

Legislative History for Connecticut Act

2003

Act Number:	184	
Bill Number:	5594	
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Committee:	Planning: 42, 43-45, 62, 64, 66-68, 91-93, 138-141	16

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2003

VOL. 46

PART 12

3561-3835

Without objection, so ordered.

Senator Coleman.

SEN. COLEMAN:

Thank you very much, Madam President. Madam President, I also was out of the Chamber on legislative business and missed a few votes earlier today. Would the Journal please note that I would have voted in the affirmative on those issues.

THE CHAIR:

The Journal will so note, Sir.

SEN. COLEMAN:

Thank you, Madam President.

THE CHAIR:

Thank you, Sir.

Mr. Clerk, would you begin with today's Calendar.

THE CLERK:

Turning to the Call of the Calendar for Monday, June 2, 2003, Favorable Reports, Calendar Page 3, Calendar 451, File 358 and 709, Substitute for H.B. 5594 An Act Concerning Membership On And Review Of Applications To Planning And Zoning Commissions, The Location Of Auto Dealers, Repairers, Junk Yards And Gasoline Stations And Adoption Of A Rehabilitation Subcode, as amended by House Amendment Schedule "A". Favorable Report of the Committees on Planning and

Development and Public Safety.

THE CHAIR:

Senator Fonfara.

SEN. FONFARA:

Thank you, Madam President. And Madam President, I hope to be shorter than the title is in my presentation of this bill.

Madam President, this bill essentially establishes four things. One, a pre-application procedure for proposed projects within municipalities.

It streamlines the provisions for applying for certain applications involving dealers, repairers, recyclers, and gasoline stations so that everything would go before the Zoning Commission, the Planning and Zoning Commission, or other authority designated within a municipality.

It also establishes that when vacancies occur in the Planning Commission, that they shall be filled by the Commission unless otherwise provided for by the Charter.

And lastly, it requires the State Building Inspector and the Codes and Standards Committee to develop a subcode for rehabilitating buildings in an economically feasible manner.

I urge passage of the bill, Madam President.

THE CHAIR:

The question is on passage of the bill as amended.
Will you remark further? Senator Fonfara.

SEN. FONFARA:

Thank you, Madam President. Unless there's
objection, I would move this bill to the Consent
Calendar.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar Page 7, Calendar 523, Files 178 and 783,
Substitute for H.B. 5480 An Act Concerning The
Connecticut Insurance Guarantee Association, as amended
by House Amendment Schedule "A". Favorable Report of
the Committees on Insurance and Banks.

THE CHAIR:

Senator Crisco.

SEN. CRISCO:

Thank you very much, Madam President. Madam
President, I move for acceptance of the Joint
Committee's Favorable Report and passage of the bill in
concurrence with the House.

THE CHAIR:

The question is on passage in concurrence. Will
you remark?

pat

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Senate

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items.

THE CLERK:

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Madam President, the First Consent Calendar begins on Calendar Page 3, Calendar 451, Substitute for H.B. 5594.

Calendar Page 5, Calendar 505, Substitute for H.B. 5178.

Calendar Page 7, Calendar 523, Substitute for H.B. 5480.

Calendar 525, Substitute for H.B. 6470.

Calendar 527, H.B. 6432.

Calendar 528, H.B. 6570.

Calendar Page 8, Calendar 534, Substitute for H.B. 5930.

Calendar Page 9, Calendar 535, H.B. 5145.

Calendar 536, H.B. 6394.

Calendar 537, H.B. 5034.

Calendar 538, H.B. 6036.

Calendar 539, Substitute for H.B. 6446.

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Calendar Page 14, Calendar 135, Substitute for S.B.
934.

Calendar Page 15, Calendar 262, Substitute for S.B.
1011.

Calendar Page 16, Calendar 291, Substitute for H.B.
5515.

Calendar 330, Substitute for S.B. 409.

Calendar Page 17, Calendar 458, Substitute for H.B.
5059.

Calendar Page 18, Calendar 144, Substitute for S.B.
985.

Calendar 151, Substitute for S.B. 1111.

Calendar Page 19, Calendar 270, Substitute for S.B.
1024.

Calendar Page 20, Calendar 359, Substitute for S.B.
904.

Calendar 365, Substitute for S.B. 1066.

Calendar 452, H.B. 6298.

Madam President, I believe that completes those items previously placed on the First Consent Calendar.

THE CHAIR:

Thank you, Sir. Would you once again announce a roll call vote on the Consent Calendar. The machine will be opened.

THE CHAIR:

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The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted, the machine will be locked. The Clerk please announce the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.

Total number voting, 35. Necessary for adoption, 18. Those voting yea, 35; those voting nay, 0. Those absent and not voting, 1.

THE CHAIR:

The Consent Calendar is adopted.

Senator Looney.

SEN. LOONEY:

Yes, thank you, Madam President. Madam President, I would move for immediate transmittal to the House of Representatives of all items acted upon today requiring additional action by that Chamber.

THE CHAIR:

Without objection, so ordered.

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GEN. ASSEMBLY
HOUSE

PROCEEDINGS
2003

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2286-2684

House of Representatives

Tuesday, May 13, 2003

CLERK:

On page 12, Calendar 418, H.B. 5097, AN ACT ADOPTING REVISED ARTICLE 1 OF THE UNIFORM COMMERCIAL CODE CONCERNING GENERAL PROVISIONS. Favorable Report of the Committee on Judiciary.

DEPUTY SPEAKER FRITZ:

Representative Godfrey.

REP. GODFREY: (110TH)

Madam Speaker, I move that this item be recommitted.

DEPUTY SPEAKER FRITZ:

Hearing no objection, so ordered.

Will the Clerk please call Calendar number 236.

CLERK:

On page 24, Calendar 236, Substitute for H.B. 5594, AN ACT CONCERNING MEMBERSHIP ON AND REVIEW OF APPLICATIONS TO PLANNING AND ZONING COMMISISONS, THE LOCATION OF AUTO DEALERS, REPAIRERS, JUNKYARDS AND GASOLINE STATIONS AND ADOPTION OF REHABILITATION SUBCODE. Favorable Report of the Committee on Public Safety.

DEPUTY SPEAKER FRITZ:

Representative Wallace.

REP. WALLACE: (109TH)

Good afternoon, Madam Speaker. Madam Speaker, I

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move acceptance of the committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER FRITZ:

The question is on passage. Will you proceed, sir?

REP. WALLACE: (109TH)

Thank you, Madam Speaker. Madam Speaker, this bill does four things. It enables municipalities to hold pre-application review committee meetings with applicants.

Secondly, it removes zoning boards of appeals as a permit agency for gas stations recycling sites, auto repair shops and places responsibility more appropriately with zoning commission, planning and zoning, or the board of authority, as provided by local regulations or ordinance.

Third, it clarifies that vacancies on planning commissions shall be filled by the Commission unless otherwise provided by charter.

And fourth, it requires the Commissioner of Public Safety to establish a rehabilitation subcode to encourage rehabilitation of abandoned or deteriorated properties.

Madam Speaker, the Clerk has an amendment. It is LCO number 5684. Would you please ask the Clerk to call and I be allowed to summarize?

DEPUTY SPEAKER FRITZ:

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Will the Clerk please call LCO number 5684,
designated House "A".

CLERK:

LCO number 5684, House "A" offered by
Representatives Wallace, Currey, Godfrey, and Fritz.

DEPUTY SPEAKER FRITZ:

Please proceed, sir.

REP. WALLACE: (109TH)

Thank you, Madam Speaker. Madam Speaker, this clarifies that the local authority is the other board or authority designated by local charter regulation or ordinance and ensures that it's not confused with the local traffic authority.

Madam Speaker, I move the adoption of the amendment.

DEPUTY SPEAKER FRITZ:

The question is on adoption. Will you remark further on the amendment before us? Will you remark further on the amendment before us?

Representative Miner.

REP. MINER: (66TH)

Thank you, Madam Speaker. Having spent considerable time on the committee working on this bill, I would agree with Representative Wallace's comments and would recommend passage of the bill.

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Thank you, Madam Speaker.

DEPUTY SPEAKER FRITZ:

Thank you, sir. We're still on the amendment. Will you remark further on the amendment before us? If not, let me try your minds.

All those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRITZ:

Those opposed, nay. The ayes have it, the amendment is adopted.

Will you remark further on the bill, as amended?

Will you remark further on the bill, as amended?

Representative Belden.

REP. BELDEN: (113TH)

Thank you, Madam Speaker. Madam Speaker, through you, a question to the proponent of the bill.

DEPUTY SPEAKER FRITZ:

Please proceed, sir.

REP. BELDEN: (113TH)

Thank you, Madam Speaker. Under Section 1 of the bill, this pre-negotiation or pre-presentation of a particular issue before a local board, does that constitute -- where does that fall under the purview of quorum, under the purview of FOI, etcetera? My town has

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been doing this for years, having informal meetings with people that did not fall under those purviews and with no quorums present, etcetera.

Through you, Madam Speaker, I wonder if the gentleman could clarify that for me.

DEPUTY SPEAKER FRITZ:

Representative Wallace.

REP. WALLACE: (109TH)

Thank you. Through you, Madam Speaker. This bill does not change whatever your municipality has been doing, assuming that it has been conforming with current law. What it does is explicitly state that a municipality can have those type of pre-application review committee meetings.

Through you, Madam Speaker.

DEPUTY SPEAKER FRITZ:

Representative Belden.

REP. BELDEN: (113TH)

I thank the gentleman for his response. I think it's very necessary that we all understand that these pre-reviews, if you want to call it that, should be where the parties can be very frank and open in their discussions and I think that if a quorum is present, that's a different issue, but if a representative in our town from the Wetlands Commission, one person, a person

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from the Planning and Zoning, if these people all get together and an individual can come in and say I would like to possibly put this forth. Can you tell me right now, before I spend one-half a million dollars whether or not there are significant problems that it can be seen? So I appreciate the gentleman's response to get it in the record.

Thank you.

DEPUTY SPEAKER FRITZ:

Thank you, Representative Belden. Will you remark further on the bill, as amended before us? Will you remark further on the bill, as amended before us?

Representative Chris Stone.

REP. STONE: (9TH)

Thank you, Madam Speaker. Through you, questions of the proponent of the bill?

DEPUTY SPEAKER FRITZ:

Please proceed, sir.

REP. STONE: (9TH)

Thank you, Madam Speaker. Representative Wallace, first of all, I want to commend your committee for putting this bill together. I know that part of the bill that's before us incorporates a bill that I have proposed, in particular Sections 2 and 3 and it's at that section that I just have a few questions, for

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legislative intent.

That section or those sections deal with the issuance of permits for dealing or repairing motor vehicles and for the issuance of permits for dispensing gasoline. And in those sections, it's my understanding, Representative Wallace, that we're permitting the Zoning Commission, Planning and Zoning Commission to, in fact, issue the certificate of site location approval for those uses as opposed to the present procedure, which is limited to just the Zoning and Board of Appeals.

Through you, Madam Speaker.

DEPUTY SPEAKER FRITZ:

Representative Wallace.

REP. WALLACE: (109TH)

Through you, Madam Speaker. That is correct.

DEPUTY SPEAKER FRITZ:

Representative Chris Stone.

REP. STONE: (9TH)

Thank you, Madam Speaker. And just one other question. What I had envisioned in the bill that I originally submitted to the committee and just for clarification purposes, is that where an owner or a lessee of a piece of commercial property wants to construct and operate either a site for the sale or repair of motor vehicles or a gasoline station, where

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that person have to get a special permit or special exception from the local zoning authority, pursuant to the local zoning ordinance, that that in and of itself, could also serve as the vehicle, the mechanism for which to obtain the site location approval required under Title 14 of our General Statutes. Is that a true statement?

Through you, Madam Speaker.

DEPUTY SPEAKER FRITZ:

Representative Wallace.

REP. WALLACE: (109TH)

Through you, Madam Speaker. I believe the gentleman is referring to the current state, Madam Speaker.

DEPUTY SPEAKER FRITZ:

Representative Chris Stone.

REP. STONE: (9TH)

Thank you, Madam Speaker. And again, through you. It's my understanding that in order to get a site location approval, that one has to go to the local zoning board of appeals under Title 14 and many towns, a special permit or a special exception is issued by the planning and zoning commission.

This would enable the applicant to go to just one commission in order to get approval not only the local zoning ordinances, therefore local approval, but also to

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get their Title 14 state location approval through that one commission?

Through you, Madam Speaker.

DEPUTY SPEAKER FRITZ:

Representative Wallace.

REP. WALLACE: (109TH)

Through you, Madam Speaker. That is correct.

REP. STONE: (9TH)

And I thank the gentleman for his responses and again, the goal here was to streamline the application process where either one commission or another had dealt with the same issues that would be considered as part of a site location approval under Title 14. That commission could also or would also be the body that would consider a special permit or special exception under the local zoning ordinances.

This enables the applicant to, in effect, one stop shop, so to speak, so there's only one commission to deal with, all the same criteria, conditions, and considerations would apply regardless of which commission or board the applicant went to and all the concerns that might come about from an application, either concerns of neighbors, concerns of other businesses or concerns of the municipality would still be addressed.

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I urge my colleagues to support the bill and thank you, to the Chairman of the Planning and Development Committee for bringing this forward.

Thank you, Madam Speaker.

DEPUTY SPEAKER FRITZ:

Thank you, Representative Stone.

Will you remark further on the bill, as amended?
Will you remark further on the bill, as amended? If not, will staff and guests please come to the Well of the House, and the machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

DEPUTY SPEAKER FRITZ:

Have all the members voted? Have all the members voted? Please check the machine and make sure that your vote has been accurately cast. If so, the machine will be locked and the Clerk will take the tally.

The Clerk will announce the tally.

CLERK:

H.B. 5594, as amended by House Amendment Schedule "A"

Total Number Voting	138
Necessary for Passage	70

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Those Voting Yea	136
Those Voting Nay	2
Those absent and not Voting	12

DEPUTY SPEAKER FRITZ:

The bill, as amended is passed.

Will the Clerk please call Calendar number 439.

CLERK:

On page 14, Calendar 439, Substitute for H.B. 6447,
AN ACT CONCERNING ASBESTOS ABATEMENT WORKERS, SITE
SUPERVISORS, AND TRAINING PROGRAMS. Favorable Report of
the Committee on Finance, Revenue and Bonding.

DEPUTY SPEAKER FRITZ:

Representative Art Feltman.

REP. FELTMAN: (6TH)

Yes, thank you, Madam Speaker. I move acceptance of
the Joint Committee's Favorable Report and passage of
the bill.

DEPUTY SPEAKER FRITZ:

The question is on acceptance and passage of the
bill. Please proceed, sir.

REP. FELTMAN: (6TH)

Thank you, Madam Speaker. What this bill does is to
correct the certification process for asbestos workers
and supervisors that now takes place by the Department
of Public Health to actually charge a fee, which is

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SEN. FONFARA: Any questions? Thank you very much.

CHARLES ANDRES: Thank you.

SEN. FONFARA: Don Poland.

DONALD POLAND: Good afternoon, Chairman Fonfara, Chairman Wallace, members of the Planning and Development Commission, my name is Donald Poland, I represent the Connecticut Chapter of the American Planning Association.

We're here before you today to testify on a bunch of bills, I'm going to try and be as quick as possible. We submitted written testimony.

First, I'd like to direct you to a position paper we submitted on jurisdiction of telecommunication towers. And there's many bills that you have before you, both today, and I believe on Monday for public hearing. And we just want to state for the record that we feel the current system is working, and we believe that jurisdiction should be with the Siting Council, not with the municipalities and that 169 municipalities cannot plan for telecommunications individually, and it needs to be on a statewide basis.

Moving on, the next bill we're testifying on is HB 6157, AN ACT CONCERNING LOCAL PLANNING COMMISSIONS ON MUNICIPAL IMPROVEMENTS. This is an amendment to 8-24, that actually we asked to be raised, and thanks to Representative Davis for raising it for us.

SB 691
SB 387
SB 542
HB 5594

And it's a process in which if a municipality is making improvements within the municipality, whether they be infrastructure or school buildings the process already exists for a referral to go to the planning commission to issue a report on such improvements.

All this amendment does is allows for the planning commission to consider the state plan of development, the regional plan of development, and the local plan of development. It's a process that

most commissions probably do already. But we felt it was best for them to -- in the benefit of planning to heighten the awareness of planning and the recognition of planning at many levels, that there actually be statutory direction for them to do so.

The next bill we're testifying on is SB 691, AN ACT CONCERNING NOTICE OF ZONING DECISIONS, that was just testified on by the Connecticut Bar Association. And we support that bill as written.

The following bill is SB 387, AN ACT CONCERNING LOCAL REGULATIONS AND ADULT ENTERTAINMENT ESTABLISHMENTS. We strongly oppose this bill. And it has nothing to do with actually the use that's included in here, but the implications of providing exemptions for nonconforming uses.

Nonconformity is actually a legal protection that uses have from the zoning regulations. And we feel that tinkering with those protections is not in the best interest of planning or the property rights of individuals who have nonconforming properties.

Following that is SB 542, AN ACT CONCERNING THE STATE PLAN OF CONSERVATION AND DEVELOPMENT. We support the concept of this bill being as proposed. It's only a proposed bill. However, the language is very general and we're fully willing to work with the Legislature or other organizations, or any other interested parties on helping formulate language that would help to implement this process.

The next piece of legislation is proposed HB 5594, AN ACT CONCERNING APPLICATIONS TO THE PLANNING AND ZONING COMMISSION. This provides the authority for planning commissions and zoning commissions to have a preapplication process with the developer to go over a project before an application's actually submitted.

It opens up a dialogue between the commission and the developer, and we feel that it promotes better planning, provides and opportunity to work out some of the issues before it actually comes to application.

We support this bill, however, we caution on the final statutory language to insure that it doesn't create any additional problems or conflicts. We do know that others have raised concerns about ex parte communications. And we just want to make sure that it's done in a proper way.

With that said, I am finished and I thank you for your time.

SEN. FONFARA: Don, have you submitted testimony?

DONALD POLAND: Yes we have.

SEN. FONFARA: On all of these bills?

DONALD POLAND: Yes we have.

SEN. FONFARA: Thank you. Any questions? Senator Fasano.

SEN. FASANO: I'm just sort of curious. Senator Fonfara leaned over to me on an issue of the towers. As a planner, why are you against having more local input on the issue of towers?

DONALD POLAND: Our general feeling is, one, currently with the Siting Council having jurisdiction, we do have an ability to have input to the Siting Council. We feel that is adequate.

The biggest issue with having the local control over towers really has to do with the planning for what we consider to be no different than most other utilities. And I'd like to us a good example, if you go out to the Litchfield/Torrington area. Litchfield was a town when we had local control that was very much opposed to towers.

And towers ended up going in in Torrington along the Litchfield border. So there's not -- when the providers are trying to provide a seamless coverage network, having 169 municipalities fight over the location of towers doesn't provide any benefit to anyone in absolutely obtaining the seamless network.

And we really feel it's not much different than transmission lines, public water, public sewer or things of that nature that actually are difficult to plan on a local basis.

SEN. FONFARA: Thank you. Thank you, Mr. Chairman.

SEN. FONFARA: Thank you. Any other questions. Representative Miner?

REP. MINER: Thank you, Mr. Chairman. With regard to HB 6157 which has to do with the 8-24 statute, would it be your hope that the planning commission in giving their report would be restricted to the town and state plans of conservation and development?

DONALD POLAND: No, as its proposed, and as the wording is in the proposed bill, it's actually -- they just have to consider it.

The proposal could be in full conflict with it. They could report that it's conflict with the state plan, with the regional plan and the local plan and still vote to endorse it and approve it. We're not saying that it has to be consistent with it. We're just stating that they recognize that those plans exist.

Planning's an evolving process and although you adopt a plan today, we do recognize that things change over time. And something may not always be fully consistent with that plan. But the proposal at hand may actually be in a situation that is beneficial to the community, is needed, and does make sense.

So the commissions would have the ability to vote against the plan, and state that they are not in consistency with it. But that they at least recognize and at least address the issue of the plan and what's at hand.

REP. MINER: If I could, Mr. Chairman. So, conversely, they could actually take a vote, make a recommendation against a project that was within the state plan of conservation and development. Do

to what a bond company might recommend -- let's say 7% -- if their fund balance was fully funded, and they still had a surplus, would CCM still be of the opinion that it's without merit to expect taxpayer dollars get returned back to the state in some percentage equal to what they were paid by the state?

RONALD THOMAS: Well, frankly no. Again, because it's complicated, and you know, of course, we're not aware of any other entity that's like that, either with the federal government telling the state necessarily to turn in that, because they realize how complicated it is.

Say, for instance, you have a certain amount of monies that go toward education related projects, and a municipality might spend well, well over that, but may not spend the complete or -- you know, some other program. So, I mean, it gets complicated because money's going into a variety of departments for a variety of reasons.

So, no, we wouldn't be in support of that either. Again, because of the complexity of the issues.

REP. MINER: Thank you.

RONALD THOMAS: Thank you.

REP. MINER: Thank you, Mr. Chairman.

SEN. FONFARA: Thank you, Mr. Thomas.

RONALD THOMAS: Thank you.

SEN. FONFARA: Next on the list is Bill Ethier from Homebuilders Association.

WILLIAM ETHIER: Thank you Representative Wallace, members of the Planning and Development Committee. My name is Bill Ethier, I'm the executive vice president and general counsel of the Homebuilders Association of Connecticut.

We've submitted written testimony today on six different bills, and I'm going to try to quickly

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different than actual constructive, and I don't want another 10 years of litigation debating that issue. So we would urge you to pass that or add that little change to it.

Moving on, the next bill, HB 5594, is a proposal from Representative Melodie Curry which allows preapplication reviews by planning and zoning commissions. This is a bill that you've seen before. I think it was two or three years ago. You passed it out, and if I'm not mistaken, I think it passed the House and got held up in the Senate.

It's -- all it would do is it's a permissive authority to allow any applicant to come in and talk to a planning and zoning commission or its staff prior to actually filing the application. It's a good land development process to talk with the decision makers to help refine the application so the application comes in in a better form.

So we urge you to pass this out. Our only comment on this is that you expand it beyond just planning and zoning commissions. That you look at all the land use boards, inland/wetlands included as well as their authorized agents to allow this preapplication review. It's a good practice. A lot of towns already do it. But there's some thought out there, by some towns, that because it's not specifically authorized, some towns won't go there.

Next bill is HB 5901, that's the clear cutting bill. We're very strongly opposed to this bill. This bill would authorize local governments to regulate clear cutting and there are some other things in the proposal regarding providing sufficient habitats for wildlife. Given that the power to control and limit development activities is already substantially broad, we find this bill is unnecessary.

Connecticut now has more forest cover than it has ever had. And I mean ever had. It's -- if you look at the statistics from the Connecticut Forest and Parks Association, the forest cover in the state is 60% and growing. Moreover, tree cutting

referral out to another board or another commission. So we would support that.

And then, lastly, the last bill I'd comment on is HB 6171, the flood plain bill. The goal of this legislation is a very important one that we support. Again, it's -- I've seen a working draft, and I want to thank Senator -- Representative Fontana for sharing that with us.

The bill -- the working draft is substantially similar to a file copy from last year, and I've got to make a correction in my written testimony. I referred to file number 278, which I was looking at the working draft compared to that file copy and it's substantially the same -- and we supported the bill last year -- but there is a later file copy from last year that you'd probably want to work off of, and that's 614.

You know, we'd still like to take another chance to take a look at that and look at some of the details, but that's a -- as it stands now, it's a good bill and it ought to move forward, and we looking forward to working with Representative Fontana and the Committee on that.

And I'd be happy to take questions on any of these bills.

SEN. FONFARA: Thank you, any questions? Representative Miller.

REP. MILLER: Thank you, Mr. Chairman. Just on HB 5594. That's been a policy of ours, in our town of Stratford, to have preapplication discussions because of the fact that it just cuts out a lot of problems down the road.

If the planner and zoning enforcement officer can sit down with the developer and work things out, then there's no problem when the application is submitted and there's no question about where authority is and where it -- you know -- where they're not allowed -- what things they're not allowed to do, so -- I think that's a good bill. And certainly I'd be supporting it.

WILLIAM ETHIER: If I could comment, Representative Miller, on that. The reason the bill is before you, and I absolutely agree that it's a great practice to do. And a number of towns allow that. But the reason the bill is before you, there are some towns in the state who do not allow it.

Their town councils have either ruled that that would be an ex parte communication, which as a lawyer I don't understand that. There's no application, so there's nothing to be ex parte from. Other towns have said they're a little nervous about allowing those discussions to go on because the statutes don't specifically authorize it. So that's all this is, is a permissive authority that would allow that conversation to take place.

REP. MILLER: And the last thing I want to comment on is the plan of conservation and development. Our community always looks at that booklet from the state. And they're very well aware of what the booklet contains.

They deal with it all the time. We have a planner that's a very sharp guy, and he knows what's going on, so when an application comes in for any kind of a development -- or commercial development, whatever it may be, there's always a reference made to the Connecticut plan of conservation and development -- whether it can be met, or can't be met, or we certainly would like to meet it.

But there are instances where you just can't. Our town is like 95% developed, so the state can say all kinds of things in the plan of conservation and development, but we just can't meet it.

WILLIAM ETHIER: I absolutely agree again. That's why we have opposed consistency requirements. It's different from considering the document.

REP. MILLER: Yeah, and I really am opposed to the state of Connecticut telling 169 towns how they can develop. When, in fact, our towns developed on their own, without the state interference. And to

have them come in now and tell us what we should be doing and not doing, I think it's wrong and I think home rule should be case in point. We ought to be holding to our own home rule and the way we want to develop our communities rather than have the state come in and tell us what we should be doing. But just a comment. Thank you, Mr. Chairman.

SEN. FONFARA: Great, thank you. All right, next we'll hear from Lynn Carlotta.

LYNN CARLOTTO: Good afternoon, Mr. Chairman and members of the Committee. My name's Lynn Carlotta, I'm the executive director of Arena at Harbor Yard in Bridgeport, Connecticut. And I'm here to testify on proposed HB 6167, to exempt Arena at Harbor Yard from the 10% admissions tax.

By way of background, Arena at Harbor Yard is the only facility within the state with 9,500 seats or greater that is subject to this tax. Our shows pay 10% of their gross ticket sales in the form of this tax at present. This doesn't take place at the Hartford Civic Center, Mohegan Sun Arena, or a great number of other sports and entertainment venues that exist. That information is on background information that we submitted.

The tax hurts our ability to book shows, as a promoter that's coming in knows that automatically 10% of their revenue is going to be going away in the form of a tax. In a competitive environment, which the arena business most certainly is, it's a disincentive for them to bring their show to us.

So, it is something that hurts us in terms of the competitive environment. Particularly when one looks at the concert industry. Arena at Harbor Yard opened in October of '01. When you look at the concert activity at the two venues that we do look at as being the most competitive to our situation -- Mohegan Sun Arena and Hartford Civic Center -- you see that in that period of time from October '01 'til now, Mohegan Sun Arena has presented 54 concerts, the Hartford Civic Center 25, and Arena at Harbor Yard 5.

ADAM COHEN: It's not a lien, Senator. 12-155 would say that you can levy upon, and that would be different from actually filing a lien on the property, which I agree would be reduced priority.

Levying upon would be, for example, in the very next statute, 12-157, would allow the tax sale, because that's done by a tax warrant levied upon the property. To do a tax sale on the property, and the tax sale states that all the other priorities are subservient to it.

SEN. FASANO: So, just so I understand, because I want to be clear what you're saying. House B could be sold in a tax sale, by virtue of taxes owed on house A?

ADAM COHEN: I believe that that's correct. I certainly do not have any authority with me to back that up, other than the language of the statute, which does stay any real estate.

SEN. FASANO: Christine, is there something we could take a look at that and just follow through on -- that doesn't seem right to me, Kev, it doesn't seem right, Kev, that we should be able to do that. But maybe you guys can take a look at that. Thanks Kev.

REP. WALLACE: Any further questions. All right. Thank you.

ADAM COHEN: Thank you.

REP. WALLACE: Next we'll hear from Raymond Warren.

RAYMOND WARREN: Mr. Chairman, members, I'll take only 90 seconds of your time here. I'm here to speak in support of HB 5594 on the matter of preapplication reviews with planning and zoning commission matter.

Folks from planners association spoke in favor. The homebuilders spoke in favor. And even Representative Jarmoc spoke in favor when I met him earlier, and that's enough for me. But I would also like to suggest that it be amended to include inland/wetlands commissions in the preapplication

review.

This was a matter that was submitted by Representative Currie at my request. And it grew out of a situation where a particularly complicated project really needed some advice and guidance from both those boards. The alternative was that the developer take a -- more than a risk -- take a gamble, and spend up to \$100,000 in detailed plans to get it to the level of a formal application for inland/wetlands.

As a director of economic development for the town of Enfield, I know developers will take a risk, but rarely are they inclined to spend upwards of \$100,000 preparing detailed plans with no indication of whether it could be approved or not.

So this has been a matter that I've felt very strong about, and it really -- this bill came about from language from a California community which allows for what they call courtesy reviews. I think that would send a pretty good signal to people who are willing to make major investments in a community that they'd be allowed the courtesy of that review, and it is also a good planning tool.

Representative Miller said earlier that his community encourages preapplication reviews and there are a couple of mechanisms for that in Enfield, where not only staff, as an economic developer meets informally with people who want to make an investment, and I bring along planners and wetlands people, and fire marshals, and you name it.

We also have a more formalized administrative review where you can meet and iron out issues before getting to planning and zoning. But some of them require a consultation with those boards and commissions and get their advice and guidance and oftentimes they are discouraged from entertaining that kind of a preapplication conversation, based on the concept that what you say can be used against you.

And this law allows for that conversation to take

place freely, and with the benefit of getting the benefit of the experience and wisdom of representatives on those boards and commissions prior to absorbing the application. That's my point, and I hope that you can support this matter.

REP. WALLACE: Any questions from the Committee. Thank you for your testimony.

RAYMOND WARREN: Thank you.

REP. WALLACE: All right, next we'll hear from Bob Santy. Oh, Bob's not here. Mr. Tom Hamilton.

THOMAS HAMILTON: Good afternoon and thank you for allowing me to speak before you this afternoon. My name is Tom Hamilton, I'm the director of administration for the city of Stamford. I'm also the current president of the Government Finance Officers Association of Connecticut.

And I'm here to speak in support of two bills that you were just discussing, proposed SB 547 and proposed SB 618. The first bill, SB 547, as you know, deals with a number of technical revisions to the municipal tax sale statutes. I believe that these revisions are necessary to clarify certain language in the statute that has already been reviewed before you.

And to make it a little easier for municipalities to avail themselves of this particular collection tool. It is a collection tool that's used, but not used a great deal in the state, because of some of the problems with the existing statute. And I believe that the changes in the statute are appropriate and would assist municipalities.

I would also say that in this particular budget climate, obviously, the state of Connecticut is not in the position to be looking at additional grants in aid to municipalities. And, in fact, of course, we're aware that a number of cutbacks to state aid are on the table at this point. And I think it's appropriate for the Legislature to try to do what it can to assist municipalities to collect revenue that is due and payable. And I think that proposed



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February 7, 2003

To: Senator John W. Fonfara, Co-Chairman
 Representative Lewis J. Wallace, Co-Chairman
 Members of the Planning & Development Committee

From: Bill Ethier, Executive Vice President & General Counsel

Re: Proposed Bill 5594, AAC Review of Application To Planning and Zoning Commissions

The HBA of Connecticut is a professional trade association with almost one thousand (1,000) member firms statewide, representing approximately 45,000 employees. Our members are residential and commercial builders, land developers, remodelers, general contractors, subcontractors, suppliers and those businesses and professionals that provide services to this diverse industry. We also created and administer the Connecticut Developers Council, a professional forum for the land development industry in the state.

The HBA of Connecticut fully supports Proposed Bill 5594, which is merely a permissive statute that authorizes planning and zoning commissions to meet with proponents of projects prior to filing land use approval applications so that better project applications may be facilitated. This proposal is one of several that came out of and is supported by the work of the Housing Cost Reduction Task Force, a joint effort in 1999 and 2000 of a number of organizations, including the Home Builders Association of CT, CT Association of Realtors, Fannie Mae and several state and local government agencies or officials.

Pre-application meetings such as those that would be specifically authorized by this bill are usually good recommended land development practices. However, such meetings should not be mandated on either municipalities or permit applicants. As written, the bill simply authorizes planning and zoning commissions to have such meetings, and these meetings would then occur at the request of the applicant. Neither the planning or zoning commission nor the applicant are forced to participate. While the bill creates no mandate, these meetings can result in addressing regulatory and public concerns prior to the application being submitted. Thus, the process of presentation, review and decision can be smoother for all interested parties and occurs with less delay.

We respectfully request, however, that the authorization for these optional, nonbinding meetings be made with respect to all land use boards, commissions, and agencies, including inland wetland boards, and their authorized agents. We urge adoption of this bill with this suggested amendment, and thank you for considering our views on this matter.

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Connecticut Chapter of the American Planning Association

Legislative Chairman, Donald J. Poland, AICP – Phone: 860-292-8256 Fax: 623-4798 Mobile: 655-6897 (ewplanning@yahoo.com) www.ccapa.org

February 02, 2003

H.B. 5594: AN ACT CONCERNING REVIEW OF APPLICATION TO PLANNING AND ZONING COMMISSIONS

SUMMARY: H.B. 5594 proposes that the general statutes be amended to authorize municipal planning and zoning commissions, at the request of an applicant to conduct pre-application reviews of proposed projects, and provide that the results or information obtained from such review may not be appealed or be binding on any agency or official having jurisdiction to review the proposed project.

ANALYSIS: The proposed bill will allow a developer to receive design comments from municipal land use commissions before incurring the expense of a formal application for review. In addition, the proposed bill will allow local planning and zoning commissions to comment on preliminary site designs, improving the quality of development and ensuring that the developer consider site design elements that are important to the community.

FISCAL IMPACT: The proposed bill has no direct fiscal impact on local government.

CCAPA POSITION: The Connecticut Chapter of the American Planning Association supports H.B. 5594 and believes it will create a better planning environment for both the developer and the community. CCAPA does caution the legislature on how the final statutory languages is drafted, and CCAPA is willing to work with legislature, other organizations, and interested individuals to ensure that the final language does not create more problems.

Testimony to the House Planning and Development Committee
Regarding Proposed House Bill #5549

AN ACT CONCERNING REVIEW OF APPLICATION TO PLANNING AND
ZONING COMMISSIONS

I am here to support House Bill 5594 which was introduced by Representative Currey. This is a plain and simple proposal. This bill sends a constructive message to developers that may want to invest in Connecticut's cities and towns. Unlike many ideas that come your way, this one does not cost one single dime.

I would amend the bill to include Inland Wetland Agencies along with Planning and Zoning Commissions.

This bill is modeled on a California practice. It allows developers to request a review of a project before they go through the expensive process of preparing plans needed at the time of an application for a permit.

One California community calls it a Courtesy Review. It is used when the developers are looking for some input on a project they are planning. Many planning and zoning commissioners and inland wetland agents have many years of experience. A developer could gain from that type of knowledge. A developer can present sketches during the early stages of project planning and get input prior to the expense of a formal application. The expense to prepare engineering plans for a complex project can reach tens of thousands of dollars with no idea of the eventual outcome. Developers are often willing to take prudent risks, but they are disinclined to gamble such amounts.

Some Connecticut municipalities allow preliminary reviews, but most are reluctant to discuss projects prior to a formal application because the idea that what you say in such a preliminary meeting can be used against you in an appeal discourages the type of input and discourse that can make a project better. This bill removes the reluctance because the

results or information obtained during the preapplication review are not binding on the agency and may not be used in an appeal.

I would like to encourage this type of preapplication dialogue. A developer can gain local insight to improve a proposal before detailed plans are drawn. The developer could also learn that that his or her project is unlikely to be approved. My contention is that it's better to learn either way before you've made the substantial dollar investment. In either case, the developer will proceed or walk away with a view that a real courtesy has been extended and be more likely to consider another investment.

Raymond L. Warren
Director of Economic Development
Town of Enfield, CT