



General Assembly

January Session, 2023

Substitute Bill No. 5692



**AN ACT CONCERNING OVERSIGHT OF CONTRACTS OF THE
CONNECTICUT PORT AUTHORITY.**

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

1 Section 1. (NEW) (*Effective October 1, 2023*) (a) As used in this
2 section:

3 (1) "Authority" means the Connecticut Port Authority established
4 under section 15-31a of the general statutes;

5 (2) "Supplies", "materials" and "equipment" mean any and all
6 articles of personal property furnished to or used by the authority;

7 (3) "Contractual services" means any laundry and cleaning service,
8 pest control service, janitorial service, security service, the rental and
9 repair, or maintenance, of equipment, machinery and other state-
10 owned personal property, advertising and other service arrangements
11 where the service is provided by persons other than employees of the
12 authority;

13 (4) "Competitive bidding" means the submission of prices by
14 persons, firms or corporations competing for a contract to provide
15 supplies, materials, equipment or contractual services, under a
16 procedure in which the authority does not negotiate prices;

17 (5) "Competitive negotiation" means a procedure for contracting for

18 supplies, materials, equipment or contractual services, in which (A)
19 proposals are solicited from qualified suppliers by a request for
20 proposals, and (B) changes may be negotiated in proposals and prices
21 after being submitted;

22 (6) "Bidder" means a person, firm or corporation submitting a
23 competitive bid in response to a solicitation;

24 (7) "Proposer" means a person, firm or corporation submitting a
25 proposal in response to a request for proposals;

26 (8) "Lowest responsible qualified bidder" means the bidder whose
27 bid is the lowest of those bidders possessing the skill, ability and
28 integrity necessary to faithful performance of the work based on
29 objective criteria considering past performance and financial
30 responsibility; and

31 (9) "Highest scoring bidder in a multiple criteria bid" means the
32 bidder whose bid receives the highest score for a combination of
33 attributes, including, but not limited to, price, skill, ability and
34 integrity necessary for the faithful performance of the work, based on
35 multiple criteria considering quality of product, warranty, life-cycle
36 cost, past performance, financial responsibility and other objective
37 criteria that are established in the bid solicitation for the contract.

38 (b) Notwithstanding any provision of the general statutes, any
39 purchases of, and contracts for, supplies, materials, equipment and
40 contractual services by the Connecticut Port Authority, except
41 purchases and contracts made pursuant to the provisions of subsection
42 (c) of this section and public utility services as provided in subsection
43 (e) of this section, shall be based, when possible, on competitive bids or
44 competitive negotiation. The authority shall solicit competitive bids or
45 proposals by providing notice of the planned purchase in a form and
46 manner that the authority determines will maximize public
47 participation in the competitive bidding or competitive negotiation
48 process, including participation by small contractors, as defined in

49 section 4a-60g of the general statutes, and promote competition. Each
50 notice of a planned purchase under this subsection shall indicate the
51 type of goods and services to be purchased and the estimated value of
52 the contract award. The notice shall, when applicable, also contain a
53 notice of contract requirements concerning nondiscrimination and
54 affirmative action pursuant to section 4a-60 of the general statutes and
55 requirements concerning the awarding of contracts to small
56 contractors, minority business enterprises, individuals with a disability
57 and nonprofit corporations pursuant to section 4a-60g of the general
58 statutes. Each bid and proposal shall be kept sealed or secured until
59 opened publicly at the time stated in the notice soliciting such bid or
60 proposal.

61 (c) The authority may waive the requirement of competitive bidding
62 or competitive negotiation in the case of minor nonrecurring or
63 emergency purchases of ten thousand dollars or less in amount.

64 (d) The authority shall adopt procedures, in accordance with the
65 provisions of section 1-121 of the general statutes, establishing (1)
66 standards and procedures for using competitive negotiation for
67 purchases and contracts, including, but not limited to, criteria which
68 shall be considered in making purchases by competitive negotiation
69 and the weight which shall be assigned to each such criterion, and (2)
70 standards and procedures under which additional purchases may be
71 made under existing contracts.

72 (e) The purchase of or contract for the following public utility
73 services shall not be subject to competitive bidding or competitive
74 negotiation: (1) Electric distribution services; (2) water services; (3) gas
75 distribution services; (4) electric generation services if such services are
76 provided by an electric municipal utility other than a participating
77 electric municipal utility, as defined in section 16-1 of the general
78 statutes, in the service area of such electric municipal utility; and (5)
79 gas supply services until the date such services are competitive
80 pursuant to legislative act or order of the Public Utilities Regulatory
81 Authority, provided gas supply services shall be exempt from

82 competitive bidding and competitive negotiation after such date if
83 such services are provided by a gas municipal utility in the service area
84 of such gas municipal utility.

85 (f) All open market orders or contracts of the authority shall be
86 awarded to (1) the lowest responsible qualified bidder, while taking
87 into consideration the qualities of the articles to be supplied, their
88 conformity with the specifications, their suitability to the requirements
89 of the authority and the delivery terms, (2) the highest scoring bidder
90 in a multiple criteria bid, in accordance with the criteria set forth in the
91 bid solicitation for the contract, or (3) the proposer whose proposal is
92 deemed by the authority to be the most advantageous, in accordance
93 with the criteria set forth in the request for proposals, including price
94 and evaluation factors.

95 (g) Notwithstanding any provision of the general statutes, when
96 awarding a contract through competitive negotiation, the authority
97 shall include price as an explicit factor in the criteria in the request for
98 proposals and for the contract award. In considering past performance
99 of a bidder for the purpose of determining the lowest responsible
100 qualified bidder or the highest scoring bidder in a multiple criteria bid,
101 the authority shall evaluate the skill, ability and integrity of the bidder
102 in terms of the bidder's fulfillment of past contract obligations and the
103 bidder's experience or lack of experience in delivering supplies,
104 materials, equipment or contractual services of the size or amount for
105 which bids have been solicited.

106 Sec. 2. Section 15-31b of the general statutes is repealed and the
107 following is substituted in lieu thereof (*Effective October 1, 2023*):

108 (a) The purposes of the Connecticut Port Authority shall be to
109 coordinate the development of Connecticut's ports and harbors, with a
110 focus on private and public investments, pursue federal and state
111 funds for dredging and other infrastructure improvements to increase
112 cargo movement through the ports and maintain navigability of all
113 ports and harbors, market the economic development of such ports

114 and harbors, work with the Department of Economic and Community
115 Development and other state, local and private entities to maximize
116 the economic potential of the ports and harbors, support and enhance
117 the overall development of the state's maritime commerce and
118 industries, coordinate the planning and funding of capital projects
119 promoting the development of the ports and harbors, develop strategic
120 entrepreneurial initiatives that may be available to the state, coordinate
121 the state's maritime policy activities, serve as the Governor's principal
122 maritime policy advisor and undertake such other responsibilities as
123 may be assigned to it. To accomplish the purposes of the authority, the
124 authority shall have the duty and power to:

125 (1) Have perpetual succession as a body politic and corporate and to
126 adopt bylaws for the regulation of its affairs and the conduct of its
127 business;

128 (2) Adopt an official seal and alter the same at pleasure;

129 (3) Maintain an office at such place or places as it may designate;

130 (4) Sue and be sued in its own name, and plead and be impleaded;

131 (5) Develop an organizational and management structure that will
132 best accomplish the goals of the authority concerning Connecticut
133 ports and harbors;

134 (6) Create a code of conduct for the board of directors of the
135 authority consistent with part I of chapter 10;

136 (7) Adopt rules for the conduct of its business, which shall not be
137 considered regulations as defined in section 4-166;

138 (8) Adopt an annual budget and plan of operations, including a
139 requirement of board approval before the budget or plan may take
140 effect;

141 (9) Make and enter into all contracts and agreements that are

142 necessary, desirable or incidental to the conduct of its business, subject
143 to the requirements of section 1 of this act and chapter 62;

144 (10) Enter into joint ventures and invest in, and participate with, any
145 person or entity, including, without limitation, governmental or
146 private business entities in the formation, ownership, management and
147 operation of business entities, including stock and nonstock
148 corporations, limited liability companies and general and limited
149 partnerships, formed to advance the purposes of the authority. The
150 officers, employees and members of the board of directors of the
151 authority may serve, without compensation, as directors or officers of
152 any such business entities formed and such service shall be deemed to
153 be within the discharge of the duties of such officers, employees or
154 directors to the authority;

155 (11) Receive and accept, from any source, aid or contributions,
156 including money, property, labor and other things of value;

157 (12) Award grants and subsidies, make loans and provide other
158 forms of financial assistance to any person or entity under a written
159 policy, adopted in accordance with the provisions of section 1-121,
160 setting forth the eligibility criteria, application process, and such other
161 provisions as may be necessary or desirable to carry out the purposes
162 of this section;

163 (13) Charge reasonable fees for the services it performs and waive,
164 suspend, reduce or otherwise modify such fees in accordance with
165 written criteria established by the authority, and provided, that no
166 change may be made in fees without at least thirty days prior notice,
167 published in accordance with the provisions of section 1-121;

168 (14) Employ such assistants, agents and other employees as may be
169 necessary or desirable to carry out its purposes. (A) The executive
170 director and such employees shall be exempt from the classified
171 service and, except as provided in subparagraph (B) of this
172 subdivision, shall not be employees, as defined in subsection (b) of

173 section 5-270. The authority shall fix appropriate compensation for
174 such employees and establish all necessary or appropriate personnel
175 practices and policies, including those relating to hiring, promotion,
176 compensation, retirement and collective bargaining, which need not be
177 in accordance with chapter 68, and the authority shall not be an
178 employer, as defined in subsection (a) of section 5-270, and may
179 engage consultants, attorneys and appraisers as may be necessary or
180 desirable to carry out its purposes in accordance with sections 15-31a
181 to 15-31i, inclusive. (B) For purposes of group welfare benefits and
182 retirement, including, but not limited to, those provided under chapter
183 66 and sections 5-257 and 5-259, the officers and all other employees of
184 the authority shall be state employees. The authority shall reimburse
185 the appropriate state agencies for all costs incurred by such
186 designation;

187 (15) Invest in, acquire, lease, purchase, own, manage, hold and
188 dispose of real property and lease, convey or deal in or enter into
189 agreements with respect to such property on any terms necessary or
190 incidental to carrying out the purposes of sections 15-31a to 15-31i,
191 inclusive, provided such transactions shall not be subject to approval,
192 review or regulation by any state agency pursuant to title 4b or any
193 other provision of the general statutes, except (A) the authority shall
194 not convey fee simple ownership in any property associated with the
195 ports or harbors under its jurisdiction and control without the
196 approval of the State Properties Review Board and the Attorney
197 General, and (B) as provided in subsection (c) of this section; and

198 (16) Adopt any policies and procedures necessary to carry out the
199 provisions of this section in accordance with the provisions of section
200 1-121.

201 (b) The authority shall continue as long as it has bonds or other
202 obligations outstanding and until its existence is terminated by law,
203 provided no such termination shall affect any outstanding contractual
204 obligation of the authority and the state shall succeed to the obligations
205 of the authority under any contract. Upon the termination of the

206 existence of the authority, all its rights and properties shall pass to and
 207 be vested in the state of Connecticut.

208 (c) On and after June 23, 2021, [until July 1, 2026,] the authority shall
 209 be a state contracting agency for the purposes of chapter 62, except for
 210 the provisions of section 4e-16, and shall be subject to the authority of
 211 the State Contracting Standards Board established under section 4e-2.

212 Sec. 3. Subdivision (28) of section 4e-1 of the general statutes is
 213 repealed and the following is substituted in lieu thereof (*Effective*
 214 *October 1, 2023*):

215 (28) "State contracting agency" means any executive branch agency,
 216 board, commission, department, office, institution or council. "State
 217 contracting agency" does not include the judicial branch, the legislative
 218 branch, the offices of the Secretary of the State, the State Comptroller,
 219 the Attorney General, the State Treasurer, with respect to their
 220 constitutional functions, any state agency with respect to contracts
 221 specific to the constitutional and statutory functions of the office of the
 222 State Treasurer. For the purposes of every provision of this chapter
 223 other than section 4e-16, "state contracting agency" includes the
 224 Connecticut Port Authority, for the purposes of section 4e-16, "state
 225 contracting agency" includes any constituent unit of the state system of
 226 higher education and for the purposes of section 4e-19, "state
 227 contracting agency" includes the State Education Resource Center,
 228 established under section 10-4q;

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2023</i>	New section
Sec. 2	<i>October 1, 2023</i>	15-31b
Sec. 3	<i>October 1, 2023</i>	4e-1(28)

Statement of Legislative Commissioners:

Section 1(f)(1) was redrafted for clarity.

GAE *Joint Favorable Subst. -LCO*