Bill No.: SB-846
Title: AN ACT CONCERNING THE MUNICIPAL GAIN, THE PREPARATION OF UTILITY POLES AND ENTERPRISE FUNDS FOR MUNICIPAL BROADBAND SERVICES.
Vote Date: 3/19/2019
Vote Action: Joint Favorable Substitute
PH Date: 2/26/2019
File No.: 451

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SPONSORS OF BILL:
Energy & Technology Committee
Co-Sponsors:
Rep. Maria P. Horn, 64th Dist.

REASONS FOR BILL:
The state established a section of the utility pole to be designated for municipal use decades ago. The section of the pole is referred to as the “municipal gain” and for years it has been utilized to deliver a variety of services in towns and municipalities. Very recently towns, particularly in rural and northwest Connecticut, have struggled to get access to high quality dependable broadband internet. Many broadband providers have expressed that building these networks in these towns is too costly and have chosen not to lay the necessary fiber optic cable backbone needed for these services. In an effort to deliver broadband internet services to residents, towns with little or no access have desired to leverage the municipal gain to create these broadband networks. They hope to be able to do this by either setting it up the networks themselves or seeking out partners by leasing/selling the municipal gain space. The bill seeks to create a method of clarifying the current language of the statutes regulating the municipal gain and also establish a clear pathway for using it for broadband services.

RESPONSE FROM ADMINISTRATION/AGENCY:
Kevin Lembo, State Comptroller – Office of the State Comptroller – Lembo is in support of the bill because he feels that we should be focusing on delivering more high speed internet
throughout Connecticut and this bill will help facilitate this. Lembo also states that PURA made a mistake in deeming that the municipals could not use their gain for the purpose of creating a broadband network and the bill has the ability to correct this error. He also supports how the bill will allow for municipalities to act when cable companies have chosen not to create networks capable of delivering high speed internet because of the high cost.

**Elin Katz, Office of the Consumer Counsel** – Is in support of the bill but with some amendments that align the bill with requests made from PURA. OCC supports expanding the ability for municipalities to utilize the municipal gain for boosting economic development through the creation of broadband internet networks. OCC also states that this bill will help clarify what the municipal gain can be used for. OCC also supports updating how the state manages what goes on our utility poles by enacting a “one-touch make-ready” system which is working well in many other states. The one-touch model is able to streamline many pole usages to one cable pack and decreases number of times the pole needs to be worked on to either install or repair the pole. Finally OCC asks for more clarification for how an enterprise fund will function as the market evolves over time.

**Rep. Maria Horn, D64** - Horn is in support of the bill and states that the FCC’s data on coverage of broadband internet availability (99%) is wrong and wanted to clarify that approximately 20% of people do not have access to broadband speeds in CT. A large portion of the 20% without access live in her district in the Northwest Corner of CT and the bill would help her deliver broadband internet to her constituents. She states that the lack of high speed internet has a significant negative impact on attracting young people to her district as well their ability to grow in-district jobs. She also acknowledges the safety impact that the lack of high speed internet has on many constituents in her district. Finally she states that having access to the municipal gain will help lower the overall cost of internet services.

**Joe Giulietti, Commissioner of Department of Transportation** – Giulietti offers comments on the bill and commends its effort to clarify what the municipal gain can and cannot be used for. DOT requests that they are able to retain access to the gain as new networks are built if the bill passes. They also outline how they need access to the gain because it might become necessary if the DOT wants to set up the necessary network to handle autonomous cars and vehicles. They request language changes that protect their right to the gain as it stands now as well as language clarifying that if the gain is leased to a private company that the company must work with the DOT.

**Katie Dykes, Commissioner of Dept. of Energy & Environmental Protection** – DEEP supports the intent of the bill, expanding access to broadband internet service, but has many concerns with the current language as written. They encourage the committee to allow for PURA to finish its work on the docket they currently have open. They believe this docket will help establish how to act next and caution against acting before the PURA docket has closed.

**Representative Jason Doucette, D13** – Rep. Doucette supports the bill and would like to see the passage of this bill because he believes it will help boast economic development in his district of Manchester. He also feels that the recent PURA decision stripped them of their right to use the gain as they see fit and that in deciding that the legislature has the opportunity and right to determine how the gain can be used through this legislation.
John Betkoski, Acting Chair - Public Utilities Regulatory Authority (PURA) – Does not take a position on the bill but submitted comments on Section 2. In January of 2019 PURA opened a docket in an effort to address issues with the delivery of broadband internet and other utilities through the poles. They have sought to work with all stakeholders in an effort to fix issues pertaining to access to the poles and hopes that the legislature doesn’t act in haste in setting up a system before they have the chance to close their docket. PURA also feels that the enumerated deadline of December 31, 2019 to create new standards for access to the poles is too little time to get the new system right.

NATURE AND SOURCES OF SUPPORT:

Donna Hamzy Carroccia, Advocacy Manager Connecticut Conference of Municipalities – Supports the bill and feels it is necessary that this legislation clarifies what the municipal gain can be used for. CCM also supports the process of creating an enterprise fund for the use of creating broadband services. CCM believes that this bill help towns develop the necessary infrastructure to modernize their educational services as well.

Litchfield County Dispatch, Inc. – Supports the bill because they feel it will help secure the safety of the residents of Litchfield County and also allow towns to offer a fair price for high speed internet access.

Patrick McDonnell, VP of Regulatory Affairs for UIL Holdings Corporation (UI) - United Illuminated supports the intent of the bill but request language changes to clarify how the municipalities and partners will work with the polls to ensure they aren’t damaging them on installation. They ask that the pole owner is able to work with whoever is doing work on them and they have significant safety concerns. They also request that there is language included that helps to solidify the process for how the variety of work orders are applied to the poles to ensure proper safety is taken into consideration and that the work isn’t rushed.

David McGuire, American Civil Liberties Union of Connecticut – ACLU supports the bill because they feel that it will help to protect Net Neutrality and First Amendment freedom of speech rights. They request that the bill is amended with net neutrality language.

John F. Sullivan, Assistant Town Attorney and Jay Moran, Mayor - Town of Manchester – Manchester would like to see the passage of this bill because they believe it will help boast economic development in their town. They also feel that the recent PURA decision stripped them of their right to use the gain as they see fit and that in deciding that the municipal gain cannot be used for broadband networks they have stunted economic growth.

Joined By: Jack McCoy – CIO Town of Manchester

Vincent Pace, Associate General Counsel Eversource – Eversource supports the intention of the bill and how it would help deliver broadband internet to more people but offer some suggestions on rollout. They request that the poles are still managed and maintained by their trained linesmen and that the bill includes information on how to recover costs when they aide in the rollout of the telecommunications networks.

Pam White, Resident CT – White stressed the importance of every resident of every town having access to high quality, high speed internet for studies, school work and working from
home. She explained how Kent, located in the Northwest corner of CT, has poor internet quality and that this bill could significantly help in getting all residents the access they deserve.

**Roberta Willis – Former State Representative** – Willis supports the bill and in her testimony explained how the northwest corner of Connecticut has major issues delivering broadband internet to the residents. She supports the bill because she feels that if the town can use the gain to lay the necessary fiber wire that they can then partner with private industries to have them handle delivery to the households. She feels the bill will help establish a proper structure for this process and allow municipalities to leverage their municipal gain asset to deliver the services that the citizens demand.

**Joined By:**
- **Don Stein** – Chairman Northwest Connecticut Economic Development Corp.
- **Rosemary O'Brien** – President of Rose Consulting – O'Brien states that the FCC's data on coverage of broadband internet availability (99%) is wrong and wanted to clarify that approximately 20% of people do not have access to broadband speeds in CT. A large portion of the 20% without access live in the Northwest Corner of CT and would benefit the most from the passing of this bill.
- **Kim Maxwell** - President Northwest ConnecCT – Added that adoption will help CT become a leader in broadband access. Also states that the PURA decision that clarified what the municipal gain could be used for, excluding broadband networks, needs to be corrected through this bill. He also states that while 5G cellular data might be the future it isn’t immediately as a viable solution and the municipalities should be able to access current technology.
- **Jessica K. Fowler** – Vice President Northwest ConnecCT
- **John Brett** – Treasurer Northwest ConnecCT
- **Paul DePaolo** – Secretary Northwest ConnecCT
- **Bob Knight** – Resident of Ridgefield – Having access to high speed internet in hospitals will help battle the opioid crisis. He also adds that creating the fiber backbone will help with 5G rollout in the near future.
- **Janet Hanna** – Resident Falls Village
- **Jill Drew** – Resident Sharon CT
- **Betsy Gara**, Executive Director of CT Council of Small Towns & **John Elsesser**, Town Manager Coventry  - Both add that the bill will help towns utilizing the Nutmeg Network to provide certain services by strengthening that backbone with municipal owned broadband networks. Gara also supports the enterprise fund section of the bill.
- **Janet Carlson** – CEO One Eleven Group

**Ellen Zoppo-Sassu, Mayor – Bristol** – Mayor Zoppo-Sassu is in full support of the bill and feels that it allows municipalities to leverage their municipal gain to provide more services particularly lower priced high speed internet to her residents. She also expresses that leverage this gain could boost economic development.

**Joined By:**
- **Tom Swan** – Exec. Director of the Connecticut Citizen Action Group
- **Leo Paul** – First Selectman Litchfield
- **David R. Martin** – Mayor Stamford
- **Jeffery A. Manville** – First Selectman Southbury
- **Beth Heller** – First Selectman Woodbridge
Rick Dunne – Executive Director Naugatuck Valley Council of Governments
James B. Cosgrove – First Selectman Branford
Bruce Adams – First Selectman Kent
Mark D. Boughton – Mayor Danbury – Adds that establishing the enterprise fund for broadband internet will increase the ability for a town to provide low cost high speed internet to residents and businesses.
Patrick Alair – Corporate Counsel for West Hartford – Adds that the bill will help clarify what the gain can and should be used for. He is an attorney representing West Hartford in a PURA docket appeal. West Hartford is one of the participants in asking that the earlier decision excluding the gain from being used for broadband be appealed and they hope this bill helps clarify what “for any purpose” means when applied to the municipal gain.

NATURE AND SOURCES OF OPPOSITION:

David Weidlich, President Communications Workers of America Local 1298 – Opposes this bill because he feels that it will establish a system that allows for low quality internet service provider companies to come in and take advantage of towns looking for internet. The CWA has serviced the lines for decades and want to continue to do so and he fears this bill will circumvent quality skilled workers doing the line work. He finishes by stating that the “business should take care of business and government should not interfere in the competitive marketplace as a broadband provider.”

Timothy Wilkerson, Vice President & General Counsel of New England Cable and Telecommunications Association, Inc. (NECTA) – Opposes this bill because they feel that this will eliminate long standing rules designed to create competition amongst the cable companies while also exhausting scare government resources in an effort to create fiber optic networks. NECTA also references the recent PURA docket that stated that this wasn’t an appropriate use of the municipal gain and this bill would undermine this decision as well as the current appeal that is in the CT Supreme Court. They also argue that this bill could set up a structure where there isn’t just compensation for property that is used. Finally NECTA states that this bill could set up a framework for local taxpayers to be on the hook to facilitate towns attempting to get into the broadband cable internet business. Wilkerson reminds the committee of the time Groton attempted to establish a town run internet system and ended up losing close to $30 million dollars and warns this bill may allow for repeats of this endeavor.

Joined By:
Carolyn Ridley, Director of Government Affairs – CenturyLink – Ridley added that they acknowledge certain communities might be underserved but this isn’t justification for violating federal and state level statutes.
David Lamendola – Verizon Director of Gov. Affairs
John Emra - ATT – Add that they support section 2 intent of trying to streamline access to the utility poles.
Allison M. Ellis - Senior Vice President Frontier – Frontier adds that the maintenance of the poles is a costly endeavor that towns shouldn’t be using their scarce resources on. They also warn against enterprise funds and using these funds to create broadband networks without a significant federally backed funding.

Reported by: Ben Lovejoy  Date: 04/01/2019