP owned riverfront Mystic Education Center property to the Town of Groton.

Hartland Land Trust, Mark Ziarnik, President: The Hartland Land Trust supports SJ 35. State parks and public conservation lands are essential elements in the quality of life of Connecticut residents. They clean our drinking water, promote fresh clean air and provide important wildlife habitat. They are important to the health of our rural and overall state economy. We strongly urge a two-thirds majority vote of the General Assembly before any public lands such as state parks, forests, agricultural lands or conservation easements can be sold.

Lower Connecticut River Valley, Council of Governments (RiverCOG), Samuel S. Gold, AICP, Executive Director: The Lower River Valley (RIVERCOG) wishes to amend its testimony on SJ 35 regarding a constitutional amendment protecting property held or controlled by the state. The RiverCOG continues to strongly support the proposed constitutional amendment, but without the reservation stated in the original testimony concerning how this may impact routine and small agency transfers of property easements. It is now our understanding that those processes would not be impeded by this proposed constitutional amendment. We therefore wish to provide our unqualified support for the proposal.

Southbury Land Trust, Tom Crider, Vice President: It is crucial to provide an opportunity for public input before state forests and other state owned lands are given away, sold or converted to other uses. In Southbury we have hundreds of acres of state-owned conservation lands which are important to the town's rural character as well as providing recreational opportunities. Voters should be given an opportunity to weigh in on what happens to them.

The Connecticut Audubon Society: The Connecticut Audubon\ Society strongly supports SJ 35. Connecticut's public lands are among its most important assets. If the state constitution is amended as proposed in SJ 35 it would require a public hearing and a two-thirds vote of the General Assembly before the state could sell, trade, or give away its valuable public parks, conservation lands and agricultural lands. Large tracts of open land are needed for the well- being of the state's birds and wildlife. Selling even small parcels near or next to large expanses of open space can have negative effects.

Sleeping Giant Park Association, Mike Miller, President: The Sleeping Giant Park Association supports SJ 35. Before any public land is sold or swapped, the needs of all interested parties need to be aired, deliberated and debated. Unless members of the public have an opportunity to add their voices in defense of open spaces, parks forests and wilderness areas there will be no comprehensive perspective on the true impact of the sale/swap. SJ 35 would give the people of Connecticut a chance to vote at the ballot box to amend the state constitution to better protect public lands.

Working Lands Alliance Chelsea Gazillo, Project Director: Working Lands Alliance strongly supports SJ 35. While most legislative conveyances of lands of conservation and agricultural value are done through a transparent and thoughtful process, there have been instances where such land has been conveyed without the benefit of public input. SJ 35 requires a public hearing opportunity on all conveyances done legislatively. It also seeks to set a higher threshold for conveyance, by requiring passage by two-thirds rather than a simple majority. We urge the committee to act favorably on SJ 35.

Friends of Sherwood Island: The Friends of Sherwood Island support SJ 35. Voters demand transparency in the legislative process. No public lands should be sold or traded off via a back-door deal inserted into an implementer bill. Protecting public lands is vital to the future of Connecticut. Our state parks and forests deserve the extra layer of scrutiny provided by a 2/3's vote before these public assets can be lost to future generations. They provide economic value, drawing fee paying visitors and provide both public and private sector jobs.

The Connecticut Horse Council, Inc., Frederick J. Mastele, President: The Connecticut Horse Council supports SJ 35. It offers a reasonable level of protection for public lands which are owned by the public and are an important part of our state's legacy now and for future generations. The people of Connecticut deserve an opportunity to vote on this important resolution. The committee is urged to support SJ 35 and bring it to the floor this year for a vote.

Connecticut Farm Bureau Association, Henry N. Talmage, Executive Director: The Connecticut Farm Bureau fully supports the concept of making it more difficult for the state to dispose of land easements that were acquired with specific conservation purposes or programs through a constitutional amendment. Therefore the committee is urged to pass SJ 35.

The Jonah Center for Earth and Art, John C. Hall, Executive Director: The Jonah Center for Earth and Art supports SJ 35. It is important to note that this constitutional amendment would not change the existing statutory processes that allow state agencies to administratively transfer public lands or convey surplus lands. **Following are critical**

reasons that support a more public process for selling, swapping or giving away

public lands: honoring land donors: will ensure that the history of the land and donor intent be considered, **preserving benefits:** a public process helps to consider what values could be lost and how potential losses would be mitigated or avoided, **protecting valuable assets:** state parks draw tourists, increase home values, improve public health, harbor wildlife and both attract and keep businesses in Connecticut, **securing state investments:** state parks and forests attract over 8 million visitors, generate over \$1 billion and support over 9,000 jobs every year, **providing places for everyone:** public lands benefit those who have less. Connecticut' state parks and forests, most of which are accessible for free, are an important part of our legacy to our children and future generations.

Eileen Grant, Friends of Connecticut State Parks Board of Directors: Ms. Grant supports SJ 35. It has become a matter of great concern that the Land Conveyance Act has been regularly utilized to remove state properties including state conservation lands from state control, wholly or in part. Taxpayers have underwritten their purchase and maintenance with the presumption that these public lands would remain preserved for all future generations. Some properties have been accrued through bequests or donations from citizens, land trusts or philanthropic organizations and foundations, some have been sold to the state at bargain prices with the presumption that these public lands would remain preserved for all future generations and some have been purchased with tax dollars by the state and its agencies to further long term goals inherent in the mandates and missions of those agencies. The ever mounting instances of misuse of the Land Conveyance Act to take possession of state conservation properties shatters public trust , squanders the work done from both the private and government sectors, resources are wasted by environmental advocates and department staffs alike, in efforts to forestall destructive land grab proposals. Any confiscation, swap or forced sale not resulting in the provision of more significant benefit to state citizens who own them, ought to be rejected by the General Assembly. Sadly, this seldom has been true with respect to the Land Conveyance Act. Not all members of the legislature place their responsibilities as guardians of communal conservation property and as champions for the interests of all Connecticut citizens, above the drive to provide service to their own constituents. Some believe that promoting the “local” trumps securing the greatest good for the greatest number. That’s a problem, especially when valuable state assets can instantaneously disappear with the phrase “Notwithstanding any provision of the general statutes...” in the 11th hour of session without the opportunity for debate, hearing or minimal fact checking investigation. The provisions outlined in SJ 35 lend strong protections, but rightly do not preclude the possibility of any transfer of public land if certain thresholds are met. Each proposed divestment must be put forth in a separate and distinct bill; a public hearing must be held to solicit opinion on each divestment; each divestment must be approved in the separate chambers by a 2/3 vote. Affording transparency to the Land Conveyance process and instituting binding uniform regulatory language in our constitution will do much to restore the public’s confidence.

David K. Leff, Collinsville: Mr. Leff provides his support for SJ35 having had an extensive amount of knowledge on environmental issues. He previously served as staff to the Environment Committee for over a decade and a half through the Office of Legislative Research and also was the deputy commissioner for over a decade for the Department of Environmental Protection. He also has other numerous experiences in the fields of conservation and served on numerous boards of directors. He asserts that without a constitutional amendment, the state park and forest system is in great jeopardy. He argues

that the legislative conveyance of state conservation lands has many negative impacts such as the fragmentation and loss of ecologically valuable state holding important for both outdoor recreation and possible farming. Additionally, he believes it deters donors of land from giving property to the state because it often is deed restricted. Finally, there have been many generations that have worked to preserve these lands for future generations and it breaks the commitment made to protect it. Mr. Left supports the passage of the resolution and urges that the legislature allow the voters to decide on the Constitutional Amendment at the polls in 2018.

Alan J. Siniscalchi, President, Connecticut Association of Conservation and Inland Wetlands Commissions, Inc. (CACIWC)

CACIWC writes in support of SJ35. The organization notes that many of the conveyances are proposed without considering the true conservation value of the land. The property transfers in the process do not require state or local public hearings; local conservation commissions, and other organizations an opportunity to provide testimony about the possible ecological impact of the land transfers. Mr. Siniscalchi argues that a constitutional amendment will help to renew the faith of landowners who may donate land that the properties will be protected so that future generations may enjoy it.

Dianne Saunders, Wallingford, Connecticut: Ms. Saunders supports SJ 35. In Wallingford three properties totaling about 300 acres were sold to the state through the Department of Agriculture. These properties are comprised of prime and important farmland soils, which is the highest technical classification of soils to indicate they are capable of sustainably growing food. Our town has over 1,000 acres of other open space that were acquired with the assistance from DEEP preservation funds. These lands are also used for agriculture, public water supply and passive recreation. These lands are protected in perpetuity for future generations. The State of Connecticut needs to honor its promises that encouraged former owners of these properties to place their lands in protected status.

The following people wrote to the Committee supporting SJ35 because it would give Connecticut voters a chance to vote to amend the State Constitution to better protect public lands.

Janice Trecker, Hampton
Melody Stock, Prospect
B.D. Turley, Noank
Howard and Lorraine Veisz, Mystic
Eugenia Villagra, Noank
Sidney F. Van Zandt, Groton
Paula Burton, Sandy Hook
Pamela Aey Adams, President,
Friends of CT State Parks
Alan Baer
Alison Barr Zyla
Ann Beaudin, Windsor
Will Benoit, Clinton
Julie Beman, Wethersfield
David B. Bingham, MD, Salem

Eric Bloomquist, Wethersfield
Jane L. Brawerman, Middletown
Hope Brayton
Michael and Mary Ann Buckley, Haddam Neck
Yolanda Carroll
Cliff Carter, Waterford
Glenn Alan Cheney, Hanover
Heather Clish, Director of Conservation &
Recreation Policy
Appalachian Mountain Club
Kristin Connell, Killingworth
Virginia Corbiere, Environmental & Historic
Preservation Manager
FEMA, TX
Thomas J. Degnan, Jr., East Haddam

Jamie Densmore, Noank
Kristin Distant
Deborah L. Doran
Richard G. Doran, Wethersfield
Stephen Dupre
Patricia Durham, Waterford
Jane Edwards, West Hartford
Tim Elsishans, Cromwell
David Evans
Charles Fritz, West Suffield
Mary Ginsberg, Woodbridge
Carol Gjellstad, Hamden
Christine Grady
Lysbeth Guillorn, Shelton
Sally Harold, Fairfield
Rosemary Harry, Madison
John E. Hibbard, Hebron
Nancy Orkney Hileman, Groton
Karen A. Huber, Torrington
Julie Hulten, North Haven
Stephen Jeannotte
Linnea Jenkins
Edward Johnson
Jack Kace, Ridgefield
Kathleen Kennedy, Rocky Hill
 Friends of Dinosaur Park and
 Arboretum
Lisa Kereszi, Branford
Bill and Marilyn Kirwin
Lynn S. Kochiss, Cobalt
Roberta Levandoski
James Lockhart, Deep River
Eric Lukingbeal
Connie A. Manes, Esq
 Housatonic Valley Association
Elias Manos, Middletown
William Marshall, South Windsor
F. Michael Martucci, Hamden
Shirley McCarthy, MD, PHD, Branford
Jim McHutchinson, Haddam Neck

Nancy McLoughlin
Karen Menzies
Jean Merz
Joseph and Patricia Neafsey,
 Stafford Springs
Rick Newton, Stonington
Benjamin Oko, Ridgefield
Pat Oliver
Linda Pagani, Bloomfield
Michelle Palmeri, Hamden
James Parda, Coventry
Rod Parlee
Hank Petroskey, North Branford Land
 Conservation Trust, Inc.
Catherine Pratt, Noank
Timothy Pratt
Elizabeth Raisbeck, Groton
Barry Rhodes
P.L. Riccio, Southington
Barrett S. Robbins-Pianka, Middletown
Orin Pomeroy Robinson
Shaun and Angelica Roche, Cromwell
Deb Russel, Windham
Laurette Saller
Starr Sayres, East Haddam
Ralph Scarpino, Barkhamsted
Jeremy R. Serwer
Irene Skrybailo, New Milford
Eric and Jan Smith, Noank
Lynne Steeves, Old Saybrook
Susan Van Kleef, Tariffville
Dale Warren, Eastford
Karen Zimmer, Mansfield
Joanne Warren, Eastford
Toby Welles, Chairman,
 Redding Planning Commission

NATURE AND SOURCES OF OPPOSITION:

None Expressed.

Reported by: Maureen O'Reilly

Date: 4/9/2018

