
OLR Bill Analysis

sHB 6441

AN ACT CONCERNING CLIMATE CHANGE ADAPTATION.

SUMMARY

This bill does the following:

1. 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 the fees (§§ 1-3);
2. establishes a municipal option conveyance fee on real property sales and limits the fee's use, for certain municipalities, to such things as stewardship of water resources and open space, farm, or forest land; funding climate resilience, mitigation, or adaptation strategies; and funding affordable housing (§ 4);
3. broadens the authority of municipal flood and erosion control boards to include flood prevention and climate resilience and allows municipalities to enter into agreements to form joint boards (§§ 5-18); and
4. expands the Connecticut Green Bank's duties to include developing separate programs to finance and otherwise support environmental infrastructure and establishes an Environmental Infrastructure Fund within the Green Bank for this purpose (§§ 20-24).

With respect to the Green Bank, the bill also increases, from \$100 million to \$250 million, the amount of bonds the Green Bank may issue that are backed by a special capital reserve fund (SCRF). SCRF-backed bonds are contingent liabilities of the state; if a SCRF is exhausted, the General Fund automatically replenishes it, regardless of the state spending cap (§ 23).

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2021

§§ 1-3 — MUNICIPAL STORMWATER AUTHORITIES

Eligible Municipalities

This bill authorizes all municipalities to establish a municipal stormwater authority, rather than just the three municipalities (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).

The bill applies to any town, city, borough, consolidated town and city, or consolidated town or borough. It does not apply to local or regional school districts; municipal fire, sewer, fire and sewer, lighting, village, beach, improvement association, or other districts or associations wholly within a town that have the power to levy taxes; metropolitan districts; or other municipal corporations or authorities that may issue bonds, notes, or other obligations.

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 the programs, and (3) the fee amount it proposes to levy to pay for the expenditures.

The total fees proposed for the fiscal year may not exceed the total projected expenditures. Under the bill, the legislative body may 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 surface 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 stormwater fees for land classified as, or consisting of, farm, forest, or open space. The bill instead prohibits them from imposing fees on this land except for areas with 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 just like property tax liens.

Under the bill, someone 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 a board of assessment appeal's action.

§ 4 — CONVEYANCE FEE

The bill authorizes municipalities, by a vote of their legislative bodies, to impose a conveyance fee on real property sales. It allows the

fee to be paid by either the buyer or seller, or a combination of the two as they decide.

Fee Amount

The bill sets the fee rates as follows:

1. up to 0.5% of the amount of the purchase price that exceeds \$150,000, up to \$800,000;
2. up to 1% of the amount of the purchase price that exceeds \$800,000, up to \$2.5 million; and
3. up to 1.5% of the amount of the purchase price that exceeds \$2.5 million.

Use of Funds

The bill requires the collected fees to be kept by the municipality and maintained in a separate account. It limits use of the fees, if the municipality is not a distressed municipality or not on the housing commissioner’s list of municipalities exempt from the Affordable Housing Land Use Appeals Procedure (see BACKGROUND), to the following:

1. open space land stewardship, such as for water resources, forest land, and farmland, but not land acquisition;
2. funding a Climate Change and Coastal Resiliency Reserve Fund or other municipal climate resilience, mitigation, or adaptation strategies;
3. matching investments from state programs for new or existing affordable housing programs funded from the Community Investment Account (see BACKGROUND);
4. funding other environmental projects such as urban forestry and planting trees, but not land acquisition; and
5. repaying municipal bonds that were obtained for the above purposes.

The bill allows distressed municipalities and targeted investment communities to set aside up to 10% of the fees they receive to offset property tax revenue reductions due to tax exemptions for protected open space, forest, farm, or recreational land.

Exempt Conveyances

The bill exempts from the fee (1) conveyances that preserve open space, farm, or forest land in perpetuity and (2) transactions existing law exempts from real estate taxation (e.g., deeds between spouses, to secure a debt, related to corporation mergers, tax deeds).

§§ 5-18 — FLOOD PREVENTION, CLIMATE RESILIENCE, AND EROSION CONTROL BOARDS

Scope of Authority

Current law authorizes municipalities to (1) establish a flood and erosion control board to prevent potential hazards from flooding, stream bank erosion, or beach erosion and (2) establish a separate taxing district for these purposes. These boards may plan, acquire, construct, repair, maintain, and manage a system, which may include such things as dikes, dams, piping, sea walls, jetties, tide-gates, water storage areas, or other structures or facilities.

The bill (1) increases the scope of these boards to include flood prevention and climate resilience; (2) allows them to also operate the systems; and (3) includes nonstructural and nature-based measures (e.g., altering or removing existing structures, maintaining open floodplain, and other less environmentally damaging alternatives) and open space for future accommodations or to establish wetlands or watercourses, as part of the system. It correspondingly renames these boards “flood prevention, climate resilience and erosion control boards.”

The bill extends to the boards’ broader scope of authority existing law’s authorizations related to entering and taking property; issuing bonds; and taxing or assessing property owners, among other things.

The bill allows the boards to (1) apply for and use public or private

grant funding; (2) draw upon a municipal Climate Change and Coastal Resilience Reserve Fund; and (3) additionally enter into contracts with municipalities to further the boards' purposes when related to navigation improvement projects, instead of only with the state and the federal government. The boards may also enter into agreements with the DEEP commissioner to construct projects or systems to prevent climate change impacts, as the current boards may do for their purposes.

Joint Boards

The bill allows municipalities to enter into agreements to have joint boards, but they must be approved by concurrent votes of the municipalities' legislative bodies. A joint board has authority over each municipality that is a party to the agreement.

Biannual Report

The bill establishes a biannual reporting requirement for flood prevention, climate resilience, and erosion control boards. The report must be published on the website of each municipality that is subject to the board's authority. The report must include the following:

1. an inventory and description of the flood prevention, climate resilience, and erosion control system the board manages;
2. the extent and value of property, infrastructure, and natural resources the system protects;
3. an analysis of how the system prioritizes and protects vulnerable communities, which are populations that may be disproportionately affected by climate change; and
4. the board's revenue and expenses.

Other Provisions

The bill requires the boards to consider regional and municipal hazard mitigation plans, resilience plans, identified vulnerable communities, and municipal conservation and development plans when planning for and doing their work. It also allows the boards to

consult with the Connecticut Institute for Resilience and Climate Adaption for this purpose.

§§ 20-24 — CONNECTICUT GREEN BANK

Environmental Infrastructure

Green Bank Authority. The Green Bank’s current duties include developing programs for, and promoting investment in, clean energy. The bill expands the Green Bank’s duties to include (1) developing separate programs to finance and otherwise support environmental infrastructure and (2) promoting investment in the infrastructure.

By law, the Green Bank has standards governing its administration, including rules, policies, and procedures for such things as borrower eligibility, terms, and conditions. The law required these standards to be in place before the bank financially supported clean energy projects and the bill extends this requirement to environmental infrastructure projects. The bill applies existing requirements for clean energy funding to environmental infrastructure projects (e.g., fees, several funding sources).

Project Types. The bill expands the types of projects the Green Bank can promote investment in to include environmental infrastructure, which, under the bill, is structures, facilities, systems, services, and improvement projects related to water, waste and recycling, climate adaptation and resiliency, agriculture, land conservation, parks and recreation, and environmental markets such as carbon offsets and ecosystem services.

Under the bill, “carbon offsets” are an activity that compensates for greenhouse gas (GHG) emissions through an emission reduction. “Ecosystem services” are ecosystem benefits such as (1) provisioning services (e.g., food and water), (2) regulating services (e.g., regulating floods, drought, land degradation, and disease), and (3) supporting services (e.g., soil formation and nutrient cycling).

Environmental Infrastructure Fund Purpose. The bill requires the Green Bank’s comprehensive plan to include growth, development,

commercialization, and, where applicable, preservation of environmental infrastructure and related enterprises. Current law requires similar planning for clean energy purposes. The bill allows the bank to use the Environmental Infrastructure Fund to pay for expenses to promote environmental infrastructure investment, but not projects eligible for Clean Water Fund funding.

The bill allows an environmental infrastructure project to receive financing support from the Green Bank if the bank determines that the amount it and other nonequity financing sources provide does not exceed 100% of the project's cost.

As it does under existing law for clean energy, the bill requires the Green Bank to (1) develop separate programs to finance and support environmental infrastructure investment in residential, municipal, small business, and larger commercial projects, and others the Green Bank determines and (2) support financing or other expenses that promote environmental infrastructure investment, which must be done according to its comprehensive plan.

The expenses may include costs related to such things as:

1. low-cost financing and credit enhancement mechanisms for projects and technologies;
2. grants;
3. contracts or other actions to support research, development, manufacture, commercialization, deployment, and installation of environmental infrastructure;
4. actions to expand the expertise of individuals, businesses, and lending institutions regarding environmental infrastructure;
5. direct or equity investments;
6. reimbursements of operating expenses; and
7. disbursements to develop and carry out the Green Bank's

comprehensive plan.

Under the bill, operating expenses may include the Green Bank's (1) administrative expenses, (2) capital costs related to fund operation, (3) plan implementation, and (4) other permitted activities.

Funding Sources. The bill's expansion of the Green Bank's duties enables the bank to use its existing bonding authority to provide financing for environmental infrastructure projects (see *Bonding*, below). As is available under existing law for clean energy projects, similar funding sources are available for financing environmental infrastructure, including such things as:

1. charitable gifts, grants, contributions, and loans from individuals, corporations, university endowments, and philanthropic foundations;
2. earnings and interest from financing support activities backed by the Green Bank; and
3. private sources, pursuant to contract.

The bill also allows the fund to receive any (1) amount required by law to be deposited into the fund and (2) federal funds that may become available to the state for environmental infrastructure investments. But it explicitly prohibits from being deposited into the fund: (1) ratepayer or Regional Greenhouse Gas Initiative funds that under existing law are used for clean energy projects, (2) funds in the state's Clean Water Fund account or that must be deposited into the account, and (3) funds collected from water companies.

The bill also prohibits the Green Bank from applying for federal clean water or safe drinking water grants without approval from the state treasurer and the DEEP or public health commissioners, respectively.

Audits and Certified Statements. The bill requires the Environmental Infrastructure Fund, like the existing Clean Energy Fund, to be annually audited. Entities receiving environmental

infrastructure project funding, unless exempt under existing law (i.e., certain residential projects), must provide annual certified statements to the Green Bank's Board of Directors.

Other Provisions

Board Membership. The bill adds the Office of Policy and Management secretary, or her designee, as a voting member of the Green Bank's Board of Directors.

Bonding. The bill limits the term of bonds secured by the Green Bank's SCRF to 25 years. The bill generally (1) increases, from 20 to 25 years, the maximum term of bonds issued for clean energy projects and (2) sets the maximum term of bonds issued for environmental infrastructure projects at 50 years. But in neither case can the bond's maturity date exceed an underlying project's expected useful life.

Funding Qualification. The bill allows any eligible project, including environmental infrastructure projects (see above), to receive financing support from the Green Bank if the bank determines that the amount it and other nonequity financing sources provide does not exceed 100% of the project's cost. Current law restricts funding for clean energy projects to those for which the Green Bank and other nonequity sources provide no more than 80% of the cost.

Quasi-Public Subsidiaries. Current law prohibits Green Bank subsidiaries from being deemed quasi-public agencies with the bank's privileges, immunities, and tax and other exemptions. The bill creates an exception from this prohibition for single member limited liability companies (LLCs) that are disregarded as entities separate from their owner.

Reporting. The bill adds the Banking and Environment committees to the legislative committees to which the Green Bank's board must submit its annual activity report, instead of only the Energy and Technology and Commerce committees.

BACKGROUND

Affordable Housing

By law, the Department of Housing annually publishes a list of housing stock in each municipality that qualifies as affordable housing under the Affordable Housing Land Use Appeals Procedure (CGS §§ 8-30g(k) & 8-37qqq(a)(2)(D)). Under CGS § 8-30g, municipalities in which at least 10% of housing is deemed affordable are generally exempt from the law's appeals procedure.

Affordable housing stock that counts toward the 10% includes: (1) certain types of government-assisted housing, (2) housing currently financed by Connecticut Housing Finance Authority mortgages, (3) housing subject to deeds and conditions restricting its sale or rental to low- and moderate-income people, and (4) mobile homes or accessory apartments subject to certain deed restrictions.

Community Investment Account (CIA)

By law, the CIA is a separate, non-lapsing General Fund account that provides funding for open space, farmland preservation, historic preservation, affordable housing, and promoting agriculture. Funds are divided between DEEP, the Department of Economic and Community Development (DECD), the Department of Housing, and the Department of Agriculture. The account is capitalized through a \$40 land recording fee (CGS §§ 4-66aa & 7-34a(e)).

Distressed Municipalities

By law, the DECD commissioner must annually designate distressed municipalities based on a combination of economic, education, demographic, and housing criteria. In 2020, he designated the following 25 municipalities as distressed:

Ansonia	Bridgeport	Bristol
Chaplin	Derby	East Hartford
East Haven	Griswold	Hartford
Meriden	Montville	New Britain
New Haven	New London	Norwich
Preston	Putnam	Sprague
Stratford	Torrington	Voluntown
Waterbury	West Haven	Winchester

Windham

Related Bills

sSB 971, favorably reported by the Planning and Development Committee, authorizes municipalities to invest their Climate Change and Coastal Resiliency Reserve Funds in any trust fund administered, held, or invested by the state treasurer.

HB 6497 (File 205), favorably reported by the Environment Committee, contains identical stormwater provisions.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 21 Nay 11 (03/29/2021)