OLR Bill Analysis
sHB 7408 (as amended by House "A")*

AN ACT CONCERNING MUNICIPAL STORMWATER AUTHORITIES, STUDIES OF THE PILOT GRANTS PROGRAM AND A PROPERTY TAX EXEMPTION FOR MACHINERY AND EQUIPMENT, AND ENTERPRISE ZONES.

SUMMARY

This bill:

1. gives municipalities with designated enterprise zones discretion to opt out of providing, for five years, property tax exemptions and fixed assessments for certain real and personal property located in the zones (§§ 5-9);

2. authorizes all municipalities, rather than just certain ones, to establish a municipal stormwater authority; expands the authorities’ powers to assess fees; and specifies the process by which municipal legislative bodies approve such fees (§§ 1 & 2);

3. requires the Office of Policy and Management (OPM) secretary to study the payment in lieu of taxes (PILOT) program for towns in which over 50% of their land is state forest and report her findings and recommendations to the legislature (§ 3); and

4. requires the Department of Economic and Community Development (DECD) commissioner to study the property tax exemption for manufacturing machinery and equipment (MME) and report his findings and recommendations to the legislature (§ 4).

*House Amendment “A” (1) restricts the enterprise zone opt-out to a five year period; (2) requires municipalities that have opted out to reapply for enterprise zone designation with DECD; (3) adds the provisions about stormwater authority fee approval, delinquent fees,
and appeals; and (4) makes minor changes to the stormwater authority provisions.

EFFECTIVE DATE: July 1, 2019, except the study provisions are effective upon passage.

§§ 5-9 — ENTERPRISE ZONE PROPERTY TAX INCENTIVES

Under the bill, any municipality with a designated enterprise zone (see BACKGROUND) may, by vote of its legislative body (or board of selectmen if its legislative body is a town meeting), opt out of providing the following property tax incentives in an enterprise zone for a five-year period:

1. a five-year, 80% exemption for qualifying facility improvements and machinery and equipment purchases (with certain narrow exceptions) (CGS § 12-81(59) & (60));

2. a seven-year fixed assessment (100% for the first two years, 50% for the third, and decreasing by 10% for each of the remaining four years) for real property improvements (other than for manufacturing facilities) (CGS § 32-71); or

3. both.

The opt-out takes effect on the date the municipality notifies the DECD commissioner of such vote, but it does not affect exemptions or fixed assessments for:

1. any business for which DECD has already approved an enterprise zone preliminary or formal application or issued an enterprise zone eligibility certificate;

2. any business receiving any of the incentives described above at the time of the notice; or

3. any real or personal property planned to be constructed or purchased pursuant to an economic incentive agreement entered into with DECD if the agreement was executed on or before December 31, 2018.
Under the bill, any municipality that has opted out of providing these incentives may, after the five-year opt-out period expires, seek the DECD commissioner’s approval to be redesignated as an enterprise zone. To do so, the municipality must follow the statutory enterprise zone designation process (i.e., file a preliminary and final application with the DECD commissioner).

The bill also makes numerous conforming changes.

**§§ 1 & 2 — MUNICIPAL STORMWATER AUTHORITIES**

**Eligible Municipalities**

The bill allows any municipality to establish a municipal stormwater authority, rather than just the three municipalities (i.e., New Haven, New London, and Norwalk) that participated in the Department of Energy and Environmental Protection’s (DEEP) municipal stormwater authority pilot program (authorized under PA 07-154).

**Fee Assessment**

Under current law, stormwater authorities created under the pilot program must, among other things, recommend to the municipality’s legislative body a levy on taxable real property in the stormwater district. The bill instead requires stormwater authorities to recommend a fee to be imposed on all real property in the district except as described below. The bill explicitly requires, rather than authorizes, the authorities to use the revenue generated to carry out any of the district’s powers. It makes conforming changes to an existing provision about a stormwater authority created under the DEEP pilot program and located in a distressed municipality with a population of 28,000 or fewer (i.e., New London).

Under the bill, each stormwater authority must present its budget annually to the municipality’s legislative body for approval. The budget must include (1) the specific programs the authority proposes to undertake during the fiscal year, (2) its projected expenditures for such programs, and (3) the fee amount it proposes to levy to pay for such expenditures. The total fees proposed for the fiscal year may not
exceed the total projected expenditures. Under the bill, the legislative body must approve fee amounts that are less than the authority’s proposed amounts.

In setting fees, the bill requires, rather than allows, authorities to consider (1) the amount of impervious surfaces generating stormwater runoff, (2) land use types that result in higher concentrations of stormwater pollution, and (3) the property’s grand list valuation. The bill additionally requires them to consider land use types that result in lower concentrations of stormwater pollution.

**Exempt Properties**

Current law authorizes the authorities to reduce or defer such fees for land classified as, or consisting of, farm, forest, or open space. The bill instead prohibits them from imposing fees on such land except for areas containing impervious surfaces from which stormwater is generated.

**Delinquent Fees**

Under the bill, fees that are not paid in full on or before 30 days after they are due are subject to the same interest rate as delinquent property taxes (i.e., 1.5% per month). Unpaid fees and interest are a lien on the property owner’s real or personal property on which the fee was levied and may be recorded and released in the same manner as property tax liens.

**Aggrieved Individuals**

Under the bill, anyone aggrieved by an authority’s action has the same rights and remedies for appeal and relief as the law provides for property taxpayers aggrieved by an assessor’s or board of assessment appeal’s action (see BACKGROUND).

**§ 3 — PILOT PROGRAM STUDY**

The bill requires the OPM secretary to study the PILOT program for towns where at least 50% of their land is comprised of state forest. The study must evaluate the grant formula and whether it should be changed for these towns. By January 1, 2020, she must submit her
findings and any recommendations for legislative changes to the (1) Finance, Revenue and Bonding and (2) Planning and Development committees.

§ 4 — DECD STUDY OF MME PROPERTY TAX EXEMPTION

The bill requires the DECD commissioner to study the MME property tax exemption and evaluate the impact of limiting the number of years for which a taxpayer qualifies for the exemption to seven or fewer years. In doing so, he may consult with any individuals, businesses, and state agencies he deems necessary to accomplish the study’s purposes. By January 1, 2020, he must report his findings and recommendations to the (1) Commerce, (2) Planning and Development, and (3) Finance, Revenue and Bonding committees.

BACKGROUND

Municipalities with Enterprise Zones

The state’s 18 enterprise zones are located in Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Thomaston, Waterbury, and Windham.

Property Tax Assessment Appeals

By law, property owners can appeal their assessments to a municipality's board of tax review or assessment appeals. The appeals board must hold a hearing on each appeal except for those for commercial, industrial, utility, or apartment properties assessed at over $1 million. A taxpayer aggrieved by an appeals board's decision can appeal to Superior Court (CGS § 12-117a).

The law provides the following two circumstances under which a taxpayer can appeal directly to Superior Court:

1. when the appeals board declines to hear an appeal on commercial, industrial, utility, or apartment properties assessed at over $1 million (CGS § 12-111) and

2. when the taxpayer alleges that the tax was illegal (i.e., assessed
on property not taxable in the municipality or “computed on an assessment which, under all circumstances, was manifestly excessive and could not have been arrived at except by disregarding the provisions of the statutes for determining the valuation of such property”)(CGS § 12-119).

COMMITTEE ACTION
Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 31  Nay 19  (05/01/2019)