

CONNECTICUT GENERAL ASSEMBLY

ENERGY & ENVIRONMENT LEGISLATION

July 2011 | Published by Connecticut Business & Industry Association | cbia.com

**Brownfields Bill,
Agency Consolidation**

One of the year's most talked-about measures (PA 11-80*) creates a state agency that will consolidate the management and oversight of energy and environmental policies, although how that will be done remains to be seen. In another measure, CBI's Environmental Policies Council played a major role in developing portions of legislation designed to stimulate private sector investment in the revitalization of brownfields. In addition, passed was a chemical ban affecting a wide variety of businesses that issue cash register receipts, and a new burden on DEP to adopt regulations concerning quarrying operations.

Unfortunately, bills that would have fostered expedited environmental permitting and streamlined DEP's regulatory burdens in a variety of programs—including stormwater, stream channel encroachment, vehicle emission standards, and stream flow—all failed in the legislative process.

PA 11-6 (SB 1239) AAC The Budget for the Biennium Ending June 30, 2013, and Other Provisions Relating to Revenue—as amended by **HB 6652 (PA 11-61)**

Electric Generation Tax: An electric generation facilities tax will be imposed at the rate of ¼ of a cent per net kilowatt hour of electricity generated and uploaded into the regional bulk power grid at Connecticut facilities. The tax applies to

all electricity except that generated by a resources-recovery facility, by customer-side distributed resources, or through use of a fuel cell or alternative energy system (such as solar or wind system).

Effective: May 4, 2011 and applicable for fiscal years 2011 and 2012, expiring June 30, 2013.

Also included in PA 11-6 is the elimination of the sales tax exemption for hazardous waste removal, which could have broad consequences for brownfields and other cleanup activities.

Effective: July 1, 2011

PA 11-80 (SB 1243) AA Establishing The Department of Energy and Environmental Protection and Planning for Connecticut's Energy Future

Creates a new state agency consolidating energy and environmental oversight. The new Department of Energy and Environmental Protection (DEEP) merges the Department of Public Utility Control and energy experts from the Office of Policy and Management with the state's Department of Environmental Protection (DEP). Among many other things, the legislation establishes a new process in which the state will be the principal entity procuring energy for Connecticut. It also expands state programs designed to increase the use of green technologies and jobs within the industry. Many of the provisions of the bill also deal with increasing access to energy efficiency programs and services.

Among other things, SB 1243

- Makes DEEP responsible for projecting the state's future energy needs, in consultation with the Connecticut Energy Advisory Board and utility companies.
- Promotes using a broader range of renewable energy sources to meet Connecticut's aggressive renewable portfolio standards.
- Creates an Office of Energy Efficient

Businesses that will provide Connecticut companies with a single entry point to state programs, services, and funding

- Allows Connecticut electric utilities to own and operate up to 10 MW of renewable power each.

The legislation also calls for a study of Connecticut's involvement in the region's energy market as managed by ISO-New England.

Effective: July 1, 2011

PA 11-140 (HB 6525) AAC The Continuance of the Majority Leaders' Job Growth Roundtable

This legislation establishes a 19-member task force to identify the barriers facing Connecticut businesses. The task force, which must report its findings to the legislature by Feb. 1, 2012, will explore, among other things:

- Energy-related job growth.
- The relationships between the state's manufacturing and higher education communities
- The number of Connecticut manufacturers that use remedial measures to address DEP enforcement actions and how remediation could reduce penalties
- Other states' programs for waiving environmental penalties on businesses

In addition, the legislation expands the powers of the state's Office of Brownfield Remediation and Development by allowing it to:

- Make cooperative agreements with implementing agencies
- Award grants and subgrants to these agencies for designing, implementing, and supervising brownfield assessment and remediation

Effective: July 8, 2011

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PA 11-141 (HB 6526) AAC Brownfield Remediation and Development As An Economic Driver

Includes a broad range of changes to existing DEP cleanup programs, especially regarding brownfields, and provides an entirely new option for brownfield developers designed to attract private investment in these properties.

The new program protects developers, including municipalities, from liability associated with the migration of pollution off-site and from possible on-site pollution once the site has been cleaned up consistent with state requirements. This protection extends to the immediate prior and subsequent owners of the property provided they did not cause or contribute to the contamination. The DECD commissioner will select brownfields eligible for the program based on applications up to a maximum of eight properties per calendar quarter. [Note: SB 1242 allocates \$25 million in each of the next two years to the Regional Brownfield Redevelopment Loan Fund.]

Participants are exempt from the burdensome Connecticut Transfer Act when they sell the property, and they are still eligible for state funding.

However, the bill imposes fees on parties accepted into the program and on those that subsequently acquire the properties. It exempts municipalities and economic development agencies from the application fees, but requires them to collect and remit the fees to DEP when they transfer the property. (A significant portion of the fee can be waived by the DEP, under certain circumstances.)

Other sections of the bill are also designed to foster more brownfield redevelopment in Connecticut. These include:

- Bolstering the role of the Office of Brownfield Remediation and Development within DECD and transforming the current municipal brownfield pilot program into a permanent "Municipal Brownfield Grant

Program"

- Exempting certifying parties under the Transfer Act from investigating and remediating contamination that occurs after they remediate the property
- Broadening the definition of brownfields to include more types of properties
- Exempting state, municipal, and private organizations from paying DEP fees when cleaning up brownfields
- Expanding the range of benefits and eligible entities and properties under the existing "Abandoned Brownfield Cleanup Program"—to properties that have been abandoned or significantly underutilized for at least five years

Effective dates: Various

PA 11-162 (SB 227) AAC Remediation Standards Under a Consent Order

Ensures that individuals, businesses, municipalities or other entities that enter into agreements with the DEP to clean up contamination according to state requirements will not be adversely impacted if those standards change after the date of the agreement.

Effective: Oct. 1, 2011

PA 11-190 (HB 5526) AA Requiring a Permit for Certain Commercial Products That Involve Quarrying

Requires the DEP to expend scarce resources to develop regulations and permit requirements for commercial projects that involve quarrying near a town center. The legislation is applicable only to a municipality with a town meeting form of government and a population of at least 2,000 and no more than 3,000.

Effective: July 13, 2011

PA 11-222 (SB 210) AA Prohibiting the Use of Bisphenol-A in Thermal Receipt Paper

Bans the use of Bisphenol-A, a compound that

is commonly used in receipt paper from retailers and bank ATM machines. The ban is effective Oct. 1, 2013, but may extend to July 1, 2015, if the federal Environmental Protection Agency determines there is no safe, commercially available alternative. The original bill included a provision with potentially negative implications for UCONN's newly-formed Chemical Innovations Institute, by involving the institute in legislative advocacy for the banning of chemicals.

Effective: Oct. 1, 2013

PA 11-245 (HB 6249) AA Requiring Adoption of Regulations for the Siting of Wind Projects

Bowing to local political pressure, this legislation puts a halt to the development of all wind power projects in Connecticut until regulations governing them are adopted by the Connecticut Siting Council.

Effective: July 1, 2011

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