



Senate

General Assembly

File No. 220

January Session, 2023

Substitute Senate Bill No. 1042

Senate, March 27, 2023

The Committee on Commerce reported through SEN. HARTLEY of the 15th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT AUTHORIZING THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TO PROVIDE CAPACITY BUILDING GRANTS TO CONNECTICUT BROWNFIELD LAND BANKS.

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

1 Section 1. Section 32-763 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 (a) There is established a remedial action and redevelopment
4 municipal grant program to be administered by the Department of
5 Economic and Community Development for the purpose of providing
6 grants pursuant to subsections (b) and (c) of this section.

7 (b) (1) Grants may be provided to municipalities, Connecticut
8 brownfield land banks and economic development agencies for the
9 eligible costs of brownfield remediation projects, brownfield assessment
10 projects and reasonable administrative expenses not to exceed five per
11 cent of any grant awarded. A grant awarded under this [section]
12 subsection shall not exceed four million dollars.

13 [(b)] (2) A grant applicant shall submit an application for a grant
14 under this subsection to the Commissioner of Economic and
15 Community Development on forms provided by the commissioner and
16 with such information the commissioner deems necessary, including,
17 but not limited to: [(1)] (A) A description of the proposed project; [(2)]
18 (B) an explanation of the expected benefits of the project in relation to
19 the purposes of this section; [(3)] (C) information concerning the
20 financial and technical capacity of the applicant to undertake the
21 proposed project; [(4)] (D) a project budget; and [(5)] (E) with respect to
22 a brownfield remediation project, a description of the condition of the
23 brownfield, including the results of any environmental assessment of
24 the brownfield in the possession of or available to the applicant.

25 [(c)] (3) The commissioner may approve, reject or modify any
26 application properly submitted in accordance with the provisions of this
27 [section] subsection. The commissioner may not reject an application
28 solely because a municipality has submitted more than one application
29 in response to a request for applications. In reviewing an application
30 and determining the amount of the grant, if any, to be provided, the
31 commissioner shall consider the following criteria: [(1)] (A) The
32 availability of funds; [(2)] (B) the estimated costs of assessing and
33 remediating the brownfield, if known; [(3)] (C) the relative economic
34 condition of the municipality in which the brownfield is located; [(4)]
35 (D) the relative need of the project for financial assistance; [(5)] (E) the
36 degree to which a grant under this [section] subsection is necessary to
37 induce the applicant to undertake the project; [(6)] (F) the public health
38 and environmental benefits of the project; [(7)] (G) the relative benefits
39 of the project to the municipality, the region and the state, including, but
40 not limited to, the extent to which the project will likely result in a
41 contribution to the municipality's tax base, the retention and creation of
42 jobs and the reduction of blight; [(8)] (H) the time frame in which the
43 contamination occurred; [(9)] (I) the relationship of the applicant to the
44 person or entity that caused the contamination; [(10)] (J) the length of
45 time the brownfield has been abandoned; [(11)] (K) the taxes owed and
46 the projected revenues that may be restored to the community; [(12)] (L)
47 the relative need for assessment of the brownfield within the

48 municipality or region; [(13)] (M) whether the brownfield is located in a
49 federally designated opportunity zone; and [(14)] (N) such other criteria
50 as the commissioner may establish consistent with the purposes of this
51 [section] subsection.

52 [(d)] (4) The commissioner shall award grants under this subsection
53 on a competitive basis, based on a request for applications occurring at
54 least twice annually. The commissioner may increase the frequency of
55 requests for applications and awards depending upon the number of
56 applicants and the availability of funding. A municipality may submit
57 more than one application in response to a request for applications. On
58 and after July 1, 2019, the commissioner shall give priority to grant
59 applications for brownfields located in federally designated
60 opportunity zones.

61 [(e)] (5) If a grant recipient under this subsection is not subject to
62 section 22a-134a, such recipient shall enter a program for remediation of
63 the property pursuant to either section 22a-133x, 22a-133y, 32-768 or 32-
64 769, as determined by the commissioner, except no such recipient shall
65 be required to enter such a program if the grant funds are used [(1)] (A)
66 for the abatement of hazardous building materials and such recipient
67 demonstrates to the satisfaction of the Commissioners of Economic and
68 Community Development and Energy and Environmental Protection
69 that such hazardous building materials represent the sole or sole
70 remaining environmental contamination on the property, [(2)] (B) solely
71 for assessment of the brownfield, or [(3)] (C) as provided in subdivision
72 (7) of this subsection. [(g) of this section.]

73 [(f)] (6) The commissioner, in consultation with the Commissioner of
74 Energy and Environmental Protection and following the award of a
75 grant under this subsection to a municipality, Connecticut brownfield
76 land bank or economic development agency pursuant to [subsections (c)
77 and (d) of this section] subdivisions (3) and (4) of this subsection, may
78 award an additional grant to such municipality, Connecticut brownfield
79 land bank or economic development agency to enable the completion of
80 a brownfield remediation or assessment project, provided such project

81 is identified as a priority by said commissioners and such additional
82 grant funds [(1)] (A) will be used to address unexpected cost overruns
83 or costs related to remedial activities that will provide a greater
84 environmental benefit than originally proposed pursuant to subdivision
85 (2) of this subsection, [(b) of this section, (2)] (B) do not exceed fifty per
86 cent of the original grant, and [(3)] (C) will not result in more than four
87 million dollars in total grants being awarded for a single brownfield
88 remediation or assessment project.

89 [(g)] (7) The commissioner may award grants under this subsection
90 to any municipality, Connecticut brownfield land bank, economic
91 development agency or regional council of governments organized
92 under sections 4-124i to 4-124p, inclusive, for the eligible costs of
93 developing a comprehensive plan for the remediation and
94 redevelopment of multiple brownfields whenever such plan is
95 consistent with the state plan of conservation and development,
96 adopted pursuant to chapter 297, and the plan of conservation and
97 development, adopted pursuant to section 8-23, for each municipality
98 in which such brownfields are located. For purposes of this subsection,
99 "eligible costs" shall also include expenditures associated with the
100 development of any such plan for remediation and redevelopment.

101 (c) (1) The commissioner may award capacity building grants for
102 operational expenses to any Connecticut brownfield land bank,
103 provided such land bank (A) matches any state funds awarded pursuant
104 to this subsection, and (B) has entered into at least one land banking
105 agreement with at least two municipalities that are parties to such
106 agreement. A grant awarded under this subsection shall not exceed fifty
107 thousand dollars.

108 (2) Any Connecticut brownfield land bank may apply to the
109 Commissioner of Economic and Community Development, in the form
110 and manner prescribed by the commissioner, for a capacity building
111 grant in an amount indicated by the Connecticut brownfield land bank.
112 The Connecticut brownfield land bank shall include such information
113 the commissioner deems necessary to determine whether to award such

114 capacity building grant, in whole or in part, and to verify that such land
115 bank has sufficient funds to match such amount and has entered into at
116 least one land banking agreement as specified under subdivision (1) of
117 this subsection.

118 [(h)] (d) The provisions of sections 32-5a and 32-701 shall not apply
119 to grants provided pursuant to this section.

120 Sec. 2. Subsections (b) to (d), inclusive, of section 32-762 of the general
121 statutes are repealed and the following is substituted in lieu thereof
122 (*Effective October 1, 2023*):

123 (b) All moneys received in consideration of financial assistance,
124 including payments of principal and interest on any loans made
125 pursuant to section 32-765, shall be credited to the account and shall
126 become part of the assets of the account. At the discretion of the
127 Commissioner of Economic and Community Development and subject
128 to the approval of the Secretary of the Office of Policy and Management,
129 any federal, private or other moneys received by the state in connection
130 with projects undertaken pursuant to subsection (b) of section 32-763, as
131 amended by this act, or section 32-765 shall be credited to the assets of
132 the account.

133 (c) Notwithstanding any provision of the general statutes, proceeds
134 from the sale of bonds available pursuant to subdivision (1) of
135 subsection (b) of section 4-66c may, with the approval of the Governor
136 and the State Bond Commission, be used to capitalize the account.

137 (d) The commissioner may use funds in the account (1) to provide
138 financial assistance for the remediation and development of
139 brownfields in the state pursuant to subsection (b) of section 32-763, as
140 amended by this act, or section 32-765, (2) to provide financial assistance
141 to parcel owners required to perform mitigation actions pursuant to
142 section 22a-6u, and (3) for administrative costs not to exceed five per
143 cent of such funds.

144 Sec. 3. Section 32-764 of the general statutes is repealed and the

145 following is substituted in lieu thereof (*Effective October 1, 2023*):

146 (a) Any recipient of a grant pursuant to subsection (b) of section 32-
147 763, as amended by this act, or subsection (c) of section 32-9cc of the
148 general statutes, revision of 1958, revised to January 1, 2013, shall not be
149 liable under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 for
150 conditions pre-existing or existing on the brownfield property as of the
151 date of acquisition or control, provided such recipient (1) did not
152 establish, create, cause or contribute to the discharge, spillage,
153 uncontrolled loss, seepage or filtration of such hazardous substance,
154 material, waste or pollution that is subject to remediation under section
155 22a-133k and funded by the Office of Brownfield Remediation and
156 Development or the Department of Economic and Community
157 Development; (2) does not exacerbate the conditions; and (3) complies
158 with reporting of significant environmental hazard requirements in
159 section 22a-6u. To the extent that any conditions are exacerbated, such
160 recipient shall only be responsible for responding to contamination
161 exacerbated by its negligent or reckless activities.

162 (b) Upon remediation (1) as approved by the Department of Energy
163 and Environmental Protection, or (2) in accordance with section 22a-
164 133x, 22a-134a, 32-768 or 32-769 of a brownfield property by a recipient
165 of a grant pursuant to subsection (b) of section 32-763, as amended by
166 this act, such recipient may transfer the property to any person,
167 provided such person is not otherwise liable under section 22a-427, 22a-
168 432, 22a-433, 22a-451 or 22a-452 with respect to the property. Any
169 person who acquires title pursuant to this section shall not be liable
170 under section 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with respect
171 to preexisting conditions on the property, provided such person (A)
172 does not cause or contribute to the discharge, spillage, uncontrolled loss,
173 seepage or filtration of such hazardous substance, material or waste,
174 and (B) such person is not a member, officer, manager, director,
175 shareholder, subsidiary, successor of, related to, or affiliated with,
176 directly or indirectly, the person who is otherwise liable under section
177 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with respect to the
178 property. The Commissioner of Energy and Environmental Protection

179 shall provide such person with a covenant not to sue pursuant to section
180 22a-133aa and shall not require the prospective purchaser or owner to
181 pay a fee in exchange for such covenant.

182 (c) No person shall acquire title to or hold, possess or maintain any
183 interest in a property that has been remediated with grant funds
184 awarded pursuant to subsection (b) of section 32-763, as amended by
185 this act, if such person (1) is liable under section 22a-427, 22a-432, 22a-
186 433, 22a-451 or 22a-452 with respect to the property, (2) is otherwise
187 responsible, directly or indirectly, for the discharge, spillage,
188 uncontrolled loss, seepage or filtration of such hazardous substance,
189 material or waste, (3) is a member, officer, manager, director,
190 shareholder, subsidiary, successor of, related to, or affiliated with,
191 directly or indirectly, the person who is otherwise liable under section
192 22a-427, 22a-432, 22a-433, 22a-451 or 22a-452 with respect to the
193 property, or (4) is or was an owner, operator or tenant of the property.
194 If such person elects to acquire title to or hold, possess or maintain any
195 interest in the property, that person shall reimburse the state of
196 Connecticut, the municipality and the economic development agency
197 for any and all costs expended to perform the investigation and
198 remediation of the property, plus interest at a rate of eighteen per cent.

199 (d) Notwithstanding section 22a-134a, a recipient of a grant pursuant
200 to subsection (b) of section 32-763, as amended by this act, may acquire
201 and convey its interest in the property without such recipient or the
202 subsequent purchaser incurring liability, including any such liability
203 incurred pursuant to section 22a-134a, provided the property (1) was
204 remediated pursuant to section 22a-133x, 22a-133y, 32-768 or 32-769 or
205 pursuant to an order issued by the Commissioner of Energy and
206 Environmental Protection and such remediation was (A) performed in
207 accordance with the standards adopted pursuant to section 22a-133k, as
208 determined by said commissioner, or (B) if authorized by said
209 commissioner, verified by a licensed environmental professional unless
210 such verification has been rejected by said commissioner subsequent to
211 an audit conducted by said commissioner and provided the subsequent
212 purchaser has no direct or related liability for the site conditions; and (2)

213 is not an establishment, as defined in section 22a-134, based on business
214 operations occurring after such recipient remediated the property.

215 Sec. 4. Subsection (a) of section 32-767 of the general statutes is
216 repealed and the following is substituted in lieu thereof (*Effective October*
217 *1, 2023*):

218 (a) Whenever funds are used pursuant to subsection (b) of section 32-
219 763, as amended by this act, or section 32-765, for purposes of
220 environmental assessments or remediation of a brownfield, the
221 Commissioner of Energy and Environmental Protection may seek
222 reimbursement of the costs and expenses incurred by requesting the
223 Attorney General to bring a civil action to recover such costs and
224 expenses from any party responsible for such pollution, provided no
225 such action shall be brought separately from any action to recover costs
226 and expenses incurred by the Commissioner of Energy and
227 Environmental Protection in pursuing action to contain, remove or
228 mitigate any pollution on such site. The costs and expenses recovered in
229 an action brought pursuant to this section may include, but shall not be
230 limited to: (1) The actual cost of identifying, evaluating, planning for
231 and undertaking the remediation of the site; (2) any administrative costs
232 not exceeding ten per cent of the actual costs; (3) the costs of recovering
233 the reimbursement; and (4) interest on the actual costs at a rate of ten
234 per cent per year from the date such expenses were paid.

235 Sec. 5. Section 32-766 of the general statutes is repealed and the
236 following is substituted in lieu thereof (*Effective October 1, 2023*):

237 The Commissioner of Economic and Community Development shall
238 establish the terms and conditions of any financial assistance provided
239 pursuant to section 32-763, as amended by this act, or section 32-765.
240 The commissioner may make any stipulation in connection with an offer
241 of financial assistance the commissioner deems necessary to implement
242 the policies and purposes of subsection (b) of section 32-763, as amended
243 by this act, or section 32-765, including, but not limited to, (1) a
244 requirement of assurance from a grant or loan recipient that such
245 recipient will discharge its obligations in connection with the project, (2)

246 a requirement that a grant or loan recipient provide the department with
 247 appropriate security for such financial assistance, including, but not
 248 limited to, a letter of credit, a lien on real property or a security interest
 249 in goods, equipment, inventory or other property of any kind, and (3) a
 250 requirement that a grant or loan recipient reimburse the state for such
 251 financial assistance in the event that it receives funds for remediation
 252 from other sources.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2023</i>	32-763
Sec. 2	<i>October 1, 2023</i>	32-762(b) to (d)
Sec. 3	<i>October 1, 2023</i>	32-764
Sec. 4	<i>October 1, 2023</i>	32-767(a)
Sec. 5	<i>October 1, 2023</i>	32-766

CE *Joint Favorable Subst.*

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:

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Treasurer, Debt Serv.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill expands the Remedial Action and Redevelopment Municipal Grant Program's scope to include grants for Connecticut brownfield land bank (CBLB) operational expenses.

This could result in increased or more rapid use of the General Obligation (GO) bond authorization for brownfield remediation and revitalization, which funds the Remedial Action and Redevelopment Municipal Grant Program. Future General Fund debt service costs may be incurred sooner under the bill to the degree that it causes authorized GO bond funds to be expended or to be expended more rapidly than they otherwise would have been.

As of March 1, 2023, there are no unallocated bond balance available for the brownfield remediation and revitalization program. The bill does not change GO bond authorizations relevant to the program.

Background

The Governor's proposed bond bill (GB 980) includes \$25 million of new GO bond authorizations in each of FY 24 and FY 25 for the

Brownfields Remediation program. The impact of the proposed change in authorization in GB 980 will be discussed in the relevant bill's fiscal note, if applicable.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 1042*****AN ACT AUTHORIZING THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TO PROVIDE CAPACITY BUILDING GRANTS TO CONNECTICUT BROWNFIELD LAND BANKS.*****SUMMARY**

This bill expands the Remedial Action and Redevelopment Municipal Grant Program's scope to include grants for Connecticut brownfield land bank (CBLB) operational expenses. It authorizes the Department of Economic and Community Development (DECD) commissioner to award capacity-building grants of up to \$50,000 from the program for operational expenses to any CBLB that (1) matches the funding award and (2) has entered into land banking agreements with at least two municipalities that are parties to the agreement.

Under the bill, a CBLB may apply to DECD, in a way the commissioner determines, for a capacity-building grant of any amount the CBLB specifies, up to the maximum amount. The CBLB must include any information the commissioner needs to determine whether to award the grant in whole or in part, including information to verify that the CBLB has sufficient matching funds and has entered into at least one land banking agreement as required.

The bill also makes numerous conforming changes (§§ 2-5).

EFFECTIVE DATE: October 1, 2023

BACKGROUND***Remedial Action and Redevelopment Municipal Grant Program***

Under current law, DECD's Remedial Action and Redevelopment Municipal Grant Program provides grants of up to \$4 million to

municipalities, CBLBs, and economic development agencies for eligible brownfield remediation or assessment projects and administrative expenses of up to 5% of the grant awarded.

Connecticut Brownfield Land Banks

The law authorizes DECD to certify Connecticut non-stock corporations as CBLBs. They can be established to, among other things, (1) acquire, retain, remediate, and sell brownfields to benefit municipalities and (2) educate government officials, community leaders, economic development agencies, and nonprofit organizations on best practices for redeveloping brownfields (CGS §§ 32-771 & -773).

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 16 Nay 8 (03/09/2023)