

Legislative History for Connecticut Act

HB 3062	PA 829	(A)	1967
House	4180-4187		(8)
Senate	2277-2278		(2)
Finance	52- 51 ⁵³ , 207-208		(4)
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CONNECTICUT
GENERAL ASSEMBLY

HOUSE

PROCEEDINGS

1967

VOL. 12

PART 9

383 - 447

June 2, 1967

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Mr. SPEAKER:

Will you remark further on house amendment schedule c. If not the question is on adoption of the amendment. All in favor say aye. Opposed no. The amendment is adopted. The question is now on acceptance and passage of the bill as amended by schedule C. Will you remark further? If not all those in favor say aye. Opposed. The bill is passed.

THE CLERK:

Calendar 923. House Bill No. 3062. An act concerning the conveyance and transfer of estates, and rights and interests in air space, and their status and taxation as real property. File 1033.

MR. LOWDEN 155th

Mr. Speaker, I move acceptance of the committees favorable report and the passage of the bill. Mr. Speaker the clerk has an amendment. Mr. Speaker I ask waiving of the reading and I will explain it.

THE SPEAKER:

There is no objection to the waiving of the reading providing the gentleman from the 155th gives a brief resume of the amendment.

MR. LOWDEN 155th

Mr. Speaker, the amendmet is considerably less comprehensive than the original bill. It would not create a new statute but would add to the existing statute dealing with those properties which are taxable by municipalities.

It would add in the category in the taxable properties easements to use air space whether or not contiguous to the surface to the ground. An easement to use airspace shall be an interest in real estate and may be assessed separately from the surface of the ground below it. The amendment provides further that in the event the interest of real estate consists of an easement

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to use as airspace whether or not contiguous to the surface to the ground. ds
Which easement is in the form of a lease for a period of not less than fifty years which lease is recorded in the land records of the town and provides that the lessee shall pay all taxes, said interest shall deem to be a separate parcel and shall be separately assessed in the name of the lessee. I move adoption of House Amendment Schedule A.

MR. LENCE 13th

Mr. Speaker, I am dismayed by this amendment. This amendment makes the bill meaningless. Where we had a bill that offered a great new opportunity for some unknown reason we are pulling it out by the horns here today and I just can't understand it. Here was one bill and it would have been the first time when I have been most reluctant to use the word landmark or historic where we could have applied it to a bill. Here we are faced with a last minute amendment that reduces the bill to a nothing. If you mean business about heaping cities and we just heard something about regionalism and a few other things well this is not the way to handle this golden new opportunity for use of air space a concept that is new to Connecticut and not new to other parts of the nation. The bill before you would or was taken word for word from a Pennsylvania Law, written and signed by Governor Scranton in 1963 it was the beginning and hopefully we were going to have a beginning here in Connecticut and we could have turned to our neighbor state of Massachusetts and seen what they have done with it. Here was the opportunity to use lands to use space over highways. An opportunity for the cities to get new sources of revenue, an opportunity to meet the social of an economic problem of the city where you could have joined the divisable and erase the divisive effect of highways and what have you got now. A fifty year easement, that you can find in the land records. What is this. I think we should defeat the bill

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after you adopt this amendment.

ds

MR. LOWDEN 155th

Mr. Speaker, I find it difficult to understand the argument from the gentleman from the 13th. He speaks of a fifty year lease of an easement. That is not the sole accomplishment of this bill. I think he had better take a closer look at it and I would wonder whether in fact he opposed the amendment or whether he was just making a speech.

THE SPEAKER:

Remark further? If not the question is on adopting House Amendment Schedule A. All in favor say aye. Opposed no. The amendment is adopted. The question is now on the bill as amended by

THE MR. LENCE 13th

Mr. Speaker, I move that when the vote be taken it be taken by roll call.

THE SPEAKER:

All in favor of a roll call vote say aye. In the opinion of the chair the sufficient percentage has answered in the affirmative. There will be a roll call and the chair will announce it. Will all members of the house please be seated and we will vote. Question is on adoption of House amendment schedule a. Will you remark further? The gentleman from the 13th

MR. LENCE 13th

The amendment before us would strike out everything after the enacting clause file number 1033. It would substitute something quite different. It refers to section 12-64 of the General statutes. 12-64 is a section that relates to real estates liable to taxation which among other things dwelling houses sheds or shops etc. etc. The original bill concerned itself with air space. A states rights and interest has created a new concept perhaps one that might be a major concern to the city of Bridgeport and its possible uses and

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projections for the railroad station. A concept that would afford the cities an opportunity for example where they own parking lots and parking grounds and things of that type to lease air space to transfer an interest in air space. To have that air space if we gave them further authority as we should do to tax not only the improvement or the structure but the ground as well beneath. A whole new opportunity for the city.. For them to meet the crisis, financial crisis that faces them. Another opportunity for us to say and empower the highway commissioner to do the same thing and to bind the loans of highways that cut a path across cities and let us use them where exciting new possibility. Promenade, a super level for rapid transit I don't know what we are doing by this amendment but to bring this in here and waive the reading and at the last minute ask us to vote approval of it when we have been sitting here waiting for what I thought was going to be a whole new venture is just incredible. I don't know what you are going to do with it but I think it is pretty sad.

MR. O'NEILL 7th

Mr. Speaker, the bill in your file no 1033 provides in three separate sections for the conveyancy of certain air rights. It tends to establish what would amount to a new form of land ownership. Now a matter of fact everyone who owns real property in the state of Conn. according to the common law owns from the center of the earth to the sky. There is a fancy latin expression for that but I can't remember it. This bill as originally proposed would tend to ^{face} compute and distort that common law position. Therefore the bill has been amended to eliminate that part of it and to go to the real purpose of the bill which was taxation. The purpose of the bill is to allow municipality to convey in air rights above its property, railroad tracks, streets, similar to the Hartford Library that you have all passed under .

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and that kind of space. And to tax it. Instead of starting off with a new and possibly confusing set of rights what we have done in the proposed amendment is to provide that it will be a different item for taxation. That is all the amendment does. It is relatively simple. It will be very good for the New Haven Railroad in working on its problems, it will be very good for all towns through which the New Haven Railroad runs. It will be good for municipalities that want to build parking lots for instance under ground and lease the air space above them and in short it will be good for the state of Conn. I think it is an excellent amendment. It was drafted by one of the finest conveyancers in the state of Conn. David Cockin who had a statewide reputation and who was instrumental in drafting our present condominium law. I feel that we should go for this amendment and I hope that the house will pass it.

ds

MR. LENCE 13th

Mr. Speaker, I don't know if this is the third time and if it is I would beg leave to be brief. It is not my intention to question the draftsman of the amendment. Suffice to say that the bill as it appeared in the file was originally acted into law in the state of Pennsylvania in 1963. It is a tested piece of legislation. It also has precedent and parrell in Mass. where if you are familiar with riding under the Hartford Public Library I am sure that you are also familiar with riding into the Prudential Center and what has been done there. I think that the bill as originally drawn with some additional amendment might have been offered to it that was germane to it would have started us a two year head start on a whole new concept and area of opportunity both economic and esthetic for our cities. We are concerned with both the physical renewal, the human renewal and the esthetic which is part of both. I think we have set back. I'm not going to press this any further, we'll have time in the interim to study it. I think this is a mistake

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But go ahead.

ds

MR. SPIEGEL 126th

Mr. Speaker, through you sir a question to the gentleman from the 7th. Mr. O'Neill do you feel that the banks would grant any mortgage of any sizable amount on that piece of air.

MR. O'NEILL 7th

Mr. Speaker through you sir. Yes.

THE SPEAKER:

Question is on your calendar no. 923. Question is on House amendment schedule a. offered by the gentleman from the 7th. If you favor the amendment you will vote yea. If you do not you will vote nay. Is everyone in their seats. The chair will unlock the machine. Has everyone voted who wishes to do so. The chair will lock the machine and the clerk will take the tally.

THE CLERK:

Total number voting	151
Necessary for passage.....	76
Those voting Yea.....	92
Those voting Nay.....	59
Absent and not voting	26.

THE SPEAKER:

The amendment is adopted. The question is now acceptance and passage of the bill as amended by house amendment schedule A. Will you remark further?

The gentleman of the 155th.

MR. LOWDEN 155th

Mr. Speaker, in many cities in the nation increasing interest is being shown in the multiple use of land by use of air rights. Constitutional Plaza

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is such one example in Connecticut where in a multi purpose facility on several levels has been built privately with some bridging of streets. Hartfords own public library spans the highway. Fall River Massachusetts was the first city to get permission from the bureau of public roads to construct buildings over interstate highways. The Fall River building is the Public Civic Center, other cities such as Boston and Cincinnati have also moved to the structures over highways. The Boston expansion is a combination public and private venture with a War Memorial and the 52 story Prudential Tower astride a turnpike. New York the scene of most of the pioneering in the use of air space is expected to increasingly exploit the air above its street system for much of its future expansion. Unfortunately our statutes do not currently provide for taxation of air space. This bill will give town assessors the power to value such air rights for entry on the local grand list. I urge its passage.

ds

MR. MCCARTHY 22nd

Mr. Speaker, I voted against the amendment of this bill but I rise to say that I will however reluctantly support the bill in its form. The statement that you have just heard giving examples from Hartford and elsewhere of the multi realities developmental uses of air rights and the taxable benefit accruing to municipalities and states they are under. That statement sounded to me like a very wonderful reason why we should have adopted the bill in its original form. What we have done is make the bill useless.

MR. O'NEILL 7th

Mr. Speaker, I think that the close reading of the amendment would make it quite clear that the tax assessor would not so assess.

MR. COLLINS 165th

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MR. COLLINS 165th

ds

Mr. Speaker, another question to the gentleman from the 7th. Through you sir as I read the amendment which says " an easement to use air space shall be an interest in air space and may be assessed separately from the ground below. Would that not allow sir th allow the assessor tax this separately from the real estate and pose an additional property owners.

MR. O'NEILL 7th

Mr. Speaker, in my opinion the answer is no.

MR. MCCARTHY 22nd

Mr. Speaker, I would simply suggest that as an alternative response to the previous inquiry that I believe that the taxable rights above residential property presently comprehend their usable air space. It would not be separately taxed unless otherwise separately developed.

THE SPEAKER:

Remark further on the bill. If not the question is on acceptance and passage as amendment schedule A. All in favor say aye. Opposed no. The bill is passed.

THE CLERK:

Calendar No. 900. Substitute for House Bill No. 3108. An act concerning vision care by Optometrists. File 1040.

MR. TIERNEY 147th

Mr. Speaker, I move for the committees favorable report and the passage of the bill. Mr. Speaker, the clerk has an amendment and I request that the clerk read the amendment

THE CLERK:

The

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THE CHAIR:

Further remarks? If not, all those in favor of the passage of the bill, indicate by saying Aye. AYE. Opposed? The bill is passed.

THE CLERK:

Calendar 1393, file 1033, HB 3062, An Act concerning the Conveyance and Transfer of Estates, and Rights and Interests in Air Space, and their Status and Taxation as Real Property. As amended by House Amendment Schedule "A". Favorable report of the Joint Committee on Finance.

SENATOR VERRIKER:

Mr. President, I move acceptance of the joint committee's favorable report and the passage of this bill as amended by House Amendment Schedule "A". This bill concerns the conveyance and transfer of air rights. Under this bill, these air rights will be treated as and subject to, all the types of taxes authorized to be assessed against real property. Where the air rights or space are owned by someone other than the owner of the land thereunder, each owner would be subject to being taxed separately. Such air rights could be conveyed, leased, mortgaged just the same as real estate. The purpose of this bill would be to treat rights and interests in air space as real property and tax them as such. The Joint Finance Committee realizing how badly the municipalities need tax money, believe that this is a good bill and may aid municipalities in taxes. We certainly recommend its passage.

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THE CHAIR:

Any further remarks? If not, all in favor of the passage of this bill, indicate by saying Aye. AYE. Opposed? The bill is passed.

THE CLERK:

Calendar 1394, file 1258, modified HB 4974, An Act Increasing the State Grant in lieu of Taxes for Preston. Favorable report of the Joint Committee on Finance.

SENATOR VERRIKER:

Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill. This bill increases the grant in lieu of taxes to the Town of Preston from six thousand dollars to seven thousand five hundred dollars. Now, there is an error in the file that is in our book. The file shows the title to be seven thousand and five dollars. But the bill definitely says seven thousand five hundred dollars. So it is correct. The Joint Finance Committee recommends passage.

THE CHAIR:

Further remarks? If not, all in favor of the passage of this bill, indicate by saying Aye. AYE. Opposed? The bill is passed.

THE CLERK:

Calendar 1395, file 1211, HB 4454, An Act concerning Facilitating Emergency Actions by Town Boards of Finance. As Amended by House Amendment Schedule "A". Favorable report of the Joint Committee on General Law.

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FINANCE

FEBRUARY 28, 1967

TUESDAY

H. B. 3062 (Rep. Carragher, 2nd District) AN ACT CONCERNING THE CONVEYANCE AND TRANSFER OF ESTATES, RIGHTS AND INTERESTS IN AIR SPACE, AND THEIR STATUS AND TAXATION AS REAL PROPERTY.

Chr. McLoughlin: Is there anybody to speak in favor of this bill?

Alexander Standish, Assistant to City Assessor in the City of Hartford: I speak in favor of House Bill 3062. In many cities in the nation increasing interest is being shown in the multiple use of land by use of air rights. Constitution Plaza in Hartford is one of such example wherein in Connecticut where the multi-purpose facility on several levels has been built privately to some bridging of streets. Hartford's own Public Library stands the highway. Fall River, Massachusetts, was the first city to gain permission from the Bureau of Public Roads to construct buildings over an inter-state highway. The Fall River building is a public civics center. Other cities, such as Boston and Cincinnati has also moved to develop structures over highways. The Boston example is a combination of public and private venture with a war memorial and a 52 story crudential tower of Stride Turnpike. New York, the scene of most of the pioneering in use of air rights, is expected to increasingly exploit the air above its streets from most of its future expansion. Other states are also interested in promoting the use of air rights and the federal government his also actively interested in this program. Interest is stimulated in part by the opportunity of gaining a new source of income by the leasing of air rights which would deflate the cost of some of the highway construction programs. Furthermore, it is believed that the multiple use of land is especially valuable in a crowded urban area where land is at a premium and where economics indicate that such a multiple use may be feasible. Communities should be interested in this program and because such a program would permit to return of the property to tax roles and substantial property taxes to be added to the city treasury. Unfortunately, the statutes do not currently provide for the conveyance in taxation and their rights. The bill, the way you are proposing, will give town assessors some power to value such air rights for entry on local grand lists.

Chr. McLoughlin: Just one question. In this bill, this only provides for taxation if the air space is actually being used for or by somebody else other than the owner of the real property?

Alexander Standish: That's right.

Chr. McLoughlin: Are there any questions from any member of the committee?

FINANCE

FEBRUARY 28, 1967

TUESDAY

Rep. Torpey, 15th District: How high or how low is this space you have reference to?

Alexander Standish: There is no limit on lane. Definition of lane extends ownership to the limits of the sky so I guess it can go as high as the town ordinance would allow it to go. We have no set limit set in the bill.

Rep. Torpey, 15th District: Are there other states that have similar laws with regard to air space?

Alexander Standish: To my knowledge the State of New York has it and as I said the State of California is presently working on something in that direction. The State of Massachusetts with its preidential building is enlight of this law.

Rep. Torpey, 15th District: If there is a building suspended over a city street, for example, at the present time, do you feel you can't tax that under personal property tax?

Alexander Standish: No, sir, you can't.

Rep. Torpey, 15th District: You can't tax it at all?

Alexander Standish: No. We have the Hartford Public Library in the City of Hartford. If it were a privately owned building over a highway, we could not do it. The increasing use of the highways going through or close-by urban centers takes away a lot of this choice land and the passage of this bill would not hurt anybody. It would just tend to help.

Chr. McLoughlin: Are there any further questions? Is there anybody else to speak in favor of this bill? If not, is there anybody to speak in opposition? If not, we will continue on to the next group of bills, House Bill 3066, 3067.

H.B. 3066 (Rep. Pac, 31st District) AN ACT CONCERNING INSPECTION OF INFORMATION FILED WITH THE TAX COMMISSIONER.

H.B. 3067 (Rep. Pac, 31st District) AN ACT CONCERNING RETURN BY TOWN TREASURER TO TAX COMMISSIONER.

Chr. McLoughlin: Is there anybody here to speak in favor of these bills? If not, is there anyone here to speak in opposition?

Leon LeMare, Manufacturers Association of Connecticut: I speak in opposition to H.B. 3066. As was indicated this morning by Mr. Tarrant the department has been asking for this bill for many years and I think for the same reasons that this Legislature chose not to give it to them in the past, they should not be given it this year. This opens up the door to nothing but witch-hunting in the tax area. I think our public

Rep. LaGrotta: I would like to speak on two bills. First, 2067- an act concerning general fund revenue distributions to towns. This position has been taken before the Appropriations Committee and this is a bill in the same area. What this bill would do is take 4% of the general fund revenue and distribute it back to the towns. I computed it with Mr. Tarrant and it would run around 45 to 50 cents per head back to the towns. The point is that the (bill) real estate base we are operating under is not adequate to supply the ever increasing needs of the communities which is line with the gener plan and I know have had the good fortune to be in Washington with your chairman and we heard discourse by a leading democrat on this position. I think this is inevitable in the face of what happened in the last two years when we were laboring under severe conditions in our small towns to see a fifty million dollar surplus pile up here in Hartford. In line with this thought I have another bill which I have put in -- Congress to return 1% of our income tax to the state. These are small amounts. The point I would like to make is that I think we should establish this type of thinking and get our foot in the door on this. The other bill I would like to speak on is 3062. An act providing a grant in lieu of taxes on State property in Kent. The town of Kent up in the Litchfield hills is a beautiful little town, in it our some of the finest private schools we have with national and international recognition. We have the Kent School for Boys, the Kent School for Girls, The South Kent School and we have other non-profit organizations such as the Pond Mountains Corp. which takes land for open spaces which allows a small amount of tax to be returned. What is incurred in this town is that as the schools have grown and as the state has increased its holding in park land, some of it they had in the early 1900's to the point now that between school property and tax owned property they comprise about 1/3 of the grand list of the town so that while the total taxable property in the town is \$17,000,000 they are only able to tax on \$11,000,000. Now it is nice that we have these schools for all of us to enjoy, for all the people in the state and it's wonderful that we have

Rep. LaGrotta contd.

2800 acres of park land and plus a 400 acre Indian Reservation In Kent which makes it 3200 acres of land for the state to enjoy. The only point I make gentlemen is that I think the Town of Kent hangs the state on its back - now they are faced with the cost of putting in a sewer plant or some type of sewage treatment, the demands for the roads and for the other services to the town has increased and we went over all the properties that the state owns there and we took one specific example namely, 95 acres on Lake Waramaug which has 4,118 feet of shore front nearly a mile of shore front. The amount that the state gives to the Town of Kent in lieu of taxes on this one piece of property is \$176. We are asking not the whole world but some help. We have evaluated this one particular piece of property as \$35. a running foot. We are asking for an increase in the grant in lieu of taxes of around \$4900. I ask your most favorably consideration.

Sen. Verriker: How much do you receive from the state now? A total grant.

Rep. LaGrotta: \$1592.

Rep. Matarese: I would like to speak in support of HB 2725. A bill which was to provide a grant in lieu of taxes for state owned property. This bill, in my estimation, is a very fair and equitable bill and, if it is passed, is giving the cities and the towns only what they are entitled to. There is little need for me to tell you today that the tax burden that has been placed on our private property owners is tremendous. It is reaching the point, if it has not already reached the point, of being unbearable. In the City of Hartford the state owned property that has been assessed, and this is only at 65% of the fair market value, \$28,700,000 or a little bit in excess of that. On the total of this assessment the state has been paying the City of Hartford by way of a grant in lieu of taxes only some \$14,600. It seems to me that this is an extremely low amount and that under the provisions of this bill which will call for the state to pay as a grant in lieu of taxes at 65% of the assessed value only 1/3 the tax rate that has been set as a mill rate in the town. As you know the mill rate in Hartford has gone up steadily every year since 1960. They feel that this legislation would ease the tremendous burden that has been placed upon our cities and our towns and again its something to which they are entitled. I strongly and respectfully urge that you give your consideration favorably to this bill.

Rep. Frazier: Not to go into the pros and cons of it - I would like to go on record that I support HB 2725.