

**Proposed Substitute  
Bill No. 6862**

January Session, 2023

LCO No. 6236

**AN ACT CONCERNING BROADBAND CONSTRUCTION AND THE  
PREVAILING WAGE.**

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

1 Section 1. Section 16-330c of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2023*):

3 (a) On or before January 1, 2022, the Commissioner of Energy and  
4 Environmental Protection shall establish and administer a grant  
5 program, subject to the availability of state and federal funding, to  
6 support the deployment of broadband Internet access service. The  
7 commissioner shall establish criteria consistent with any requirement of  
8 federal law for the grants, including, but not limited to, (1) application  
9 requirements, (2) applicant eligibility, (3) addressing unserved areas in  
10 distressed municipalities, (4) broadband Internet access service speed,  
11 and (5) an applicant's commitment to pay at least twenty per cent of the  
12 costs for any project entered into pursuant to this section with such  
13 applicant's own funding, provided such funding does not derive from  
14 government grants, loans or subsidies to said applicant.

15 (b) In awarding such grants, the commissioner [may] shall give  
16 priority to applicants (1) based on the percentage of said applicant's  
17 commitment to cost sharing, (2) that are able to demonstrate that (A)  
18 said applicant provides robust training programs to its workforce who  
19 will be performing the contract that contains requirements that are tied  
20 to titles, uniform wage scales and skill codes recognized in the industry,  
21 and (B) said applicant requires occupational health and safety training

22 for its workforce performing the contract, (3) who will perform the  
23 contract funded by the program using a directly employed workforce,  
24 (4) that are able to demonstrate that said applicant has programs to  
25 promote training and hiring pipelines for underrepresented  
26 communities, and (5) that, (A) within the last five years, have had robust  
27 records of compliance with the Connecticut Labor Code, Occupational  
28 Safety and Health Act, Fair Labor Standards Act, Title VII of the Civil  
29 Rights Act of 1964 and all other applicable labor or employment laws,  
30 or (B) have mitigated violations with labor compliance agreements and  
31 measures in order to ensure future labor compliance. The commissioner  
32 may deny applications from broadband Internet access service  
33 providers that do not provide information to the Office of Policy and  
34 Management pursuant to subsection (c) of section 16-330b or to the  
35 Department of Energy and Environmental Protection pursuant to  
36 subsection (b) of section 16-330d. The commissioner may employ  
37 outside consultants in developing and implementing said grant  
38 program.

39 (c) Any disclosure made by an applicant pertaining to the criteria in  
40 subdivisions (2) to (5), inclusive, of subsection (b) of this section shall be  
41 made available to the public on the Office of Telecommunications and  
42 Broadband's Internet web site.

43 (d) The commissioner shall award the grants based on a point system.  
44 Each applicant shall be given points that range from zero to one  
45 hundred points. For grants funded by the Broadband Equity, Access  
46 and Development program, satisfaction of the criteria established in  
47 subdivisions (2) to (5), inclusive, of subsection (b) of this section and the  
48 "Fair Labor Practices" outlined in the National Telecommunications and  
49 Information Notice of Funding Opportunity published on May 13, 2022,  
50 together, shall be awarded at least twenty-five points. For grants not  
51 funded by the Broadband Equity, Access and Development program,  
52 satisfaction of the criteria established in subdivisions (2) to (5), inclusive,  
53 of subsection (b) of this section shall be awarded a substantial point  
54 allocation, constituting at least fifteen points.

55 (e) All projects funded by grants awarded pursuant to this section  
56 shall be subject to the prevailing wage requirements established in  
57 section 31-53, as amended by this act.

58 [(b)] (f) On or before January 1, 2023, and every year thereafter for a  
59 period of five years after receiving a grant pursuant to this section, the  
60 recipient of such grant shall submit a report to the Commissioner of  
61 Energy and Environmental Protection concerning the status of such  
62 recipient's broadband Internet access service deployment and other  
63 information deemed relevant by the commissioner.

64 [(c)] (g) On or before December 1, 2022, and every two years  
65 thereafter, the Department of Energy and Environmental Protection, in  
66 consultation with the Office of Policy and Management, the Office of  
67 State Broadband, the Commission for Educational Technology and  
68 other state agencies deemed appropriate by the Commissioner of  
69 Energy and Environmental Protection, shall report to the Governor  
70 concerning (1) the grants awarded pursuant to this section, (2) the status  
71 and progress made toward a state-wide goal of attaining universal  
72 access to (A) broadband Internet download speeds of one gigabit per  
73 second; and (B) broadband Internet upload speeds of one hundred  
74 megabits per second, and (3) broadband Internet access service  
75 adoption rates, the price and nonprice barriers to broadband adoption  
76 and digital equity. Such report shall include recommendations to  
77 overcome any such barriers, including, but not limited to, addressing  
78 issues of digital literacy and affordability.

79 Sec. 2. (NEW) (*Effective July 1, 2023*) (a) Applicants for a grant under  
80 section 16-330c of the general statutes, as amended by this act, shall  
81 provide the Commissioner of Energy and Environmental Protection the  
82 following information with such applicant's application:

83 (1) Whether the workforce is directly employed by the contractor or  
84 whether the proposed work will be performed by a subcontracted  
85 workforce;

86 (2) The subcontractors with whom the contractor plans to subcontract  
87 with, if any, in carrying out the proposed work;

88 (3) For each job title required to carry out the proposed work, a  
89 description of:

90 (A) The wages, benefits and applicable wage scales, including  
91 overtime rates, and a description of how such wages are calculated;

92 (B) Any training programs provided by the applicant, including  
93 whether the training program is tied to titles, uniform wage scales and  
94 skill codes recognized in the industry;

95 (C) Any safety training, certification or licensure requirements,  
96 including whether such participant requires its employees to complete  
97 occupational safety and health training or any other training required  
98 by law; and

99 (D) The entity employing the workforce in each job title.

100 (b) If an applicant is awarded a grant under section 16-330c of the  
101 general statutes, as amended by this act, such applicant shall submit a  
102 monthly report to the commissioner with the information provided in  
103 subsection (a) of this section. The provisions of this section shall apply  
104 to any applicant that is a public agency.

105 (c) Any person or entity that fails to meet the requirements of this  
106 section or provides false information on their application or the monthly  
107 report in subsection (b) of this section may be deemed ineligible for  
108 future participation in grant programs through the Office of  
109 Telecommunications and Broadband.

110 Sec. 3. Subsections (a) to (e), inclusive, of section 31-53 of the general  
111 statutes, as amended by section 1 of public act 22-17, are repealed and  
112 the following is substituted in lieu thereof (*Effective July 1, 2023*):

113 (a) Each contract for the construction, remodeling, refinishing,

114 refurbishing, rehabilitation, alteration or repair of any public works  
115 project by the state or any of its agents, or by any political subdivision  
116 of the state or any of its agents, or any broadband installation project  
117 funded by a grant pursuant to section 16-330c, as amended by this act,  
118 shall contain the following provision: "The wages paid on an hourly  
119 basis to any person performing the work of any mechanic, laborer or  
120 worker on the work herein contracted to be done and the amount of  
121 payment or contribution paid or payable on behalf of each such person  
122 to any employee welfare fund, as defined in subsection (i) of this section,  
123 shall be at a rate equal to the rate customary or prevailing for the same  
124 work in the same trade or occupation in the town in which such public  
125 works project or broadband installation project is being constructed.  
126 Any contractor who is not obligated by agreement to make payment or  
127 contribution on behalf of such persons to any such employee welfare  
128 fund shall pay to each mechanic, laborer or worker as part of such  
129 person's wages the amount of payment or contribution for such person's  
130 classification on each pay day.

131 (b) If the commissioner, upon inspection or investigation of a  
132 complaint, believes that a contractor or subcontractor has knowingly or  
133 wilfully employed any mechanic, laborer or worker in the construction,  
134 remodeling, refinishing, refurbishing, rehabilitation, alteration or repair  
135 of any public works project for or on behalf of the state or any of its  
136 agents, or any political subdivision of the state or any of its agents, or  
137 employs any mechanic, laborer or worker in a broadband installation  
138 project funded by a grant pursuant to section 16-330c, as amended by  
139 this act, at a rate of wage on an hourly basis that is less than the rate  
140 customary or prevailing for the same work in the same trade or  
141 occupation in the town in which such public works project or  
142 broadband installation project is being constructed, remodeled,  
143 refinished, refurbished, rehabilitated, altered or repaired, or who has  
144 failed to pay the amount of payment or contributions paid or payable  
145 on behalf of each such person to any employee welfare fund, or in lieu  
146 thereof to the person, as provided by subsection (a) of this section, such  
147 contractor or subcontractor shall be issued a citation and may be fined

148 five thousand dollars for each offense. The commissioner shall maintain  
149 a list of any contractor or subcontractor that, during the three preceding  
150 calendar years, violates this section or enters into a settlement with the  
151 commissioner to resolve any claim brought by the commissioner  
152 pursuant to this section. For each contractor or subcontractor placed on  
153 such list, the commissioner shall record the following information: (1)  
154 The nature of the violation; (2) the total amount of wages and fringe  
155 benefits making up the violation or agreed upon in any settlement with  
156 the commissioner; and (3) the total amount of civil penalties and fines  
157 agreed upon by the commissioner. The commissioner shall review the  
158 list on the first day of May each year for the preceding rolling three-year  
159 period and may refer for debarment any contractor or subcontractor that  
160 committed a violation of this section during the rolling three-year  
161 period. The commissioner shall refer for debarment any contractor or  
162 subcontractor that entered into one or more settlement agreements with  
163 the commissioner where the sum total of all settlements within such  
164 period exceeds fifty thousand dollars in back wages or fringe benefits,  
165 or entered into one or more settlement agreements with the  
166 commissioner where the sum total of all settlements within such period  
167 exceeds fifty thousand dollars in civil penalties or fines agreed upon by  
168 the commissioner. Any contractor or subcontractor the commissioner  
169 refers for debarment may request a hearing before the commissioner.  
170 Such hearing shall be conducted in accordance with the provisions of  
171 chapter 54. In addition, if it is found by the contracting officer  
172 representing the state or political subdivision of the state that any  
173 mechanic, laborer or worker employed by the contractor or any  
174 subcontractor directly on the site for the work covered by the contract  
175 has been or is being paid a rate of wages less than the rate of wages  
176 required by the contract to be paid as required by this section, the state  
177 or contracting political subdivision of the state may (A) by written or  
178 electronic notice to the contractor, terminate such contractor's right to  
179 proceed with the work or such part of the work as to which there has  
180 been a failure to pay said required wages and to prosecute the work to  
181 completion by contract or otherwise, and the contractor and the

182 contractor's sureties shall be liable to the state or the contracting political  
183 subdivision for any excess costs occasioned the state or the contracting  
184 political subdivision thereby, or (B) withhold payment of money to the  
185 contractor or subcontractor. The contracting department of the state or  
186 the political subdivision of the state shall, not later than two days after  
187 taking such action, notify the Labor Commissioner, in writing or  
188 electronically, of the name of the contractor or subcontractor, the project  
189 involved, the location of the work, the violations involved, the date the  
190 contract was terminated, and steps taken to collect the required wages.

191 (c) The Labor Commissioner may make complaint to the proper  
192 prosecuting authorities for the violation of any provision of subsection  
193 (b) of this section.

194 (d) For the purpose of predetermining the prevailing rate of wage on  
195 an hourly basis and the amount of payment, contributions and member  
196 benefits paid or payable on behalf of each person to any employee  
197 welfare fund, as defined in subsection (i) of this section, in each town  
198 where such contract is to be performed, the Labor Commissioner shall  
199 adopt the rate of wages on an hourly basis in accordance with the  
200 provisions of this section and section 31-76c and the amount of payment,  
201 contributions and member benefits, including health, pension, annuity  
202 and apprenticeship funds, as recognized by the United States  
203 Department of Labor and the Labor Commissioner paid or payable on  
204 behalf of each person to any employee welfare fund, as defined in  
205 subsection (i) of this section, as established in the collective bargaining  
206 agreements or understandings between employers or employer  
207 associations and bona fide labor organizations for the same work in the  
208 same trade or occupation in the town in which the applicable building,  
209 heavy or highway works project is being constructed. For each trade or  
210 occupation for which more than one collective bargaining agreement is  
211 in effect for the town in which such project is being constructed, the  
212 collective bargaining agreement of historical jurisdiction shall prevail.  
213 For residential project rates and for each trade or occupation for which  
214 there is no collective bargaining agreement in effect for the town in

215 which the building, heavy or highway works project is being  
216 constructed, the Labor Commissioner shall adopt and use such  
217 appropriate and applicable prevailing wage rate determinations as have  
218 been made by the Secretary of Labor of the United States under the  
219 provisions of the Davis-Bacon Act, as amended.

220 (e) The Labor Commissioner shall determine the prevailing rate of  
221 wages on an hourly basis and the amount of payment or contributions  
222 paid or payable on behalf of such person to any employee welfare fund,  
223 as defined in subsection (i) of this section, in each locality where any  
224 such public work is to be constructed, and the agent empowered to let  
225 such contract shall contact the Labor Commissioner, at least ten but not  
226 more than twenty days prior to the date such contracts will be  
227 advertised for bid, to ascertain the proper rate of wages and amount of  
228 employee welfare fund payments or contributions and shall include  
229 such rate of wage on an hourly basis and the amount of payment or  
230 contributions paid or payable on behalf of each person to any employee  
231 welfare fund, as defined in subsection (i) of this section, or in lieu thereof  
232 the amount to be paid directly to each person for such payment or  
233 contributions as provided in subsection (a) of this section for all  
234 classifications of labor in the proposal for the contract. The rate of wage  
235 on an hourly basis and the amount of payment or contributions to any  
236 employee welfare fund, as defined in subsection (i) of this section, or  
237 cash in lieu thereof, as provided in subsection (a) of this section, shall, at  
238 all times, be considered as the minimum rate for the classification for  
239 which it was established. Prior to the award of any contract, purchase  
240 order, bid package or other designation subject to the provisions of this  
241 section, such agent shall certify to the Labor Commissioner, either in  
242 writing or electronically, the total dollar amount of work to be done in  
243 connection with such public works project or broadband installation  
244 project, regardless of whether such project consists of one or more  
245 contracts. Upon the award of any contract subject to the provisions of  
246 this section, the contractor to whom such contract is awarded shall  
247 certify, under oath, to the Labor Commissioner the pay scale to be used  
248 by such contractor and any of the contractor's subcontractors for work



249 to be performed under such contract.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	16-330c
Sec. 2	<i>July 1, 2023</i>	New section
Sec. 3	<i>July 1, 2023</i>	31-53(a) to (e)