

**PA10-135**

**HB5436**

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**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2010**

**VOL.53  
PART 9  
2571 – 2966**

dp/mb/gbr  
HOUSE OF REPRESENTATIVES

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April 30, 2010

DEPUTY SPEAKER ALTOBELLO:

House, please come to order.

Will the Clerk please call Calendar 184?

THE CLERK:

On page 34, Calendar 184, Substitute for House Bill 5436, AN ACT CONCERNING BROWNFIELD REMEDIATION LIABILITY, favorable report by the Committee on Environment.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger of the Brass City, you have the floor, sir.

REP. BERGER (73rd):

Thank you, Mr. Speaker and good afternoon.

DEPUTY SPEAKER ALTOBELLO:

Good afternoon, sir.

REP. BERGER (73rd):

Move for acceptance of the Joint Committee's favorable report and passage of the bill.

DEPUTY SPEAKER ALTOBELLO:

Question before the Chamber is acceptance and passage of the bill. Please proceed, sir.

REP. BERGER (73rd):

Yes. Thank you, Mr. Speaker.

And, today we continue the work that this chamber

along with the Senate, Committee's in Environment and Commerce have done in brownfield remediation development in the state of Connecticut. This work was started five or six years ago and we've made tremendous progress in this area of cleaning up contaminated sites, bringing those sites back on to the tax rolls, creating jobs in all of our communities throughout the state of Connecticut. And, this has been done in a bipartisan way, working with both Republicans, Democrats, the executive branch, all commissions involved, working together in consensus to come up with ways that we can remediate these sites again, put them back on tax rolls and create revenue and jobs.

And, ladies and gentlemen of the Chamber, that is what brownfield redevelopment is all about. It's probably one of the best jobs bills that we can do. It does many of the components, creates many of the ancillary benefits that we want to achieve when we create jobs in the state of Connecticut. Today, in moving forward House Bill 5436, we have three components that are critical in continuing the important work that we do in this chamber of brownfield remediation and development.

The first section will deal with brownfield clean up programs. The bill allows the United States -- the urban sites, I'm sorry -- the remediation program and Special Contaminated Property Remediation Insurance Fund to allow them to increase their activities and to leverage their abilities. It allows the Department of Environmental Protection commissioner to reimburse municipal and nonprofit development agencies for directors and liability insurance and certain administrative expenses. Municipal economic development agencies and those formed specifically to plan and implement redevelopment and municipal development projects qualify for the insurance and administrative reimbursement.

Next, the bill allows the DEC commissioner to tap the Special Contaminated Property Remediation and Insurance Fund for funding brownfield projects under existing remedial and redevelopment municipal grant programs and targeted brownfield development loan programs.

The second component is a municipal component of property tax incentive. Current law specifies conditions under which municipalities can abate or forgive the property tax on contaminated property, the

remediated developed. The bill additionally allows them to fix the assessment on contaminated property as of the last assessment date before the cleanup of activities begin.

And, thirdly, it reestablishes a working group of professionals that will help forge forward new ideas, thoughts and continuing the hard work that they have done in the past and the ability for this chamber and the Senate to pass bills that will continue the important work that we achieve. This bill will require experts in this group to be experts in the field of environmental law, engineering, finance, development, insurance, be licensed environmental professionals and representatives of DEP, DECD, CDA and OPM. I move its passage.

DEPUTY SPEAKER ALTOBELLO:

Question before the Chamber is passage.

Will you remark further?

REP. BERGER (73rd):

Yes, Mr. Speaker.

The Clerk is in possession of Amendment LCO 4467.

I ask that he call that amendment and I be allowed to summarize.

DEPUTY SPEAKER ALTOBELLO:

Surely. Would the Clerk please call LCO 4467 which shall be designated House Amendment Schedule "A."

THE CLERK:

House Amendment 4467, House "A" offered by Representatives Berger and Alberts, et al.

DEPUTY SPEAKER ALTOBELLO:

The good Representative seeks leave of the chamber for summarization.

Seeing no objection, please proceed, sir.

REP. BERGER (73rd):

Yes, thank you, Mr. Speaker.

The amendment that's before us makes several conforming changes in certain administrative and liability areas that are components of the underlying bill. It strikes Section 2 in its entirety and inserts new sections involving the working group and the appointment of that working group and those that will appoint its members and I move its passage.

DEPUTY SPEAKER ALTOBELLO:

Question before the Chamber is adoption of House "A."

Representative Alberts of the 50th, you have the floor, sir.

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REP. ALBERTS (50th):

Thank you, Mr. Speaker.

Question if I may to the proponent of the amendment?

DEPUTY SPEAKER ALTOBELLO:

Please proceed, sir.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

In the amendment, there is reference to making some adjustments here in terms of costs. Could the proponent elaborate a little bit further in terms of what types of costs would be covered by this proposal if it's adopted, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger.

REP. BERGER (73rd):

Yes. And, I thank the Representative for that answer. And, to answer that directly, the amendment eliminates certain administrative expenses as a reimbursable cost for municipal and nonprofit development agencies. This actually results in a reduction to general fund that service costs. That was in the original bill and now is eliminated with the passage of this amendment, through you, Mr.

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Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

That's how I understand this amendment works as well. I support the amendment as presented. Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Alberts.

Further on House "A?" Further on House "A?"

If not, I'll try your minds.

All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ALTOBELLO:

Opposed? House "A" is adopted.

Further on the bill as amended? Further on the bill as amended?

If not, staff and guests please -- Representative Chapin, do you care to remark on the bill as amended, sir?

REP. CHAPIN (67th):

Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the bill before us as amended and thank the Commerce Committee leadership for hearing some of the concerns that were expressed throughout the process and working on those concerns to something that we can all hopefully support today. I think at some point last week there was a bill that was voted out of the House unanimously that had a section dealing with brownfields and after talking to the chairman and ranking members of the Commerce Committee, we took another look at it and decided we could narrow the universe of people that were captured in that bill and it had to do with brownfields remediation in certain areas.

The Clerk has Amendment LCO 4685. I ask that he call it and I be allowed to summarize.

DEPUTY SPEAKER ALTOBÉLLO:

Would the Clerk please call LCO 4685, which shall be designated as House Amendment Schedule "B."

THE CLERK:

House Bill 4685, House "B" offered by Representative Chapin and Senator Roraback.

DEPUTY SPEAKER ALTOBÉLLO:

Representative Chapin has sought leave of chambers to summarize. Seeing no objection, please

proceed, sir.

REP. CHAPIN (67th):

Thank you, Mr. Speaker.

As I stated, we passed a similar provision out last week unanimously. Since that time, I've -- several stakeholders have approached me and we've talked about different ways we could address some of the concerns that were raised. This amendment has to do with remediation of brownfields that are in aquifer protection areas. I think it goes a long way in narrowing that field and I move adoption.

DEPUTY SPEAKER ALTOBELLO:

Question before the Chamber is adoption of House "B."

Representative Berger, do you care to comment?

REP BERGER (73rd):

Yes, thank you, Mr. Speaker.

I consider this certainly a friendly amendment and I appreciate the work that the Representative and his group have done in this area. It's an important area that we need to address and we are able to address with adoption of this amendment. So, I thank the Representative and thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Berger.

Further on House "B?" Further on House "B?"

If not, I'll try your minds.

All those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ALTOBELLO:

Opposed? The Ayes have it. House "B" is  
adopted.

Further on the bill as amended? If not --  
Representative Alberts, please proceed, sir.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

If I may on the bill as amended.

DEPUTY SPEAKER ALTOBELLO:

On the bill as amended by House "A" and House  
"B", please proceed, sir.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

Through you, Mr. Speaker, to the proponent of the  
bill as amended. Can the proponent address a little  
bit more how this working group would be composed and  
what the actions would be on a regular basis for the  
working group, through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Alberts, do you wish to direct that to proponent of House "B" or to --

REP. ALBERTS (50th):

No, to the proponent of the bill as amended.

DEPUTY SPEAKER ALTOBELLO:

To the proponent of the bill as amended by House "A" and House "B."

REP. ALBERTS (50th):

Please.

DEPUTY SPEAKER ALTOBELLO:

Representative Berger, do you care to respond?

REP. BERGER (73rd):

Yes, through you, Mr. Speaker, certainly I would and I would be more than happy.

The bill as amended, and certainly through the amendment, outlines the appointing authority and the individuals that will be sitting on this group and the expertise that they will bring. It is the desire that those appointments will be made no later than 30 days upon effective date and passage of the bill. Any vacancy shall be filled by the appointing authority and through you, Mr. Speaker, it's the desire for them to meet at least monthly through the course of the

year if not bi-monthly to formulate ideas, opinions, and direction for this committee and this chamber so we can proceed forward with their recommendations on expertise. Through you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Berger.

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker.

I thank the proponent for his response. That's how I understand it's to work as well. I think that, you know, we cannot help but be shocked and amazed at the number of brownfield sites that continue to go up in flames through works of arson across the state and the more that we can do to tackle this problem head on in terms of finding good ways to remediate these sites to provide funding sources, I think go a long way toward putting these sites back into profitable operation for the good of all in the state and I do want to commend the chairman of the Commerce Committee for his leadership in this role. And I would urge that all of my colleagues in the chamber support this bill as amended. Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Alberts.

Representative Johnson of the 49th you have the floor, madam.

REP. JOHNSON (49th):

Thank you, Mr. Speaker.

I just rise in very strong support of this bill.

I thank the committee leadership and the committee for its hard work on this bill and I urge support of this from my colleagues. Thank you so much.

DEPUTY SPEAKER ALTOBELLO:

Thank you, madam.

Representative Santiago of the 130th, do you wish to remark on this bill as amended? Please proceed, sir.

REP. SANTIAGO (130th):

Thank you, Mr. Speaker.

I also rise in strong support of the bill. I do want to give a lot of credit to the committee and leadership for the great job they've done. In Bridgeport, we -- this is a tough situation for us because at one time we were an industrial Mecca and unfortunately that has changed. Many of the companies that provided manufacturing have left and to be honest with you they didn't do a good job of cleaning up

before they left. And, that leaves us with a lot of brownfields in Bridgeport.

We have approximately 140,000 people, which basically means we have needs for a lot of services but we're small in size. We're only 17 and a half square miles and that makes it difficult because our tax base, our grand list is small because of it. We also suffer from being regional providers of things such as education and medical services because the state pilots that are -- that we receive, unfortunately are not funded at the levels that they need to be, which doesn't help us at all as well. So, this help would be definitely a very welcome for us in Bridgeport because we have quite a few brownfields that need remediation. Thank you.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Santiago.

Representative Piscopo of the 76th, you have the floor, sir.

REP. PISCOPO (76th):

Thank you, Mr. Chairman.

Just a comment, I guess. It won't be a question to the proponent, but just a comment. I've been somewhat frustrated over the years. I see in the

existing law there's established an Urban Site Remediation Fund. I think one of the frustrations I've had is being more of a suburban legislator if you will, is that the brownfields remediation plans are somewhat urban centric. And we have our share of problems up the valley near the river and especially near the river and we've had a couple brown site problems that we are running into frustrations getting attention paid to them through the department.

So, that's always been one of my frustrations. So, as we put this working group together I see as amended, and they will -- and their charge is to remediation and development of brownfields in this state. I hope they will widen their scope so to speak to a further perspective and I just wanted to voice those concerns. Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Piscopo.

Representative D'Amelio from the brass city, you have the floor, sir.

REP. D'AMELIO (71st):

Thank you, Mr. Speaker.

I rise in strong support of this legislation before us and I'd like to thank the good

Representatives from the Commerce Committee, Representative Berger and Representative Alberts for their hard work. You know, Waterbury is an urban area and we've had many factories that have left though the years and it's very difficult -- we've even had most recently, we've had a company leave the City of Waterbury because they wanted to expand and there wasn't any sites available for them.

So, this legislation is probably one of the most important pieces of legislation that we can do on a state level to get our cities and towns back up on the tax roles, all these blighted properties that are out there and, you know, have a better quality of life in these areas. So, I urge adoption. Thank you.

DEPUTY SPEAKER ALTOBELLO:

Thank you for those remarks, Representative D'Amelio.

Further on the bill as amended? Further on the bill as amended?

If not, staff and guests please retire to the well of the House. Members take your seats. Machine will be open.

THE CLERK:

The House of Representatives is voting by roll

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call. Members to the chamber. The House is taking a roll call vote. Members to the chamber please.

DEPUTY SPEAKER ALTOBELLO:

Have all members voted? Have all members voted? Please check the board and make sure your vote is properly cast. If all members have voted the machine will be locked. Will the Clerk please take a tally?

Representative Villano, for what purpose do you rise, sir?

REP. VILLANO (91st):

To vote in the affirmative, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Representative Villano in the affirmative.

Would the Clerk please announce the tally?

THE CLERK:

House Bill 5436 as amended by House "A" and "B."

Total number voting 143

Necessary for adoption 72

Those voting Yea 142

Those voting Nay 1

Those absent and not voting 8

DEPUTY SPEAKER ALTOBELLO:

Bill as amended passes.

Would the Clerk please call Calendar 93.

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**CONNECTICUT  
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SENATE**

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SENATE

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May 5, 2010

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar page 15, Calendar 521, House Bill 5424,  
move to place on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar page 15, Calendar 523, House Bill 5223,  
move to place on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar page 16, Calendar 531, House Bill 5004,  
move to place on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar page 17, Calendar 533, House Bill 5436,  
move to place on the consent calendar.

cd  
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THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar page 17, Calendar 540, House Bill 5494,  
move to place on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar page 18, Calendar 543, House Bill 5399,  
move to place on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar page 18, Calendar 544, House Bill 5434,  
move to place on the consent calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Calendar page 18, Calendar 547, House Bill 5196,  
move to place on the consent calendar.

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Calendar page 10, Calendar 461, House Bill 5207;  
Calendar 483, House Bill 5244.

Calendar 484, on page 11, House Bill 5383; Calendar  
487, House Bill 5220; Calendar 488, House Bill 5297;  
Calendar 490, 5425 -- House; Calendar 496, House Bill  
5497; Calendar 509, House Bill 5126.

Calendar page 14, Calendar 511, House Bill 5527;  
Calendar 514, House Bill 5426; Calendar 516, House Bill  
5393.

Calendar page 15, Calendar 520, House Bill 5336;  
Calendar 521, House Bill 5424; Calendar 523, House Bill  
5223; Calendar 525, House Bill 5255.

Calendar page 16, Calendar 531, House Bill 5004.

Calendar page 17, Calendar 533, House Bill 5436;  
Calendar 540, House Bill 5494; Calendar 543, House Bill  
5399.

Calendar page 18, Calendar 544, House Bill 5434;  
Calendar 547, House Bill 5196; Calendar 548, House Bill  
5533; Calendar 549, House Bill 5387; Calendar 550, House  
Bill 5471; Calendar 551, House Bill 5413; Calendar 552,  
House Bill 5163; Calendar 553, House Bill 5159.

Calendar page 19, Calendar 554, House Bill 5164.

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Calendar page 20, Calendar 556, House Bill 5498;  
Calendar 557, House Bill 5270; 559, House Bill 5407; 562,  
House Bill 5253; and House Bill -- Calendar 563, House  
Bill 5340; Calendar 567, House Bill 5371; and Calendar  
573, House Bill 5371.

Mr. President, I believe that completes the items

THE CHAIR:

Mr. Clerk, could you please give me on Calendar 567,  
do you have 5516, sir?

THE CLERK:

What -- what calendar?

THE CHAIR:

567 on page 22.

THE CLERK:

It's 5516.

THE CHAIR:

Yes, sir. Okay.

Machine's open.

THE CLERK:

An immediate roll call vote has been ordered in the  
Senate on the consent calendar. Will all Senators please  
return to the chamber. Immediate roll call has been ordered in the Senate on the  
consent calendar. Will all Senators please return to the chamber.

cd  
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THE CHAIR:

Have all Senators voted? Please check your vote. The machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is on adoption of Consent  
Calendar Number 2.

Total number voting	35
Necessary for Adoption	18
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

Consent Calendar Number 2 passes.

Senator Looney.

SENATOR LOONEY:

Yes, Mr. President.

Mr. President -- Mr. President, before moving to adjourn, I would like to ensure the entire chamber will wish Laura Stefon, Senator McDonald's aide, my former intern, a happy birthday.

And with that -- and with that, Mr. President, I would move the Senate stand adjourn

**JOINT  
STANDING  
COMMITTEE  
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a team.

And this is -- and having this discussion with -- with Anne, it was clear that there's some bureaucratic issues. And not just on our side. On the federal government side also, that there's some difficulties in trying to work with the federal government.

But we've -- we've been successful in some other places in doing that. And I'm hoping we can be successful in this area also.

REP. BERGER: Thank you Senator.

Any other comments from committee?

Questions?

Thank you.

We've often --

LEE HOFFMAN: -- nap, people who actually work for a living. And there's 16,000 members of industrial and -- and office properties that are being developed --

REP. BERGER: M. Hoffman, could you qualify that remark?

LEE HOFFMAN: And the reality is I'll further denigrate my profession because no developer ever enters into a site contemplating a lawsuit in order to do development. The developer looks at the cost associated with everything, construction materials, remediation what have you.

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Ascertain whether those costs are limited enough so that a deal makes sense and then goes forward with the development. Although it

would be better for my bottom line as an attorney, if developers were in the business of conducting lawsuits. They're not. They're in the real estate development business.

And I can tell you from my time on the task force in the three years that the task force met, we took hours of testimony from various stakeholders. Not one person who testified before the task force ever asked for the type of relief that's being considered in section one.

Not one business owner, not one real estate developer, not one member of the environment committee. I think everyone recognized that what would happen is the lack of development of brownfield and actually forcing developers to go greenfield's where there was no contamination. I -- I've got to sum up because I'm running out of time.

But the reality is -- is it if you -- I'm good. If you look -- if you look at section 1, it's strips parties of meaningful defenses that they already have. It drives people to a negotiating table where they won't know all of the facts. And it provides private parties with greater powers than either the State of Connecticut's DEP or the federal government's EPA has.

And I'll just conclude with this, Section 1 is a rehash of Section 5 of what was passed by -- what was sponsored by this committee and passed by last year's legislature in Public Act 09-235, which was a real brownfield reform bill that took brownfield reform about as far as it can go in Connecticut given the current budget circumstances.

That was a good bill that everybody bought off

on. And it was made a good bill because you in the legislature had the foresight to get rid of this section. It's been reintroduced here. And I think that this committee needs to show the leadership to strike it again.

I thank you very much for your time. And I apologize for having gone over.

REP. BERGER: Okay, Mr. Hoffman.

Thank you for your comments on Section 1.

We'll review that. And also thank you for your -- for your time and commitment on the task force, which was a volunteer time on your part. And you did some great work there. And appreciate your time and commitment there. And helping this committee as well as the General Assembly to move forward important changes in the last three or four years.

But we will look at Section 1 and we will probably be back in touch with you on some recommendations for making it workable.

LEE HOFFMAN: Thank you very much, Mr. Chairman.

REP. BERGER: You're welcome.

Any questions from committee members?

Okay. Thank you.

Bonnie Stewart.

BONNIE STEWART: Good afternoon. My name is Bonnie Stewart. And I'm Vice President of the Connecticut Business and Industry Association. I'm here today to comment on two measures currently before the committee. The first is Raised Bill 5438. And this bill calls for a

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Thank you, Mr. Chairman.

REP. BERGER: Thank you Representative Hornish.

Thank you for your testimony.

ED MURTH: Thank you.

REP. BERGER: Eric Brown.

ERIC BROWN: Good afternoon Chairman Berger, Chairman LeBeau, distinguished members of the Commerce Committee. My name is Eric Brown, with the Connecticut Business and Industry Association. I'm here to provide testimony on House Bill 5436. Which I hope you have my written testimony for.

I apologize for bringing that to the -- to the staff late. I basically wanted to do a couple things. First of all, as others have said, express our deep appreciation of the committee for continuing to focus on this very important issue of Brownfield remediation. If it were not for -- for the drive that you folks have shown for this issue, I'm not sure where we'd be in this state.

So we do deeply appreciate that. I guess what I would probably do in the vernacular of the legislature is attach my comments to those of Mr. Hoffman earlier. He knows more about Brownfield. He can speak more eloquently than I ever will be able to.

But what can I -- what I say is I did distribute this bill and have a conference call with several member companies who are deeply involved in Brownfield remediation in the state and heard very overwhelming overture of concern with respect to section 1.

(inaudible) I think touched on a lot of those things. What I've put on just based -- basically listed in a very informal way, some comments that I heard on our conference calls late yesterday afternoon. And perhaps as discussions go forward with trying to modify the bill -- I mean that might provide some guidance or even a check list perhaps of some issues that folks feel -- at least our folks feel that need to be addressed as we go through that effort.

So, I think I'll end my comments there. Again thank you for continuing to push this issue. Thank you again for your efforts on regulatory reform. And I'm happy to try and answer any questions I can for you at this time.

REP. BERGER: Okay. Thank you, Eric.

Will -- more than likely I'll be reaching out to you as we've done in the past. So, we'll get in my office and work on some of these issues and that deal with the Brownfield in Section 1. And hopefully be able to reach some form of compromise to get a document out other than the finance portion of Brownfield's which -- which I believe we'll be hearing on next week.

So thank you for your testimony.

Any comments? Or questions from committee members?

Thank you.

ERIC BROWN: Thank you.

REP. BERGER: Martin Mador.

MARTIN MADOR: Good afternoon, members of the

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ANNE CATINO: Not a problem. Any time, Senator.  
It's yours.

Thank you. My name is Anne Catino. And as you HB5436  
all probably know, I've served as the co-chair HB5437  
of the task force on Brownfield strategies for  
three years. And this is our first year that  
we -- we did not convene as we were not  
re-authorized. And part of -- what we had  
recommended -- a lot of the recommendations, we  
made is to this committee's credit.

That were enacted into law over the past  
several years. And it's really pretty exciting  
to see all of these changes in the law being  
made and new tools being put into a tool box in  
order to stimulate Brownfield re-development.  
One of the things that we tried to do and we  
really did last year, was try to incentivize  
regional economic development entities to  
redevelop Brownfield.

And this year there's Senate Bill -- Raised  
Bill 5439, which continues to emphasize and  
work on redevelopment -- regional economic  
development entities coming in, redeveloping  
Brownfield. I think allowing urban site  
remediation funds to be used -- to defray the  
cost of the director's and liability insurance  
is a good thing.

And I certainly support that bill. As it does  
continue to build on everything that -- that  
you all have put forth in prior years. The  
funding bill that I think is before you, 5437,  
again one of the major tools we recommended in  
our three themes over the -- over the -- over  
the years has been have been providing  
meaningful funding in all the DECD programs.

Having OBRD being a meaningful one stop shop.

Having a lot of funds be made available. I think seeing \$100 million would be tremendous opportunity for the state and would stimulate redevelopment and opportunities. I do have to say, that in our first report, we did recommend \$200 million but this is 50 percent, so I'm really pleased to see it.

I think that what we find is Brownfield's take an awful lot of money and funding. And to provide some -- some additional funds is a step in the right direction. In Senate -- in -- in bill 5436, I think that is a -- I'm going to talk a lot more about section 1 particularly in light of my colleagues comments, but my bell just rung. I would say that this continues the dialogue.

I think in every session, we have made recommendations regarding modified cost recovery actions. And I don't see this as end. I see this as a beginning and a continuation of the dialogue. There were issues that have been raised in the past and there are continuing issues that have to be resolved. This is a tool in the tool box.

Four years ago we acknowledged something needed to be done a lot of time has passed. Last year recommendations were made that resulted in section five of the bill that was passed. That was resurrected as section one of 5436. But again, I see this as an evolution and continuing the dialogue. And I would be happy to work with the committee moving forward.

REP. BERGER: Yes.

REP. JOHNSTON: Thank you, Anne. And thank you for your commitment to the task force. And certainly your expertise. So, we'll be having these meetings before our JF deadline to -- to

get some consensus especially concerning the section one problems apparently that appear to have. Reared their head. So we'll work together on that. And we'll be --

Anne, thank you for your testimony. Did you have a chance to look at another bill on the agenda, 5439, AN ACT CONCERNING URBAN SITE REMEDIATION? And we had had testimony on it. And it looks like they're adding language to reimburse cost incurred by a regional economic development entity, to obtain directors and liability insurance and cover certain administrative expenses?

Give me your thoughts on that? Is that a -- and it looks like part of that is I know one entity that testified in favor in reference to Windham Mills and that whole project. And it looks like that they're trying to have this Board of Directors now take the lead on this, and so that's why it's before us. But from a holistic standpoint, is the state -- how does this tie in with, and I know you know this whole remediation much better than us, how does this tie in? And what are your thoughts on it?

ANNE CATINO: I think it's definitely a step in the right direction. It -- it -- what we recommended as a task force and then I think last year, in the act that was passed, tried to place some redevelopment responsibilities at the local level.

And the local level through municipal or regional economic development, corporations, entities as they are the ones who are close to the property. And can utilize a lot of tools and have experience that a municipality itself may not have or maybe constrained by certain of the municipal regulations.

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**COMMERCE  
PART 3  
605 – 909**

**2010**

**CBIA**

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Connecticut Business &amp; Industry Association

**TESTIMONY OF ERIC J. BROWN  
ASSOCIATE COUNSEL  
CONNECTICUT BUSINESS AND INDUSTRY ASSOCIATION  
BEFORE THE  
COMMERCE COMMITTEE**

March 9, 2010

Good afternoon. My name is Eric Brown and I am associate counsel with the Connecticut Business and Industry Association (CBIA). CBIA represents thousands of businesses of all sizes throughout Connecticut that provide hundreds of thousands of Connecticut citizens with good jobs and good benefits.

**CBIA is pleased to have this opportunity to voice concerns with section 1 of:**

**H.B. No. 5436 (RAISED) AN ACT CONCERNING BROWNFIELD  
REMEDiation LIABILITY**

CBIA is grateful to this committee for continuing to make brownfields remediation a priority for the state. As Connecticut prepares for economic recovery, this is clearly the time to take measures to insure Connecticut is in position to draw economic development investment.

Unfortunately, in speaking with a variety of CBIA members who are deeply involved in brownfield development in Connecticut and elsewhere, we heard great concern regarding section 1 of HB-5436.

Section 1 would establish an entirely new private cause of action under Connecticut law that is extraordinarily far reaching. While at first take, one might consider this a benefit as a tool for going after former polluters to pay for brownfield revitalization; in reality we believe the bill would have just the opposite effect.

Those who wear the label "developer" in the brownfield business take on other titles during the process such as "owner", "transferee" and "mortgagee." Under the current version of this bill, in these other capacities, potential developers will step right into the liability web this bill creates.

**Environmental Professionals' Organization of Connecticut**

P.O. Box 176

Amston, Connecticut 06231-0176

Phone: (860) 537-0337

Public Hearing – March 9, 2010

Commerce Committee

Senator LeBeau, Representative Berger and members of Commerce Committee

Testimony submitted by Seth Molofsky, Executive Director

Environmental Professionals' Organization of Connecticut (EPOC)

**Raised Senate Bill No. 5436 AN ACT CONCERNING BROWNFIELD REMEDIATION LIABILITY**

I am submitting this testimony on behalf of the Environmental Professionals' Organization of Connecticut (EPOC). EPOC was formed in 1996 to represent the interests of Connecticut's Licensed Environmental Professionals (LEPs) by providing information, training and updates regarding the LEP program in Connecticut. The organization has approximately 500 members representing numerous technical disciplines all working in the area of investigation and cleanup of environmentally-impacted sites in Connecticut.

EPOC is concerned about the potential liabilities that this proposed legislation may cause for Licensed Environmental Professionals (LEPs) and their firms. The specific concern is associated with how Section (b) interacts with new Sections (f) through (o). Section (b) generally states that a person, firm or corporation rendering assistance or advice in mitigating or attempting to mitigate pollution shall *not* (emphasis added) be held liable for any cost for investigation and remediation, or civil damages, except for acts or omissions amounting to "gross negligence or willful or wanton misconduct". However, the additional wording in line 48 "unless [he] such person, firm or corporation is compensated for such assistance or advice for more than actual expenses" could be interpreted to mean that the exclusion allowed for under Section (b) is completely negated if a person, firm or corporation is compensated for such assistance or advice for more than actual expenses, which would be the case for an LEP and/or their firm. Therefore an LEP could be brought in as a potentially responsible party under new Sections (f) through (o).

EPOC recommends that the phrase "unless [he] such person, firm or corporation is compensated for such assistance or advice for more than actual expenses" be deleted to make clear a party that assists in a cleanup, no matter whether doing so for profit or not, is not liable for any costs thereof (excepting gross negligence or willful/wanton misconduct).

Thank you for the opportunity to present EPOC's views on Raised Senate Bill No. 119. If you have any questions, please contact me at (860) 537-0337, or Ted Sailer, Chair of EPOC Legislative Committee at (203) 245-7744.



Joan McDonald  
Commissioner



State of Connecticut  
Department of Economic and  
Community Development

**TESTIMONY SUBMITTED TO THE COMMERCE COMMITTEE**  
**March 9, 2010**

*Joan McDonald, Commissioner*  
*Department of Economic and Community Development*

**HB 5436 - AN ACT CONCERNING BROWNFIELD REMEDIATION LIABILITY**

**HB 5439 - AN ACT CONCERNING URBAN SITE REMEDIATION**

The Department of Economic and Community Development offers the following comments in **SUPPORT** of sections two and three of House Bill 5436 AN ACT CONCERNING BROWNFIELD REMEDIATION LIABILITY.

As you are aware remediation and reuse of brownfield sites is crucial for the sustainable growth of this state and has been one of the key elements of Governor Rell's responsible growth strategy.

In 2008 DECD awarded the first round of \$2.25 million in Municipal Brownfield Pilot funding to five communities.

Governor Rell approved the final \$2.25 million for the Municipal Brownfield Pilot Program at the October 2009 bond commission meeting. DECD received 15 applications from municipalities by the March 1<sup>st</sup> deadline for this funding round.

Governor Rell also approved \$2.5 million for the state's Targeted Brownfield Revolving Loan Fund at the October 2009 bond commission meeting. These funds will further assist communities and developers with financial resources to return derelict brownfield sites to productive uses in their communities.

DECD continues to vigorously pursue federal funding for brownfield investigation and remediation from USEPA and USHUD. This fall, DECD, WINCOG and NECOG submitted a joint application to USEPA for up to \$1 million in coalition site assessment funds to complete environmental investigations and remedial action plans on sites located in the 21 towns in the northeast corner of the state. The coalition application not only represents DECD's aggressive pursuit of federal brownfield money, but is a shining example of the ongoing state and regional cooperation on key economic development issues. This application is presently under EPA review.

Sections 2 and 3 of House Bill 5436, AN ACT CONCERNING BROWNFIELD REMEDIATION LIABILITY, will allow for the Special Contaminated Properties Remediation and Insurance Fund (SCPRIF) to provide financial assistance to brownfield properties seeking assistance through other state brownfield programs, namely the remedial action and redevelopment municipal grant program and the targeted brownfield loan program. This new ability will allow DECD to further streamline and consolidate its brownfield resources and direct this financing to appropriate program.

The other bill DECD offers comments on is House Bill 5439, AN ACT CONCERNING URBAN SITE REMEDIATION. Currently, the Urban Sites Remedial Action Program ("USRAP"), one of the state's brownfield financing programs.

will not pay reasonable costs for a board of director's and for liability insurance for a development corporation remediating brownfield sites. Providing this liability relief is key to encouraging development corporations to become involved reusing these sites. In the litigious environment in which we operate, we often find these organizations, typically staffed by volunteers, unwilling to assume the risk of personal liability required in remediating these sites.

Under DECD's other assistance programs to address brownfields, these costs are eligible, therefore in order to be consistent, USRAP should also allow this project cost as an eligible expense.

Thank you for your consideration of the department's comments.