



House of Representatives

General Assembly

File No. 276

January Session, 2023

Substitute House Bill No. 6756

House of Representatives, March 28, 2023

The Committee on Commerce reported through REP. MESKERS of the 150th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING CERTAIN APPEALS OF DETERMINATIONS
MADE BY THE STATE HISTORIC PRESERVATION OFFICER.***

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

1 Section 1. (NEW) (*Effective October 1, 2023*) Notwithstanding any
2 provision of the general statutes, any municipality aggrieved by a
3 determination made by the State Historic Preservation Officer,
4 designated pursuant to 36 CFR 61.4, as amended from time to time,
5 concerning the renovation or rehabilitation of an historic building or
6 property, may appeal such determination at a hearing before a hearing
7 officer of the Department of Economic and Community Development,
8 conducted in accordance with the provisions of chapter 54 of the general
9 statutes. Not later than sixty days following such hearing, the hearing
10 officer shall render a decision on the matter at issue in the hearing. The
11 hearing officer, in rendering such decision, shall consider the
12 appropriate balance between historic preservation stewardship,
13 economic development and rehabilitation. Such decision of the hearing
14 officer shall be final.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	New section

Statement of Legislative Commissioners:

In the first sentence, "36 CFR S. 61.2 (1978)" was changed to "36 CFR 61.4, as amended from time to time" for accuracy and consistency with standard drafting conventions, and "a hearing officer of" was added after "at a hearing before" for clarity.

CE *Joint Favorable Subst. -LCO*

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:** None**Explanation**

The bill has no fiscal impact by allowing municipalities aggrieved by a determination of the State Historic Preservation Officer to appeal before a hearing officer of the Department of Economic and Community Development. The Department has the expertise to conduct any potential hearing that may result from the bill.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sHB 6756*****AN ACT CONCERNING CERTAIN APPEALS OF DETERMINATIONS
MADE BY THE STATE HISTORIC PRESERVATION OFFICER.*****SUMMARY**

This bill authorizes a municipality to appeal to the Department of Economic and Community Development (DECD) if it is aggrieved by a determination the State Historic Preservation Officer (SHPO) makes on the renovation or rehabilitation of a historic building or property. (It is unclear specifically what SHPO determinations this provision applies to or what standard determines whether a municipality is aggrieved.)

Under the bill, the municipality may appeal at a hearing before a DECD hearing officer under the Uniform Administrative Procedure Act (UAPA) (presumably as a contested case, see BACKGROUND). The bill requires the hearing officer, when making a decision, to consider the appropriate balance between historic preservation stewardship, economic development, and rehabilitation. Additionally, it requires that he or she make a final decision within 60 days after the hearing.

EFFECTIVE DATE: October 1, 2023

BACKGROUND***SHPO***

Federal regulations require each state' governor to designate a state historic preservation officer (36 C.F.R. § 61.4). SHPO is within DECD and administers federal and state historic preservation programs, including state historic preservation tax credits.

UAPA

The UAPA sets deadlines and procedural requirements for

“contested cases,” which are proceedings in which the legal rights, duties, or privileges of a party must be determined by an agency after an opportunity for hearing or in which a hearing is in fact held. Generally, this means the following:

1. an agency must render a final decision within 90 days after the close of evidence or the due date for filing briefs, whichever is later; and
2. a person aggrieved by an agency’s final decision may appeal under CGS § 4-183 (generally, aggrieved parties have 45 days to appeal final decisions to Superior Court).

The UAPA also allows parties to petition for reconsideration and establishes procedures and deadlines for doing so. Under these procedures, a party in a contested case may petition an agency for reconsideration within 15 days after the issuance of a final decision.

COMMITTEE ACTION

Commerce Committee

Joint Favorable

Yea 24 Nay 0 (03/14/2023)