

FINANCE ADVISORY COMMITTEE

AGENDA

August 2, 2012

Room 1E, Legislative Office Building - 1:00 P.M.

1. Minutes of the June 8, 2012 meeting.

2. New transactions as follows:

2013-1	Department of Transportation	Assurance – Patchogue River Dredging and Maintenance
2013-2	Department of Transportation	Assurance – Housatonic River Dredging and Maintenance

Department of Transportation
Explanation of Finance Advisory Committee Items 2013-1 and 2013-2

The Patchogue and Housatonic Rivers have federal boating/shipping channels under the jurisdiction of the U.S. Army Corps of Engineers (USACE); which is responsible for maintenance dredging of these river channels. Historically, USACE dredging is funded through Congressional appropriations; sometimes with contributions from the affected municipalities.

When it was determined that the Patchogue and Housatonic Rivers were in need of maintenance dredging and no federal money was available to fully fund the dredging projects, State funding was made available through section 13(f) of P.A. 11-57. (Attachment 1). The State Bond Commission approved the requests by the Department of Transportation (Department) for \$350,000 for dredging the Patchogue River in Westbrook and \$750,000 for dredging the Housatonic River (south of the Route 1 bridge) on January 30, 2012 and April 27, 2012, respectively. (Attachment 2).

It is in the State's best interest for these river channels to be maintained, and, but for this State funding, these maintenance dredging projects would not proceed. To the best of the Department's knowledge, at no time prior to 2012 has the State made funding available for the USACE to undertake dredging projects.

In order for the Department to pass the State funding to the USACE for each project, such that the USACE will commence the work, the USACE requires the Department to enter into a Memorandum of Agreement (MOA) with the USACE for each project. The MOAs are virtually non-negotiable, with the USACE providing the required language.

Included in the MOAs is a USACE-required indemnification provision whereby the Department agrees to "hold and save the [Federal] Government free from all damages arising from the Maintenance Work, except for damages due to the fault or negligence of the [Federal] Government or its contractors." The Department's ability to so agree to indemnify the federal government is dependent on the Governor, with the approval of the Finance Advisory Committee, signing an "assurance"; generally to the effect that the state will hold the United States harmless. The statutory ability for the Governor to do so is set forth section 25-83 of the Connecticut General Statutes, which provides:

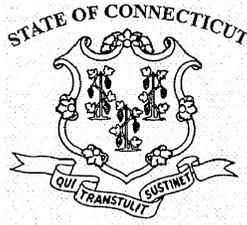
Sec. 25-83. Agreements to indemnify the United States. The Governor, **with the approval of the Finance Advisory Committee**, is authorized to give assurances that the state will hold and save the United States free from claims or damages resulting from any project or system for the improvement of navigation of any harbor or river or for the protection of life and property against damage by floods, erosion or tidal flooding, including all claims and damages resulting from any reconstruction, repair or maintenance of any such improvement or protection project or system, and to enter into an agreement with the federal government for such purpose. (emphasis added) (Attachment 3).

The Assurances under consideration for your approval are pursuant to this statutory requirement. (Attachment 4). Without approval by the Finance Advisory Committee, the Department will be unable to sign the MOAs, and the dredging projects will not go forward.

In the 1950s, when these channels were originally created in these rivers, then-Governor Ribicoff provided assurances, pursuant to section 25-83, to indemnify the federal government for the river improvement projects being undertaken at that time. (Attachment 5). These assurances have been interpreted as not encompassing future maintenance dredging of these river channels with participating State funds. When these channels were created, the expectation was that any future maintenance dredging would be the on-going responsibility of the USACE utilizing federal funds. Therefore, at the time the original assurances were entered into, there was no reason for the State to anticipate that it would later be a partner in future maintenance dredging and there was no reason for the State to draft the original assurances to contemplate indemnification for any such future maintenance dredging.

Thus, the attached Assurances are necessary to cover the maintenance dredging projects for the Patchogue and Housatonic Rivers and allow the Department to enter into the MOAs with the USACE so that these dredging projects can proceed.

Attachment 1



Senate Bill No. 1242

Public Act No. 11-57

AN ACT AUTHORIZING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS AUTHORIZING SPECIAL TAX OBLIGATION BONDS OF THE STATE FOR TRANSPORTATION PURPOSES AND AUTHORIZING STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS.

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

Section 1. (*Effective July 1, 2011*) The State Bond Commission shall have power, in accordance with the provisions of sections 1 to 7, inclusive, of this act, from time to time to authorize the issuance of bonds of the state in one or more series and in principal amounts in the aggregate, not exceeding \$239,146,556.

Sec. 2. (*Effective July 1, 2011*) The proceeds of the sale of bonds described in sections 1 to 7, inclusive, of this act, to the extent hereinafter stated, shall be used for the purpose of acquiring, by purchase or condemnation, undertaking, constructing, reconstructing, improving or equipping, or purchasing land or buildings or improving sites for the projects hereinafter described, including payment of architectural, engineering, demolition or related costs in connection therewith, or of payment of the cost of long-range capital programming and space utilization studies as hereinafter stated:

(a) For the Secretary of the State: Development, implementation and

Senate Bill No. 1242

such terms and conditions as said commission, in its discretion may require.

Sec. 11. (*Effective July 1, 2011*) All provisions of section 3-20 of the general statutes, or the exercise of any right or power granted thereby which are not inconsistent with the provisions of sections 8 to 11, inclusive, of this act, are hereby adopted and shall apply to all bonds authorized by the State Bond Commission pursuant to sections 8 to 11, inclusive, of this act, and temporary notes in anticipation of the money to be derived from the sale of any such bonds so authorized may be issued in accordance with said section 3-20 and from time to time renewed. Such bonds shall mature at such time or times not exceeding twenty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such bonds. Such bonds issued pursuant to section 8 of this act shall be general obligations of the state and the full faith and credit of the state of Connecticut are pledged for the payment of the principal of and interest on such bonds as the same become due, and accordingly and as part of the contract of the state with the holders of such bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the State Treasurer shall pay such principal and interest as the same become due.

Sec. 12. (*Effective July 1, 2011*) The State Bond Commission shall have power, in accordance with the provisions of sections 12 to 19, inclusive, of this act, from time to time to authorize the issuance of bonds of the state in one or more series and in principal amounts in the aggregate, not exceeding \$76,250,000.

Sec. 13. (*Effective July 1, 2011*) The proceeds of the sale of the bonds described in sections 12 to 19, inclusive, of this act, shall be used for the purpose of providing grants-in-aid and other financing for the projects, programs and purposes hereinafter stated:

Senate Bill No. 1242

(a) For the Department of Energy and Environmental Protection:

(1) Grants-in-aid for containment, removal or mitigation of identified hazardous waste disposal sites, not exceeding \$10,000,000;

(2) Grants-in-aid to municipalities for open space land acquisition and development for conservation or recreational purposes, not exceeding \$5,000,000.

(b) For the Department of Economic and Community Development: Regional brownfield redevelopment loan fund, not exceeding \$25,000,000.

(c) For the Department of Public Health: Grants-in-aid to community health centers, primary care organizations and municipalities for the purchase of equipment, renovations, improvements and expansion of facilities, not exceeding \$2,000,000.

(d) For the Department of Developmental Services: Grants-in-aid to private, nonprofit organizations for alterations and improvements to nonresidential facilities, not exceeding \$2,000,000.

(e) For the Department of Mental Health and Addiction Services: Grants-in-aid to private, non-profit organizations that are exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, for community-based residential and outpatient facilities for purchases, repairs, alterations, and improvements, not exceeding \$5,000,000.

(f) For the Department of Transportation: Grants-in-aid for improvements to ports and marinas, including dredging and navigational direction, not exceeding \$6,000,000, provided \$1,000,000 shall be used to conduct a study of the strategy for economic development in the New Haven, New London and Bridgeport ports.

Attachment 2

PUBLIC ACT #57, 2011
SECTION 12-19

ITEM NO. 5

DEPARTMENT OF TRANSPORTATION

GRANTS-IN-AID FOR IMPROVEMENTS TO PORTS AND MARINAS, INCLUDING DREDGING AND NAVIGATIONAL DIRECTION, PROVIDED \$ 1,000,000 SHALL BE USED TO CONDUCT A STUDY OF THE STRATEGY FOR ECONOMIC DEVELOPMENT IN THE NEW HAVEN, NEW LONDON AND BRIDGEPORT PORTS

Requested: An Allocation and Bond Authorization (to Agency) \$2,050,000

FROM: Sec. 13(f) Acct. No. 12052-DOT57000-43509

Total Earmarking	\$6,000,000
Previous Allocations	<u>3,198,750</u>
Balance Unallocated	<u>\$2,801,250</u>

REASON FOR REQUEST:

- A. These funds are requested to provide supplemental funding for dredging of the Patchogue River channel and anchorage in Westbrook.

This project will create or retain approximately 10 construction related jobs.

Funds are requested as follows:

Total Project Cost	\$1,400,000	
Less: Previous Funding, P.A. 79-607, Sec. 21(b)(6)(B)	750,000	
Federal Funding	<u>300,000</u>	
Total, This Request		<u>\$350,000</u>

- B. These funds are requested to finance dredging of the harbor entrance channel, inner channel and anchorage in Clinton.

This project will create or retain approximately 20 construction related jobs.

Funds are requested as follows:

Total Project Cost	\$1,740,000	
Less: Federal Funding	<u>40,000</u>	
Total, This Request		\$1,700,000
Grand Total, This Request		<u>\$2,050,000</u>

PUBLIC ACT #57, 2011
SECTION 12-19

ITEM NO. 7

DEPARTMENT OF TRANSPORTATION

GRANTS-IN-AID FOR IMPROVEMENTS TO PORTS AND MARINAS, INCLUDING DREDGING AND NAVIGATIONAL DIRECTION, PROVIDED \$ 1,000,000 SHALL BE USED TO CONDUCT A STUDY OF THE STRATEGY FOR ECONOMIC DEVELOPMENT IN THE NEW HAVEN, NEW LONDON AND BRIDGEPORT PORTS

Requested: An Allocation and Bond Authorization (to Agency) \$750,000

FROM: Sec. 13(f) Acct. No. 12052-DOT57000-43509

Total Earmarking	\$6,000,000
Previous Allocations	<u>5,248,750</u>
Balance Unallocated	<u>\$ 751,250</u>

REASON FOR REQUEST:

These funds are requested to finance dredging of approximately 50,000 cubic yards of sandy material from the shoaled areas of the Housatonic River south of the Route 1 bridge.

This project will create or retain approximately 10 construction related jobs.

Funds are requested as follows:

Total Project Cost	\$850,000	
Les: Federal Funding	<u>100,000</u>	
Total, This Request		<u>\$750,000</u>

Attachment 3

Conn. Gen. Stat. § 25-83 (2012)

Sec. 25-83. Agreements to indemnify the United States.

The Governor, with the approval of the Finance Advisory Committee, is authorized to give assurances that the state will hold and save the United States free from claims or damages resulting from any project or system for the improvement of navigation of any harbor or river or for the protection of life and property against damage by floods, erosion or tidal flooding, including all claims and damages resulting from any reconstruction, repair or maintenance of any such improvement or protection project or system, and to enter into an agreement with the federal government for such purpose.

HISTORY: (1949 Rev., S. 4773; 1957, P.A. 14.)

Attachment 4

**Assurance of the State of Connecticut
Regarding Patchogue River Dredging and Maintenance**

Whereas, Congress passed the River and Harbor Act of 1954 authorizing a Patchogue River improvement project ("Patchogue River Project" or "Project"), including a dredged channel, an anchorage and maneuvering area, a stone jetty, and the improvement and maintenance of all of the foregoing; and

Whereas, the State of Connecticut and federal government jointly engaged in the construction of the Project; and

Whereas, the State of Connecticut and local communities have an interest in future improvements and maintenance being undertaken on the Project; and

Whereas, when any such work is undertaken jointly by the State of Connecticut and the federal government, the federal government requires certain assurances from the State indemnifying the United States of America from claims and damages resulting from such work; and

Whereas, section 25-83 of the Connecticut General Statutes provides that: "The Governor, with the approval of the Finance Advisory Committee, is authorized to give assurances that the state will hold and save the United States free from claims or damages resulting from any project or system for the improvement of navigation of any harbor or river or for the protection of life and property against damage by floods, erosion or tidal flooding, including all claims and damages resulting from any reconstruction, repair or maintenance of any such improvement or protection project or system, and to enter into an agreement with the federal government for such purpose"; and

Whereas, on November 4, 1955, the Governor of the State of Connecticut, with the approval of the Finance Advisory Committee, executed such an assurance on behalf of the State of Connecticut relative to the Patchogue River Project, but it is unclear whether such assurance was limited to the initial work on the Project or was intended to include any future maintenance and improvement;

NOW, THEREFORE, the State of Connecticut, pursuant to section 25-83 of the Connecticut General Statutes, hereby agrees to hold and save the federal government free from all claims and damages arising from any future improvement and maintenance work, including, but not limited to, reconstruction, repair and dredging, on the Patchogue River Project that is undertaken jointly by the State of Connecticut and the federal government, except for damages due to the fault or negligence of the federal government or its contractors.

The Governor of the State of Connecticut hereby executes this Assurance, as approved by the Finance Advisory Committee on this date, for and on behalf of the State of Connecticut this ___ day of _____ 2012.

STATE OF CONNECTICUT

By _____
Dannel P. Malloy
Governor

**Assurance of the State of Connecticut
Regarding Housatonic River Dredging and Maintenance**

Whereas, Congress passed the River and Harbor Act of July 3, 1930 authorizing a Housatonic River channel dredging project ("Housatonic River Project" or "Project"), including the improvement and maintenance of the dredged channel; and

Whereas, the State of Connecticut and federal government jointly engaged in the construction of the Project; and

Whereas, the State of Connecticut and local communities have an interest in future improvements and maintenance being undertaken on the Project; and

Whereas, when any such work is undertaken jointly by the State of Connecticut and the federal government, the federal government requires certain assurances from the State of Connecticut indemnifying the United States of America from claims and damages resulting from such work; and

Whereas, section 25-83 of the Connecticut General Statutes provides that: "The Governor, with the approval of the Finance Advisory Committee, is authorized to give assurances that the state will hold and save the United States free from claims or damages resulting from any project or system for the improvement of navigation of any harbor or river or for the protection of life and property against damage by floods, erosion or tidal flooding, including all claims and damages resulting from any reconstruction, repair or maintenance of any such improvement or protection project or system, and to enter into an agreement with the federal government for such purpose"; and

Whereas, on March 8, 1955, the Governor of the State of Connecticut, with the approval of the Finance Advisory Committee, executed such an assurance on behalf of the State of Connecticut relative to the Housatonic River Project, but it is unclear whether such assurance is limited to the initial work on the Project or was intended to include any future maintenance and improvement;

NOW, THEREFORE, the State of Connecticut, pursuant to section 25-83 of the Connecticut General Statutes, hereby agrees to hold and save the federal government free from all claims and damages arising from any future improvement and maintenance work, including, but not limited to, reconstruction, repair and dredging, on the Housatonic River Project that is undertaken jointly by the State of Connecticut and the federal government, except for damages due to the fault or negligence of the federal government or its contractors.

The Governor of the State of Connecticut hereby executes this Assurance, as approved by the Finance Advisory Committee on this date, for and on behalf of the State of Connecticut this ___ day of _____ 2012.

STATE OF CONNECTICUT

By _____
Dannel P. Malloy
Governor

Attachment 5

ASSURANCE
OF THE
STATE OF CONNECTICUT

WHEREAS, the project for River and Harbor improvement for

PATCHOGUE RIVER
WESTROOK, CONNECTICUT

has been authorized by Public Law 780, 83rd Congress, 2d Session, approved 3 Sept. 1954 in accordance with House Document No. 164, 83rd Congress, 1st Session; and

WHEREAS, local interests desire the prosecution of this project; and

WHEREAS, Congress has appropriated funds for the initiation of this project; and

WHEREAS, the provisions of the House Document herein before mentioned require that certain assurances be obtained from local interests prior to the initiation of work on said improvement; and

WHEREAS, the Governor of the State of Connecticut, with the approval of the Finance Advisory Committee, is authorized to give assurances that the State will hold and save the United States free from claims for damages resulting from any such improvement project, and to enter into an agreement with the United States of America for such purpose under the General Statutes of Connecticut, Chapter 242, Section 4773;

NOW, THEREFORE, the Governor, pursuant to said Statute of the State of Connecticut, and in furtherance of said project approved by the Congress of the United States of America, hereby approves the project hereinbefore mentioned and, in consideration of the prosecution of said improvement by the United States of America, hereby assures the United States of America that the State of Connecticut will hold and save the United States of America free from claims and damages resulting from such improvement.

IN WITNESS WHEREOF, the Governor of the State of Connecticut hereby
does execute the within assurance for and on behalf of the State of
Connecticut, and does cause the Seal of the State of Connecticut to be
hereto affixed this 4 day of November, 1955.

STATE OF CONNECTICUT

BY Abraham Ribicoff
Abraham Ribicoff - Governor

(SEAL OF STATE OF CONNECTICUT)

Approved by:

Finance Advisory Committee:

Grant P. Rowland
Richard Johnson
Clifford Johnson
Elmer Swartz

ATTEST:

Alison Peterson deputy
Secretary of State

(SEAL OF SECRETARY OF STATE)

Charles W. Ford
Beulah N. Blackburn
John Ottaviano Jr.
State Treasurer

APPROVED AS TO FORM:

Nov 9 1955.

Joseph D. Adams
Deputy Attorney General

November 23 1955

The within assurance is hereby
accepted for and on behalf of the
United States of America.

By Robert J. Fleming, Jr.
ROBERT J. FLEMING, JR.
Brigadier General, USA
Division Engineer

ASSURANCE OF THE STATE OF CONNECTICUT

HOUSATONIC RIVER PROJECT, CONNECTICUT

WHEREAS, the Congress of the United States, by Act approved July 3, 1930, has authorized and adopted a project for the improvement of the Housatonic River in the State of Connecticut in accordance with House Document 449, 70th Congress, 2d Session, which project provides for a channel 18 feet deep and 200 feet wide from Long Island Sound to Culver's Bar; and

WHEREAS, the Congress has appropriated Federal funds for the initiation of this project; and

WHEREAS, the State of Connecticut, the towns of Stratford and Milford, and other local interests desire to prosecute this project; and

WHEREAS, the improvement of the Housatonic River is to be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers, Corps of Engineers, United States Army; and

WHEREAS, the expenditure of the appropriation is subject to the condition that local interests contribute \$150,000 in cash and furnish, free of cost to the United States of America, suitable bulkheaded areas for the deposit of the dredged material, or in lieu thereof an additional \$50,000 in cash; and

WHEREAS, the Connecticut Light and Power Company, a corporation duly organized and existing under the laws of the State of Connecticut, has offered to contribute the said required amount of \$150,000 in cash, together with the said additional amount of \$50,000 in cash in lieu of suitable bulkheaded areas for the deposit of the dredged material; and

WHEREAS, in furtherance of this project and to facilitate this work of improvement it is required that local interests furnish assurances that they will hold and save the United States of America free from damages due to the construction, maintenance and operation of this project; and

WHEREAS, Title 37, Chapter 242, Section 4773 of the General Statutes of Connecticut, Revision of 1949 authorizes the Governor of the State of Connecticut with the approval of the Finance Advisory Committee to give assurances

that the State will hold and save the United States free from claims or damages resulting from any such improvement or protection and to enter into an agreement with the Federal Government for such purpose;

NOW, THEREFORE, the said Governor in furtherance of this project approved by the Congress of the United States, hereby approves the project hereinbefore mentioned, and pursuant to Section 4773 of said General Statutes of Connecticut with the approval of the Finance Advisory Committee assures the United States of America that the State of Connecticut will hold and save the United States free from damages or claims for damages resulting from such improvements.

IN WITNESS WHEREOF, the Governor of the State of Connecticut hereby executes the within assurances for and on behalf of the State of Connecticut and causes the seal of said State to be affixed hereto this 7th day of March 1955.

STATE OF CONNECTICUT

By Abraham A. Ribicoff
Abraham A. Ribicoff, Governor

Approved
Finance Advisory Committee of the State of Connecticut

Charles W. Ford
Joseph M. Douglas
John Ottaviano Jr
Arthur Cohen
Edward J. O'Sullivan
Edward J. O'Sullivan
Sam P. Keller



(Certificate of attestation and seal of the Secretary of State)

Attest: Mildred P. Allen
Secretary of the State

The within Assurance is hereby accepted for and on behalf of the United States of America. 10 March 1955

UNITED STATES OF AMERICA
By Robert J. Fleming, Jr.
ROBERT J. FLEMING, JR.
Colonel, Corps of Engineers
Division Engineer
Contracting Officer