
OLR Bill Analysis

sSB 241

AN ACT CONCERNING OVERSIGHT AND TRANSPARENCY AT THE CONNECTICUT PORT AUTHORITY.

SUMMARY

This bill makes the following changes related to the Connecticut Port Authority (CPA):

1. authorizes up to \$25 million in state general obligation (GO) bonds over five years for ports other than those in Bridgeport, New Haven, and New London (§ 4);
2. subjects CPA to the State Contracting Standards Board's (SCSB) oversight by making it a "state contracting agency" for purposes of SCSB's authorizing statutes (§§ 2 & 3);
3. increases, from 45% to 100%, the reimbursement rate for payment in lieu of taxes (PILOT) grants for CPA property (§ 5); and
4. requires the authority's executive director, the administrative services commissioner, and the Office of Policy and Management (OPM) secretary to report certain information to the Transportation Committee on the authority's operations, finances, contracts, and projects (§ 1).

EFFECTIVE DATE: Upon passage, except the (1) PILOT provision is effective July 1, 2021, and (2) SCSB provisions are effective October 1, 2021.

§ 1 — REPORTING

The bill requires CPA's executive director to submit quarterly reports to the Transportation Committee beginning October 1, 2021, on the status of (1) pending and current contracts, (2) small port projects,

and (3) the construction project at the State Pier in New London. Each report must be jointly verified by the administrative services commissioner and OPM secretary before it is submitted.

The bill also requires the administrative services commissioner and the OPM secretary to report to the Transportation Committee annually by January 1 on the authority's projects in the previous year and its finances.

§§ 2 & 3 — STATE CONTRACTING STANDARDS BOARD

Under current law, SCSB has limited authority over quasi-public agencies, as they are not included in the definition of “state contracting agency” in SCSB’s authorizing statutes (see BACKGROUND). (Most of SCSB’s powers and duties apply to state contracting agencies only.)

The bill makes CPA a “state contracting agency” under SCSB’s authorizing statutes, subjecting CPA to the board’s full authority. Table 1 below lists a selection of SCSB statutes applicable to state contracting agencies that the bill extends to CPA.

The bill also makes a conforming change so that CPA’s property transactions are subject to SCSB’s authority. (SCSB’s authorizing statutes give the board authority over certain transactions involving interests in, and leases of, real property (CGS § 4e-1(22) & (30)).) Current law exempts most CPA property transactions from review or oversight under any state law (§ 2).

Table 1: Selected SCSB Statutes Applicable to CPA Under the Bill

<i>Statute</i>	<i>Description</i>
CGS § 4e-3	SCSB may exercise CPA's contracting-related powers, rights, and duties
CGS § 4e-4	SCSB must review, certify, and periodically recertify CPA's procurement processes
CGS § 4e-5	CPA must appoint a procurement officer
CGS § 4e-6	SCSB must audit CPA's compliance with procurement laws and regulations every three years
CGS § 4e-7	SCSB may, under specified conditions, (1) review and terminate CPA's contracts and procurement agreements or (2) restrict or

	terminate its ability to enter into contracts
CGS § 4e-14	CPA's contracts must contain provisions ensuring accountability, transparency, and results-based outcomes, as prescribed by SCSB (It appears SCSB has not prescribed any such standards for state contracting agencies to date)
CGS § 4e-16	Subjects CPA to the state's privatization law (see BACKGROUND)
CGS § 4e-19	Requires SCSB to use specified procurement methods when purchasing goods and services (These provisions require SCSB to adopt implementing regulations before they become operative, but the board has not adopted any such implementing regulations to date)
CGS § 4e-39	Cancellation of a solicitation or proposed award when SCSB finds that a violation of the law has occurred
CGS § 4e-40	Contract termination when SCSB finds that the solicitation or award violated the law

§ 4 — BONDING

The bill authorizes up to \$25 million in state GO bonds over a five-year period for CPA, capped at \$5 million in each year from FY 22 through FY 26. If CPA does not use all or part of the capped amount in a fiscal year, that amount is added to the capped amount for the following year.

The bill requires CPA to enter into a memorandum of understanding (MOU) with the OPM secretary and state treasurer regarding the bond issuance, including the extent to which federal, private, and other available funds should be added to the bond proceeds. The MOU must provide for the issuance of these bonds to fund CPA's port projects in towns other than New Haven, New London, or Bridgeport. (The state's three deep water ports are in these cities.) The MOU is subject to the State Bond Commission's approval, which satisfies the standard approval requirements under the State General Obligation Bond Procedure Act.

Subject to the caps, the bill deems the principal amount of the authorized bonds to be an appropriation, allocation, and allotment of the bond amounts. The bonds are subject to standard statutory conditions.

§ 5 — PILOT GRANTS FOR AUTHORITY PROPERTY

Connecticut's PILOT program provides grants to (1) municipalities for state-owned property, municipally owned airports, and Indian reservation land, and (2) municipalities and taxing districts for private nonprofit college and hospital property. PA 21-3, effective July 1, 2021, restores a provision that applied prior to FY 19 deeming the property and facilities owned by CPA to be state-owned real property for purposes of the PILOT program and requiring the state to provide a PILOT to the municipality in which such property and facilities are located.

This bill increases the statutory reimbursement rate for CPA property from 45% to 100% of lost property tax revenue. As under existing law, the grant must be prorated if the state's annual PILOT appropriation is not enough to fully fund PILOT grants. Under PA 21-3, the proration method is based on each municipality's (1) equalized net grand list per capita, (2) designation as an alliance district, and (3) percentage of state-owned property.

BACKGROUND***Related Bill***

sHB 6194 (File 498), reported favorably by the Government Administration and Elections (GAE) Committee, subjects all quasi-public agencies to certain oversight by SCSB (e.g., allows SCSB to limit their authority to enter into contracts or procurement agreements).

sHB 6577 (File 505), reported favorably by the GAE Committee, requires the State Properties Review Board to review and approve or disapprove certain real estate transactions proposed by quasi-public agencies.

Attorney General Opinion

In a 2021 opinion (Attorney General Opinion 2021-01), the attorney general concluded that most SCSB statutes give the board authority over state contracting agencies only, with only limited authority over quasi-public agencies. He noted that although the board has authority over certain bid contests involving quasi-public agencies, generally its

authority over quasi-public agencies “is much more limited and circumscribed relative to its authority over state contracting agencies.”

Privatization Law

By law, if a state contracting agency seeks to enter into a contract that privatizes services performed by state employees, it generally must conduct a cost-benefit analysis and submit a business case to SCSB for its approval. The business case must include, among other things, the cost-benefit analysis and 11 other analyses relating to the privatized service, such as its goals and their rationale, and options for achieving them (CGS § 4e-16(d)). An agency may publish notice soliciting bids for a privatization contract only after the board approves the business case.

For privatization contracts not subject to this requirement (i.e., contracts for services that are currently privatized), state contracting agencies must instead evaluate the contract, using a template prescribed by the OPM secretary, to determine if entering into or renewing it is the most cost-effective way of delivering the service.

COMMITTEE ACTION

Transportation Committee

Joint Favorable Change of Reference - APP
Yea 35 Nay 0 (03/26/2021)

Appropriations Committee

Joint Favorable
Yea 50 Nay 0 (04/21/2021)