

House of Representatives, April 2, 1998. The Committee on Government Administration and Elections reported through REP. BYSIEWICZ, 100th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE APPLICATION AND DECISION CRITERIA OF THE CONNECTICUT SITING COUNCIL.

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

1 Section 1. Section 16-501 of the general  
2 statutes is repealed and the following is  
3 substituted in lieu thereof:

4 (a) To initiate a certification proceeding,  
5 an applicant for a certificate shall file with the  
6 council an application, in such form as the  
7 council may prescribe, accompanied by a fee of not  
8 more than twenty-five thousand dollars, which fee  
9 shall be established in accordance with section  
10 16-50t, containing such information as the  
11 applicant may consider relevant and the council or  
12 any department or agency of the state exercising  
13 environmental controls may by regulation require,  
14 including the following information: (1) In the  
15 case of facilities described in subdivisions (1),  
16 (2) and (4) of subsection (a) of section 16-50i:  
17 (A) A description, including estimated costs, of  
18 the proposed transmission line, substation or  
19 switchyard, covering, where applicable underground  
20 cable sizes and specifications, overhead tower  
21 design and appearance and heights, if any,  
22 conductor sizes, and initial and ultimate voltages

23 and capacities; (B) a statement and full  
24 explanation of why the proposed transmission line,  
25 substation or switchyard is necessary and how the  
26 facility conforms to a long-range plan for  
27 expansion of the electric power grid serving the  
28 state and interconnected utility systems, that  
29 will serve the public need for adequate, reliable  
30 and economic service; (C) a map of suitable scale  
31 of the proposed routing or site, showing details  
32 of the rights-of-way or site in the vicinity of  
33 settled areas, parks, recreational areas and  
34 scenic areas, and showing existing transmission  
35 lines within one mile of the proposed route or  
36 site; (D) justification for adoption of the route  
37 or site selected, including comparison with  
38 alternative routes or sites which are  
39 environmentally, technically and economically  
40 practical; (E) a description of the effect of the  
41 proposed transmission line, substation or  
42 switchyard on the environment, ecology, and  
43 scenic, historic and recreational values; (F) a  
44 justification for overhead portions, if any,  
45 including life-cycle cost studies comparing  
46 overhead alternatives with underground  
47 alternatives, and effects described in subdivision  
48 (E) of undergrounding; (G) a schedule of dates  
49 showing the proposed program of right-of-way or  
50 property acquisition, construction, completion and  
51 operation; and (H) identification of each federal,  
52 state, regional, district and municipal agency  
53 with which proposed route or site reviews have  
54 been undertaken, including a copy of each written  
55 agency position on such route or site; [and] (2)  
56 in the case of facilities described in subdivision  
57 (3) of subsection (a) of section 16-50i: (A) A  
58 description of the proposed electric generating or  
59 storage facility; (B) a statement and full  
60 explanation of why the proposed facility is  
61 necessary; (C) a statement of loads and resources  
62 as described in section 16-50r; (D) safety and  
63 reliability information, including planned  
64 provisions for emergency operations and shutdowns;  
65 (E) estimated cost information, including plant  
66 costs, fuel costs, plant service life and capacity  
67 factor, and total generating cost per  
68 kilowatt-hour, both at the plant and related  
69 transmission, and comparative costs of  
70 alternatives considered; (F) a schedule showing

71 the program for design, material acquisition,  
72 construction and testing, and operating dates; (G)  
73 available site information, including maps and  
74 description and present and proposed development,  
75 and geological, scenic, ecological, seismic,  
76 biological, water supply, population and load  
77 center data; (H) justification for adoption of the  
78 site selected, including comparison with  
79 alternative sites; (I) design information,  
80 including description of facilities, plant  
81 efficiencies, electrical connections to system,  
82 and control systems; (J) description of  
83 provisions, including devices and operations, for  
84 mitigation of the effect of the operation of the  
85 facility on air and water quality, for waste  
86 disposal, and for noise abatement, and information  
87 on other environmental aspects; (K) a listing of  
88 federal, state, regional, district and municipal  
89 agencies from which approvals either have been  
90 obtained or will be sought covering the proposed  
91 facility, copies of approvals received and the  
92 planned schedule for obtaining those approvals not  
93 yet received; AND (3) IN THE CASE OF FACILITIES  
94 DESCRIBED IN SUBDIVISIONS (5) AND (6) OF  
95 SUBSECTION (a) OF SECTION 16-50i: (A) A  
96 DESCRIPTION OF THE PROPOSED FACILITY; (B) A  
97 STATEMENT AND FULL EXPLANATION OF WHY THE PROPOSED  
98 FACILITY IS NECESSARY INCLUDING A DESCRIPTION OF  
99 HOW THE FACILITY WOULD PROVIDE ECONOMIC AND PUBLIC  
100 SAFETY BENEFITS TO THE REGION, LOCAL COMMUNITY AND  
101 INDIVIDUAL CUSTOMERS; (C) A STATEMENT AS TO HOW  
102 THE PROPOSED FACILITY WOULD INTEGRATE AND AUGMENT  
103 EXISTING SERVICE; (D) ESTIMATED COST INFORMATION,  
104 INCLUDING TOWER, ASSOCIATED EQUIPMENT AND  
105 CONSTRUCTION COSTS; (E) A SCHEDULE SHOWING THE  
106 PROGRAM FOR DESIGN, MATERIAL ACQUISITION,  
107 CONSTRUCTION AND OPERATING DATES, (F) AVAILABLE  
108 SITE INFORMATION, INCLUDING MAPS, LOCATIONS OF  
109 CLASS I AND II WATERSHED LAND AND PUBLIC WATER  
110 SUPPLY AQUIFERS, A DESCRIPTION OF PRESENT AND  
111 PROPOSED DEVELOPMENT AND GEOLOGICAL, SCENIC,  
112 ECOLOGICAL, BIOLOGICAL, HISTORICAL AND  
113 RECREATIONAL DATA; (G) A DESCRIPTION OF THE EFFECT  
114 ON AND MITIGATION MEASURES TO PROTECT SCENIC,  
115 ECOLOGICAL, BIOLOGICAL, WATER QUALITY, HISTORICAL  
116 AND RECREATIONAL VALUES; (H) JUSTIFICATION FOR  
117 ADOPTION OF THE SITE SELECTED, INCLUDING A  
118 COMPARISON WITH ALTERNATIVE SITES AND EXISTING

119 FACILITIES CONSIDERED FOR SHARING; (I) DESIGN  
120 INFORMATION, INCLUDING A JUSTIFICATION OF THE  
121 SELECTED TRANSMIT AND RECEIVE TECHNOLOGY; AND (J)  
122 A LISTING OF FEDERAL, STATE, REGIONAL, DISTRICT  
123 AND MUNICIPAL AGENCIES FROM WHICH APPROVALS OR  
124 REVIEWS HAVE BEEN SOUGHT FOR THE PROPOSED  
125 FACILITY, COPIES OF APPROVALS RECEIVED AND THE  
126 PLANNED SCHEDULE FOR OBTAINING THOSE APPROVALS NOT  
127 YET RECEIVED.

128 (b) Each application shall be accompanied by  
129 proof of service of a copy of such application on:  
130 (1) Each municipality in which any portion of such  
131 facility is to be located, both as primarily  
132 proposed and in the alternative locations listed,  
133 which copy shall be served on the chief executive  
134 officer of the municipality and shall include  
135 notice of the date on or about which the  
136 application is to be filed, and the zoning  
137 commissions, planning commissions, planning and  
138 zoning commissions, conservation commissions and  
139 inland wetlands agencies of each such  
140 municipality, and the regional planning agencies  
141 which encompass each such municipality; (2) the  
142 Attorney General; (3) each member of the  
143 legislature in whose assembly or senate district  
144 the facility or any alternative location listed in  
145 the application is to be located; (4) any agency,  
146 department or instrumentality of the federal  
147 government that has jurisdiction, whether  
148 concurrent with the state or otherwise, over any  
149 matter that would be affected by such facility;  
150 (5) each state department, agency and commission  
151 named in subsection (h) of section 16-50j; and (6)  
152 such other state and municipal bodies as the  
153 council may by regulation designate. A notice of  
154 such application shall be given to the general  
155 public, in municipalities entitled to receive  
156 notice under subdivision (1) of this subsection,  
157 by the publication of a summary of such  
158 application and the date on or about which it will  
159 be filed. Such notice shall be published under the  
160 regulations to be promulgated by the council, in  
161 such form and in such newspapers as will serve  
162 substantially to inform the public of such  
163 application and to afford interested persons  
164 sufficient time to prepare for and to be heard at  
165 the hearing prescribed in section 16-50m. Such  
166 notice shall be published in not less than

167 ten-point type. A notice of such an application  
168 for a certificate for a facility described in  
169 subdivision (3), (4), (5) or (6) of subsection (a)  
170 of section 16-50i shall also be sent, by certified  
171 or registered mail, to each person appearing of  
172 record as an owner of property which abuts the  
173 proposed primary or alternative sites on which the  
174 facility would be located. Such notice shall be  
175 sent at the same time that notice of such  
176 application is given to the general public. Notice  
177 of an application for a certificate for a facility  
178 described in subdivision (1) of subsection (a) of  
179 section 16-50i shall also be provided to each  
180 electric company customer in the municipality  
181 where the facility is proposed to be placed. Such  
182 notice shall (A) be provided on a separate  
183 enclosure with each customer's monthly bill for  
184 one or more months, (B) be provided by the  
185 electric company not earlier than sixty days prior  
186 to filing the application with the council, but  
187 not later than the date that the application is  
188 filed with the council, and (C) include: A brief  
189 description of the project, including its location  
190 relative to the affected municipality and adjacent  
191 streets; a brief technical description of the  
192 project including its proposed length, voltage,  
193 and type and range of heights of support  
194 structures or underground configuration; the  
195 reason for the project; the address and a  
196 toll-free telephone number of the applicant by  
197 which additional information about the project can  
198 be obtained; and a statement in print no smaller  
199 than twenty-four-point type size stating "NOTICE  
200 OF PROPOSED CONSTRUCTION OF A HIGH VOLTAGE  
201 ELECTRIC TRANSMISSION LINE".

202 (c) An application for a certificate shall  
203 contain information on the extent to which the  
204 proposed facility has been identified in, and is  
205 consistent with, the annual forecast reports and  
206 life-cycle cost analysis required by section  
207 16-50r and other advance planning that has been  
208 carried out, and shall include an explanation for  
209 any failure of the facility to conform with such  
210 information.

211 (d) An amendment proceeding may be initiated  
212 by an application for amendment of a certificate  
213 filed with the council by the holder of the  
214 certificate or by a resolution of the council. An

215 amendment application by a certificate holder  
216 shall be in such form and contain such information  
217 as the council shall prescribe. A resolution for  
218 amendment by the council shall identify the  
219 design, location or route of the portion of a  
220 certificated facility described in subdivisions  
221 (1) or (2) of subsection (a) of section 16-50i  
222 which is subject to modification on the basis of  
223 stated conditions or events which could not  
224 reasonably have been known or foreseen prior to  
225 the issuance of the certificate. No such  
226 resolution for amendment of a certificate shall be  
227 adopted after the commencement of site preparation  
228 or construction of the certificated facility or,  
229 in the case of a facility for which approval by  
230 the council of a right-of-way development and  
231 management plan or other detailed construction  
232 plan is a condition of the certificate, after  
233 approval of that part of the plan which includes  
234 the portion of the facility proposed for  
235 modification. A copy and notice of each amendment  
236 application shall be given by the holder of the  
237 certificate in the manner set forth in subsection  
238 (b) of this section. A copy and notice of each  
239 resolution for amendment shall be given by the  
240 council in the manner set forth in subsection (b)  
241 of this section. The council shall also provide  
242 the certificate holder with a copy of such  
243 resolution. The certificate holder and the council  
244 shall not be required to give such copy and notice  
245 to municipalities and the commissions and agencies  
246 of such municipalities other than those in which  
247 the modified portion of the facility would be  
248 located.

249 (e) At least sixty days prior to the filing  
250 of any application FOR A CERTIFICATE with the  
251 council, the applicant shall consult with the  
252 municipality in which the facility may be located  
253 concerning the proposed and alternative sites of  
254 the facility. Such consultation with the  
255 municipality shall include, but not be limited to  
256 good faith efforts to meet with the chief elected  
257 official of the municipality. At the time of the  
258 consultation, the applicant shall provide the  
259 chief elected official with any technical reports  
260 concerning the public need, the site selection  
261 process and the environmental effects of the  
262 proposed facility. The municipality may conduct

263 public hearings and meetings as it deems necessary  
264 for it to advise the applicant of its  
265 recommendations concerning the proposed facility.  
266 Within sixty days of the initial consultation, the  
267 municipality shall issue its recommendations to  
268 the applicant. No later than fifteen days after  
269 submitting the application to the council, the  
270 applicant shall provide to the council all  
271 materials provided to the municipality and a  
272 summary of the consultations with the municipality  
273 including all recommendations issued by the  
274 municipality.

275 Sec. 2. (NEW) (a) The General Assembly finds  
276 that the leasing of certain land, rights-of-way,  
277 buildings and other structures suitable for  
278 holding telecommunications towers and antennas is  
279 in the public interest, provided the placement of  
280 such towers and antennas is necessary to provide  
281 telecommunications services, their placement meets  
282 public safety concerns and environmental impacts,  
283 if any, are not significant when compared with  
284 such need.

285 (b) Any state agency, as defined in section  
286 4-166 of the general statutes, through the  
287 Department of Public Works, after consultation  
288 with the Secretary of the Office of Policy and  
289 Management, may make available, in accordance with  
290 the provisions of this section, property,  
291 rights-of-way, buildings or other structures to  
292 hold telecommunications towers or antennas, as  
293 described in subdivision (6) of subsection (a) of  
294 section 16-50i of the general statutes, for fair  
295 consideration when such telecommunications  
296 services are necessary and would not conflict with  
297 the public use of the state property or with  
298 public safety concerns. Each state agency that  
299 makes such property available shall (1) give first  
300 priority in the placement of such a tower or  
301 antenna to any public safety agency, as defined in  
302 section 28-25 of the general statutes, that  
303 provides telecommunications services and  
304 thereafter give priority in such placement to any  
305 municipality that has a need for such a tower or  
306 antenna, and (2) ensure that access to such  
307 property is provided in a fair and neutral manner  
308 to all competing telecommunications service  
309 providers. Fair consideration shall be established  
310 in a contract to be negotiated between the

311 Department of Public Works and the entity seeking  
312 to lease the property, right-of-way, building or  
313 other structure and the state agency, provided any  
314 municipality that places a telecommunications  
315 tower or antenna on state property shall not pay  
316 any consideration to the state agency for such  
317 placement. In the case of a municipally owned  
318 tower placed on state property, the state shall  
319 receive fair market consideration for any  
320 nonmunicipal use of such tower.

321 (c) The Department of Public Works, in  
322 consultation with the Office of Policy and  
323 Management, may develop, as they deem appropriate,  
324 standard contract provisions that do not impede  
325 the fair and efficient development of state-wide  
326 competitive telecommunications systems, which may  
327 be included in such contracts, provided each  
328 contract shall require an entity leasing property  
329 for placement of a tower to allow shared use of  
330 the tower by another entity if the Connecticut  
331 Siting Council orders such shared use.

332 (d) No telecommunications tower may be  
333 constructed on state property, rights-of-way,  
334 buildings or other structures unless the  
335 Connecticut Siting Council issues a certificate of  
336 environmental compatibility and public need in  
337 accordance with the provisions of chapter 277a of  
338 the general statutes, provided no  
339 telecommunications tower may be constructed in  
340 state parks or state forests or on other state  
341 property that possesses significant environmental  
342 value, as determined by the council, and provided  
343 further, no telecommunications tower shall be  
344 constructed on an historic building or structure  
345 listed on the National Register of Historic Places  
346 or the state register of historic places, or  
347 within the right-of-way of a scenic road, as  
348 defined in section 13b-31b of the general  
349 statutes, unless the council determines there is  
350 no other feasible and prudent alternative.

351 (e) No telecommunications antenna may be  
352 constructed on state property, rights-of-way,  
353 buildings or other structures unless the  
354 Connecticut Siting Council issues a ruling for  
355 tower sharing, modification of an existing  
356 facility or development of a new facility  
357 approving the siting of such facility, provided no  
358 telecommunications antenna may be constructed in

359 state parks or state forests or on other state  
360 property that possesses significant environmental  
361 value, as determined by the council, and provided  
362 further, no telecommunications antenna shall be  
363 constructed on an historic building or structure  
364 listed on the National Register of Historic Places  
365 or the state register of historic places, or  
366 within the right-of-way of a scenic road, as  
367 defined in section 13b-31b of the general  
368 statutes, unless the council determines there is  
369 no other feasible and prudent alternative.

370 STATEMENT OF LEGISLATIVE COMMISSIONERS: In section  
371 2 (c) "deemed" was changed to "they deem" for  
372 clarity.

373 ET COMMITTEE VOTE: YEA 16 NAY 0 JFS C/R GAE  
374 GAE COMMITTEE VOTE: YEA 14 NAY 3 JFS-LCO

\* \* \* \* \*

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF 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 HOUSE THEREOF FOR ANY PURPOSE."

\* \* \* \* \*

**FISCAL IMPACT STATEMENT - BILL NUMBER SHB 5437**

STATE IMPACT	See Explanation Below
MUNICIPAL IMPACT	See Explanation Below
STATE AGENCY(S)	Connecticut Siting Council, Department of Public Works, Office of Policy and Management, Various Other Agencies

**EXPLANATION OF ESTIMATES:**

Passage of this bill requires community antenna TV towers and telecommunications towers to submit certain information with applications for certificate proceedings before the Connecticut Siting Council (Council). It is anticipated that such changes will have no fiscal impact to the Council.

Additionally the bill allows state agencies to make their property (land, right-of-way, buildings, and other structures) available for the placement of telecommunications towers and antennas. State agencies, through the Department of Public Works (DPW), after consultation with the Office of Policy and Management (OPM), may make property available for fair consideration. Fair consideration shall be established in a contract negotiated among DPW, the state agency and the entity seeking to lease the property. DPW, in consultation with OPM, may develop standard contract provisions that do not impede the efficient development of competitive telecommunications systems. It should be noted that while municipalities would not be required to pay fair market value for their telecommunications towers' sited on state property, the state shall

receive fair market consideration for any non-municipal use of such towers.

There is a potential revenue gain to the state's general fund related to such fair market consideration.

The negotiation of leases would require additional funding for DPW estimated between \$21,000 and \$42,000 per year for 1/2 to 1 new Property Agent I position. This does not include fringe benefits. Costs for state agencies making property available are anticipated to be minimal and absorbable within anticipated budgetary resources. There will also be a minimal cost that is associated with its role in consulting with the DPW regarding leasing contracts. It is expected that personnel in the OPM's Assets Management Division working on the disposition of state property will undertake this responsibility.

To the extent that provisions of this bill result in the additional siting of towers there may be a minimal absorbable workload increase to the Connecticut Siting Council.

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#### **OLR BILL ANALYSIS**

sHB 5437

#### **AN ACT CONCERNING THE APPLICATION AND DECISION CRITERIA OF THE CONNECTICUT SITING COUNCIL**

**SUMMARY:** This bill requires applicants for a Siting Council certificate for a telecommunications tower to supply additional information in their application. It establishes a procedure for state agencies to follow in making state property available for telecommunications towers and antennas that are regulated by the council.

The bill limits to instances involving certificates a current requirement that applicants for council approvals consult with the affected municipalities.

EFFECTIVE DATE: October 1, 1998

#### **FURTHER EXPLANATION**

**Certificate Application Information**

By law, a Siting Council certificate is needed to build a telecommunications tower that is owned or operated by the state, a public utility (including a cable TV company), or a telecommunications company or that is used in a cellular system. The bill requires a certificate application for such towers to include:

1. a description of the tower;
2. an explanation of the need for the tower and how it would benefit customers, the community, and the region;
3. a statement of how it would integrate and improve service;
4. cost estimates for the tower, associated equipment, and construction;
5. a schedule for the design and acquisition of materials for the tower and for its construction and operation;
6. available information regarding the site, including maps, locations of watershed lands and aquifers, and existing and proposed developments, as well as geological, scenic, ecological, biological, water quality, historical, and recreational data;
7. a description of the tower's effect on environmental, historical, and recreational values and the mitigation measures the applicant will take to protect those values;
8. justification for choosing this site compared to alternative sites or sharing an existing tower;
9. design information, including a justification of the telecommunications technology; and
10. a list of governmental agency reviews sought, copies of approvals received, and the schedule for obtaining outstanding approvals.

### Telecommunications Facilities on State Property

Under the bill, state agencies can make state property (including rights-of-way and structures) available for telecommunications towers and antennas that fall within the Siting Council's jurisdiction. They can do this when the telecommunications services are needed and would not conflict with public use of the property or public safety and environmental effects are not significant. The agencies must work through the Department of Public Works (DPW) after consulting with the Office of Policy and Management (OPM).

An agency that makes property available for telecommunications facilities must give first and second priorities to public safety agencies and municipalities, respectively. It also must ensure that all telecommunication providers have fair access to the property.

The agency must receive fair compensation for the use of the property. The compensation must be negotiated in a contract between DPW and the lessee. Municipalities are not required to pay for their use of the property. But, if a municipality allows nonmunicipal use of a tower, the state must be compensated for this use.

DPW, in consultation with OPM, can develop standard contract provisions that do not block the development of a statewide competitive telecommunications system. These provisions may be included in the contracts. Each contract must require the lessee to allow shared use of a tower if the Siting Council orders this.

The construction of a tower requires a certificate. The construction of an antenna requires the council's approval, in the form of a ruling on a proposal to share an existing tower, modify an existing facility, or build a new facility. No tower or antenna can be built in state parks or forests or in other areas that the council determines have significant environmental values. They cannot be located on historic structures or within the right-of-way of a state designated scenic road, unless the council determines there is no other feasible and prudent alternative.

### Municipal Consultation

Under current law, applicants for council approvals must consult with the affected municipality at least 60 days before filing an application. The bill limits this requirement to cases involving certificates. By law, a certificate is required to build or modify a wide range of energy and telecommunications facilities. The council approves applications for telecommunication tower sharing and issues declaratory rulings without issuing certificates.

By law, the consultation must provide the chief elected official with technical reports regarding the need for the facility, the site selection process, and the facility's environmental effects. The applicant must provide to the council within 15 days after filing its application all of the materials that it provided the municipality, a summary of the consultations, and the municipality's recommendations.

#### **COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable Substitute Change of Reference  
Yea 16      Nay 0

Government Administration and Elections Committee

Joint Favorable Report  
Yea 14      Nay 3