



House of Representatives

File No. 904

General Assembly

January Session, 2019

(Reprint of File No. 573)

Substitute House Bill No. 6749
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 16, 2019

***AN ACT TO REORGANIZE THE ZONING ENABLING ACT AND
PROMOTE MUNICIPAL COMPLIANCE.***

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

1 Section 1. Section 8-2 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2019*):

3 (a) (1) The zoning commission of each city, town or borough is
4 authorized to regulate, within the limits of such municipality: [the]
5 (A) The height, number of stories and size of buildings and other
6 structures; (B) the percentage of the area of the lot that may be
7 occupied; (C) the size of yards, courts and other open spaces; (D) the
8 density of population and the location and use of buildings, structures
9 and land for trade, industry, residence or other purposes, including
10 water-dependent uses, as defined in section 22a-93; [J] and (E) the
11 height, size, location, brightness and illumination of advertising signs
12 and billboards. [Such bulk regulations may allow for cluster
13 development, as defined in section 8-18] except as provided in
14 subsection (f) of this section.

15 (2) Such zoning commission may divide the municipality into
16 districts of such number, shape and area as may be best suited to carry
17 out the purposes of this chapter; and, within such districts, it may
18 regulate the erection, construction, reconstruction, alteration or use of
19 buildings or structures and the use of land. All [such] zoning
20 regulations shall be uniform for each class or kind of buildings,
21 structures or use of land throughout each district, but the regulations
22 in one district may differ from those in another district. [, and]

23 (3) Zoning regulations may provide that certain classes or kinds of
24 buildings, structures or uses of land are permitted only after obtaining
25 a special permit or special exception from a zoning commission,
26 planning commission, combined planning and zoning commission or
27 zoning board of appeals, whichever commission or board the
28 regulations may, notwithstanding any special act to the contrary,
29 designate, subject to standards set forth in the regulations and to
30 conditions necessary to protect the public health, safety, convenience
31 and property values. [Such]

32 (b) Zoning regulations adopted pursuant to subsection (a) of this
33 section shall: [be]

34 (1) Be made in accordance with a comprehensive plan and in
35 [adopting such regulations the commission shall consider]
36 consideration of the plan of conservation and development [prepared]
37 adopted under section 8-23; [. Such regulations shall be]

38 (2) Be designed to (A) lessen congestion in the streets; [to] (B) secure
39 safety from fire, panic, flood and other dangers; [to] (C) promote
40 health and the general welfare; [to] (D) provide adequate light and air;
41 [to] (E) prevent the overcrowding of land; [to] (F) avoid undue
42 concentration of population; [and to] (G) facilitate the adequate
43 provision for transportation, water, sewerage, schools, parks and other
44 public requirements; [. Such regulations shall be] and (H) affirmatively
45 further the purposes of the federal Fair Housing Act, 42 USC 3601 et
46 seq., as amended from time to time;

47 (3) Be made with reasonable consideration as to [the character of the
48 district and its peculiar] a district's suitability for particular uses and
49 with a view to conserving the value of buildings and encouraging the
50 most appropriate use of land throughout [such] a municipality; [Such
51 regulations may, to the extent consistent with soil types, terrain,
52 infrastructure capacity and the plan of conservation and development
53 for the community, provide for cluster development, as defined in
54 section 8-18, in residential zones. Such regulations shall also
55 encourage]

56 (4) Provide for the development of housing opportunities, including
57 opportunities for multifamily dwellings, consistent with soil types,
58 terrain and infrastructure capacity, for all residents of the municipality
59 and the planning region in which the municipality is located, as
60 designated by the Secretary of the Office of Policy and Management
61 under section 16a-4a; [Such regulations shall also promote]

62 (5) Promote housing choice and economic diversity in housing,
63 including housing for both low and moderate income households; [
64 and shall encourage]

65 (6) Provide for the development of housing which will meet the
66 housing needs identified in the state's consolidated plan for housing
67 and community development prepared pursuant to section 8-37t and
68 in the housing component and the other components of the state plan
69 of conservation and development prepared pursuant to section 16a-26;
70 [Zoning regulations shall be]

71 (7) Be made with reasonable consideration for their impact on
72 agriculture, as defined in subsection (q) of section 1-1; [.]

73 (8) Provide that proper provisions be made for soil erosion and
74 sediment control pursuant to section 22a-329;

75 (9) Be made with reasonable consideration for the protection of
76 existing and potential public surface and ground drinking water
77 supplies; and

78 (10) In any municipality that is contiguous to Long Island Sound,
79 (A) be made with reasonable consideration for the restoration and
80 protection of the ecosystem and habitat of Long Island Sound; (B) be
81 designed to reduce hypoxia, pathogens, toxic contaminants and
82 floatable debris on Long Island Sound; and (C) provide that the
83 commission consider the environmental impact on Long Island Sound
84 of any proposal for development.

85 (c) Zoning regulations adopted pursuant to subsection (a) of this
86 section may: [be]

87 (1) To the extent consistent with soil types, terrain and
88 infrastructure capacity for the community, provide for cluster
89 development, as defined in section 8-18;

90 (2) Be made with reasonable consideration for the protection of
91 historic factors; [and shall be made with reasonable consideration for
92 the protection of existing and potential public surface and ground
93 drinking water supplies. On and after July 1, 1985, the regulations shall
94 provide that proper provision be made for soil erosion and sediment
95 control pursuant to section 22a-329. Such regulations may also
96 encourage]

97 (3) Encourage energy-efficient patterns of development, the use of
98 solar and other renewable forms of energy, and energy conservation; [. The regulations may also provide]

100 (4) Provide for incentives for developers who use passive solar
101 energy techniques, as defined in subsection (b) of section 8-25, in
102 planning a residential subdivision development, [. The incentives may
103 include, but not be] including, but not limited to, cluster development,
104 higher density development and performance standards for roads,
105 sidewalks and underground facilities in the subdivision; [. Such
106 regulations may provide]

107 (5) Provide for a municipal system for the creation of development
108 rights and the permanent transfer of such development rights, which

109 may include a system for the variance of density limits in connection
110 with any such transfer; [. Such regulations may also provide]

111 (6) Provide for notice requirements in addition to those required by
112 this chapter; [. Such regulations may provide]

113 (7) Provide for conditions on operations to collect spring water or
114 well water, as defined in section 21a-150, including the time, place and
115 manner of such operations; [. No such regulations shall prohibit] and

116 (8) In any municipality where a traprock ridge or an amphibolite
117 ridge is located, (A) provide for development restrictions in ridgeline
118 setback areas; and (B) restrict quarrying and clear cutting, except that
119 the following operations and uses shall be permitted in ridgeline
120 setback areas, as of right: (i) Emergency work necessary to protect life
121 and property; (ii) any nonconforming uses that were in existence and
122 that were approved on or before the effective date of regulations
123 adopted pursuant to this section; and (iii) selective timbering, grazing
124 of domesticated animals and passive recreation. As used in this
125 subdivision, "traprock ridge", "amphibolite ridge" and "ridgeline
126 setback area" have the same meanings as provided in section 8-1aa.

127 (d) Zoning regulations adopted pursuant to subsection (a) of this
128 section shall not:

129 (1) Prohibit the operation of any family child care home or group
130 child care home in a residential zone; [. No such regulations shall
131 prohibit]

132 (2) (A) Prohibit the use of receptacles for the storage of items
133 designated for recycling in accordance with section 22a-241b or require
134 that such receptacles comply with provisions for bulk or lot area, or
135 similar provisions, except provisions for side yards, rear yards and
136 front yards; [. No such regulations shall] or (B) unreasonably restrict
137 access to or the size of such receptacles for businesses, given the nature
138 of the business and the volume of items designated for recycling in
139 accordance with section 22a-241b, that such business produces in its

140 normal course of business, provided nothing in this section shall be
141 construed to prohibit such regulations from requiring the screening or
142 buffering of such receptacles for aesthetic reasons; [. Such regulations
143 shall not impose]

144 (3) Impose conditions and requirements on manufactured homes,
145 including mobile manufactured homes, having as their narrowest
146 dimension twenty-two feet or more and built in accordance with
147 federal manufactured home construction and safety standards, or on
148 lots containing such manufactured homes, [which] including mobile
149 manufactured home parks, if those conditions and requirements are
150 substantially different from conditions and requirements imposed on
151 (A) single-family dwellings; [and] (B) lots containing single-family
152 dwellings; [. Such regulations shall not impose conditions and
153 requirements on developments to be occupied by manufactured homes
154 having as their narrowest dimension twenty-two feet or more and
155 built in accordance with federal manufactured home construction and
156 safety standards which are substantially different from conditions and
157 requirements imposed on] or (C) multifamily dwellings, lots
158 containing multifamily dwellings, cluster developments or planned
159 unit developments; [. Such regulations shall not prohibit]

160 (4) (A) Prohibit the continuance of any nonconforming use, building
161 or structure existing at the time of the adoption of such regulations;
162 [or] (B) require a special permit or special exception for any such
163 continuance; [. Such regulations shall not] (C) provide for the
164 termination of any nonconforming use solely as a result of nonuse for a
165 specified period of time without regard to the intent of the property
166 owner to maintain that use; [. Such regulations shall not] or (D)
167 terminate or deem abandoned a nonconforming use, building or
168 structure unless the property owner of such use, building or structure
169 voluntarily discontinues such use, building or structure and such
170 discontinuance is accompanied by an intent to not reestablish such use,
171 building or structure. The demolition or deconstruction of a
172 nonconforming use, building or structure shall not by itself be
173 evidence of such property owner's intent to not reestablish such use,

174 building or structure; [. Unless such town opts out, in accordance with
175 the provisions of subsection (j) of section 8-1bb, such regulations shall
176 not prohibit] and

177 (5) Prohibit the installation of temporary health care structures for
178 use by mentally or physically impaired persons [in accordance with
179 the provisions of section 8-1bb if such structures comply with the
180 provisions of said section] pursuant to section 8-1bb, as amended by
181 this act, unless the municipality opts out pursuant to subsection (j) of
182 said section.

183 (e) Any city, town or borough which adopts the provisions of this
184 chapter may, by vote of its legislative body, exempt municipal
185 property from the regulations prescribed by the zoning commission of
186 such city, town or borough, [;] but unless it is so voted, municipal
187 property shall be subject to such regulations.

188 [(b) In any municipality that is contiguous to Long Island Sound the
189 regulations adopted under this section shall be made with reasonable
190 consideration for restoration and protection of the ecosystem and
191 habitat of Long Island Sound and shall be designed to reduce hypoxia,
192 pathogens, toxic contaminants and floatable debris in Long Island
193 Sound. Such regulations shall provide that the commission consider
194 the environmental impact on Long Island Sound of any proposal for
195 development.

196 (c) In any municipality where a traprock ridge, as defined in section
197 8-1aa, or an amphibolite ridge, as defined in section 8-1aa, is located
198 the regulations may provide for development restrictions in ridgeline
199 setback areas, as defined in said section. The regulations may restrict
200 quarrying and clear cutting, except that the following operations and
201 uses shall be permitted in ridgeline setback areas, as of right: (1)
202 Emergency work necessary to protect life and property; (2) any
203 nonconforming uses that were in existence and that were approved on
204 or before the effective date of regulations adopted under this section;
205 and (3) selective timbering, grazing of domesticated animals and

206 passive recreation.]

207 [(d)] (f) Any advertising sign or billboard that is not equipped with
208 the ability to calibrate brightness or illumination shall be exempt from
209 any municipal ordinance or regulation regulating such brightness or
210 illumination that is adopted by a city, town or borough, pursuant to
211 subsection (a) of this section, after the date of installation of such
212 advertising sign or billboard. [pursuant to subsection (a) of this
213 section.]

214 Sec. 2. Subsection (a) of section 8-30j of the general statutes is
215 repealed and the following is substituted in lieu thereof (*Effective July*
216 *1, 2019*):

217 (a) [At] Not later than January 1, 2021, and at least once every five
218 years thereafter, each municipality shall prepare or amend and adopt
219 an affordable housing plan for the municipality and shall submit a
220 copy of such plan to the Commissioner of Housing. Such plan shall
221 specify how the municipality intends to increase the number of
222 affordable housing developments in the municipality.

223 Sec. 3. (NEW) (*Effective July 1, 2019*) (a) (1) The Commissioner of
224 Housing shall convene a working group to conduct a study of the
225 requirements for, and incentives for compliance with, both affordable
226 housing plans prepared pursuant to section 8-30j of the general
227 statutes, as amended by this act, and municipal zoning regulations to:

228 (A) Provide for the development of housing opportunities,
229 including opportunities for multifamily dwellings consistent with soil
230 types, terrain and infrastructure capacity, for all residents of a
231 municipality and the planning region in which such municipality is
232 located, as designated by the Secretary of the Office of Policy and
233 Management pursuant to section 16a-4a of the general statutes;

234 (B) Promote housing choice and economic diversity in housing,
235 including housing for both low and moderate income households; and

236 (C) Provide for the development of housing that will meet the needs
237 identified in the state's consolidated plan for housing and community
238 development, prepared pursuant to section 8-37t of the general
239 statutes, and in the housing and other components of the state plan of
240 conservation and development, prepared pursuant to section 16a-26 of
241 the general statutes.

242 (2) Such study shall include an examination of (A) how each
243 municipality's compliance with both its municipal zoning regulations
244 requirements and its affordable housing plan requirements should be
245 determined, (B) possible incentives for such compliance, and (C) the
246 form and manner in which evidence of such compliance should be
247 determined.

248 (3) The working group shall consist of the following members, who
249 shall be appointed by the Commissioner of Housing not later than
250 sixty days after the effective date of this section:

251 (A) Two representatives with expertise in fair housing issues;

252 (B) Two representatives with expertise in state or local planning;

253 (C) Two representatives of municipal advocacy organizations, one
254 of whom is from the Connecticut Council of Municipalities and one of
255 whom is from the Connecticut Council of Small Towns;

256 (D) One representative with expertise in addressing homelessness in
257 the state;

258 (E) One representative with expertise in the residential housing
259 construction trade; and

260 (F) The Secretary of the Office of Policy and Management, or said
261 secretary's designee.

262 (4) The working group shall provide the findings of such study to
263 the Commissioner of Housing such that, not later than June 1, 2020,
264 said commissioner shall submit a report regarding the outcome and

265 recommendations of the working group, including any recommended
266 legislation, to the joint standing committee of the General Assembly
267 having cognizance of matters relating to planning and development, in
268 accordance with section 11-4a of the general statutes.

269 (b) (1) Not later than June 1, 2021, and at least once every ten years
270 thereafter, each municipality that adopts the provisions of chapter 124
271 of the general statutes pursuant to section 8-1 of the general statutes
272 shall demonstrate, in a form and manner prescribed by the
273 Commissioner of Housing, compliance with the provisions of
274 subdivisions (4) to (6), inclusive, of subsection (b) of section 8-2 of the
275 general statutes, as amended by this act. Not later than June 1, 2020,
276 said commissioner shall provide guidance to municipalities regarding
277 the demonstration of such compliance, except that, if the provision of
278 such guidance is delayed beyond June 1, 2020, the time for satisfying
279 the requirement to demonstrate such compliance shall be extended by
280 the length of time of any such delay.

281 (2) The Commissioner of Housing, in consultation with the working
282 group established pursuant to subsection (a) of this section, shall adopt
283 regulations in accordance with the provisions of chapter 54 of the
284 general statutes to prescribe both the incentive structure and the form
285 and manner in which each municipality shall provide evidence of
286 compliance with the provisions of subdivisions (4) to (6), inclusive, of
287 subsection (b) of section 8-2 of the general statutes, as amended by this
288 act.

289 Sec. 4. Subsection (j) of section 8-1bb of the general statutes is
290 repealed and the following is substituted in lieu thereof (*Effective July*
291 *1, 2019*):

292 (j) A municipality, by vote of its legislative body or, in a
293 municipality where the legislative body is a town meeting, by vote of
294 the board of selectmen, may opt out of the provisions of this section
295 and the [provision] provisions of subdivision (5) of subsection [(a)] (d)
296 of section 8-2, as amended by this act, regarding authorization for the

297 installation of temporary health care structures, provided the zoning
298 commission or combined planning and zoning commission of the
299 municipality: (1) First holds a public hearing in accordance with the
300 provisions of section 8-7d on such proposed opt-out, (2) affirmatively
301 decides to opt out of the provisions of said sections within the period
302 of time permitted under section 8-7d, (3) states upon its records the
303 reasons for such decision, and (4) publishes notice of such decision in a
304 newspaper having a substantial circulation in the municipality not
305 later than fifteen days after such decision has been rendered.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2019</i>	8-2
Sec. 2	<i>July 1, 2019</i>	8-30j(a)
Sec. 3	<i>July 1, 2019</i>	New section
Sec. 4	<i>July 1, 2019</i>	8-1bb(j)

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: None

Municipal Impact:

Municipalities	Effect	FY 20 \$	FY 21 \$
Various Municipalities	Revenue Loss	None	See Below

Explanation

The bill results in a loss of state aid to municipalities that do not comply with specified zoning statutes, as it requires that they are precluded from receiving any discretionary state funding.

The potential revenue loss can vary significantly by town, and depends on what grants are included in the definition of "discretionary state funding." Municipal aid totaled approximately \$1.1 billion in FY 19.¹

As the bill does not require municipalities to demonstrate compliance until January 1, 2021, it is anticipated that FY 21 is the earliest that any municipality could lose state funding as a result of the bill.

The bill makes other changes to municipal zoning regulations that have no fiscal impact, as they are not anticipated to increase the cost associated with administering or enforcing such regulations.

¹ This figure does not include funding for Education Cost Sharing (ECS) or Teachers' Retirement (TRB) Payments. TRB payments are contractual obligations and ECS grants fulfill a constitutional requirement for the state to provide equal educational opportunities to all students in the state.

The bill establishes a working group to conduct a study of the requirements for, and incentives for compliance with, both affordable housing plans and municipal zoning regulations. The group shall submit a report of its findings and recommendations for legislative changes to the Planning and Development Committee by June 1 2020.

Section 3 of the bill has no fiscal impact as PA 17-236 prohibits transportation allowances for working group members.

House "A" established the working group.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the amount budgeted for municipal aid, and the number of towns that are noncompliant with certain housing statutes.

OLR Bill Analysis**sHB 6749 (as amended by House "A")******AN ACT TO REORGANIZE THE ZONING ENABLING ACT AND PROMOTE MUNICIPAL COMPLIANCE.*****SUMMARY**

This bill reorganizes the municipal zoning powers statute (CGS § 8-2) and, for municipalities exercising zoning powers under this statute, it:

1. requires them to demonstrate that their regulations comply with the bill's requirements concerning the (a) provision of varied housing development opportunities and (b) promotion of housing choice and economic diversity in housing;
1. requires the regulations to provide for, rather than encourage, a variety of housing development opportunities to meet local and regional needs;
2. requires the regulations to be designed to affirmatively further the purposes of the Federal Fair Housing Act;
3. eliminates a requirement that the regulations be made with reasonable consideration as to the "character" of a district; and
4. prohibits the regulations from imposing on mobile manufactured homes and associated lots conditions that are substantially different from those imposed on other residential developments.

The bill also (1) requires municipalities to comply with existing law's affordable housing planning requirement by January 1, 2021, and

(2) requires the housing commissioner to convene a nine-member working group to study municipal zoning and affordable housing planning requirements related to housing choice.

Lastly, the bill makes minor, technical, and conforming changes.

*House Amendment "A" (1) removes the discretionary funding penalty imposed on municipalities whose regulations fail to comply with the bill's requirements, (2) modifies the composition of the working group and its study's focus and deadlines, (3) requires the Department of Housing commissioner to adopt regulations, and (4) makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2019

AFFORDABLE HOUSING PLANNING REQUIREMENT DEADLINE

Existing law requires every municipality, at least once every five years, to prepare or amend and adopt an affordable housing plan. The plan must specify how the municipality will increase the number of affordable housing developments in its jurisdiction. Under the bill, municipalities must prepare and adopt a plan and submit it to the Department of Housing commissioner by January 1, 2021.

MUNICIPAL ZONING AND AFFORDABLE HOUSING PLAN WORKING GROUP

The bill requires the housing commissioner to convene a 9-member working group to study the requirements of and incentives to comply with municipal (1) affordable housing plans and (2) zoning regulations to:

1. provide for development of (1) housing opportunities for all residents of the municipality and local planning region, including opportunities for multifamily dwellings, consistent with soil types, terrain, and infrastructure capacity and (2) housing that meets the needs identified in the state's Consolidated Plan for Housing and Community Development and Plan of Conservation and Development; and

2. promote housing choice and economic diversity in housing, including housing for low- and moderate-income households.

The working group must examine (1) how to determine municipal compliance with zoning regulation and affordable housing plan requirements and the form and manner of evidence of such compliance, and (2) potential compliance incentives. The working group must provide its findings to the commissioner, who must report by June 1, 2020 to the Planning and Development Committee on the working group's study and recommendations, including any recommended legislation.

Membership

The housing commissioner must appoint the following working group members by August 30, 2019:

1. two with expertise in fair housing issues;
2. two with expertise in state or local planning;
3. one with expertise in addressing homelessness in Connecticut;
4. two who represent a municipal advocacy organization (one each from the Connecticut Council of Municipalities and Connecticut Council of Small Towns);
5. one with expertise in the residential housing construction trade; and
6. the Office of Policy and Management (OPM) secretary or her designee.

REQUIREMENTS FOR MUNICIPALITIES THAT ZONE UNDER THE STATUTES (CGS § 8-2)

Municipal Compliance

Beginning June 1, 2021, the bill requires municipalities to demonstrate to the housing commissioner, at least once every 10 years, that their regulations:

1. provide for a variety of housing development opportunities that meet state and local needs, as the bill requires (see “Housing Development Opportunities,” below); and
2. promote housing choice and economic diversity in housing, including housing for low- and moderate-income households.

The housing commissioner must prescribe the form and manner of showing compliance after consulting the working group established by the bill. The commissioner must provide such guidance to municipalities by June 1, 2020. If the commissioner’s guidance is delayed past the deadline, the municipalities’ reporting deadline is extended for the same amount of time.

Additionally, the bill requires the commissioner, after consulting with the working group, to adopt regulations that establish (1) the form and manner in which municipalities must demonstrate compliance and (2) an incentive structure.

Housing Development Opportunities

The bill requires zoning regulations to provide for, rather than encourage, the development of:

1. housing opportunities for all residents of the municipality and local planning region, including opportunities for multifamily dwellings, consistent with soil types, terrain, and infrastructure capacity, and
2. housing that meets the needs identified in the state’s Consolidated Plan for Housing and Community Development and Plan of Conservation and Development.

Manufactured Homes

The bill prohibits zoning regulations adopted pursuant to CGS § 8-2 from imposing on manufactured homes, including mobile homes, built to federal standards and with a narrowest dimension of 22 feet or more, and associated lots and parks, conditions that are substantially

different from those imposed on:

1. single family dwellings and associated lots;
2. multifamily dwellings; or
3. lots with multifamily dwellings, cluster developments, or planned unit developments.

Under current law, (1) manufactured homes and lots cannot be treated substantially differently from single family dwellings and lots with single family dwellings and (2) manufactured home developments cannot be treated substantially differently from multifamily dwellings or lots with multifamily dwellings, cluster developments, or planned unit developments. The bill removes references to manufactured home developments.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute
Yea 13 Nay 9 (03/25/2019)

Housing Committee

Joint Favorable
Yea 7 Nay 5 (04/24/2019)