

PA 11-107

HB6250

Energy	60-64, 125-136, 235-236, 381-382, 402-403, 416, 421-431, 434-441	43
House	5286-5315	30
Public Safety	698-699	2
Senate	6598-6599, 6600-6601	4
		<hr/>
		79

H – 1107

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

PROCEEDINGS

2011

VOL.54

PART 16

5169 – 5506

S - 632

**CONNECTICUT
GENERAL ASSEMBLY**

SENATE

PROCEEDINGS

2011

VOL. 54

PART 21

6546-6914

**JOINT
STANDING
COMMITTEE
HEARINGS**

**ENERGY AND
TECHNOLOGY**

PART 1

1 – 334

2011

INDEX

**JOINT
STANDING
COMMITTEE
HEARINGS**

**ENERGY AND
TECHNOLOGY**

PART 2

335 - 644

2011

**JOINT
STANDING
COMMITTEE
HEARINGS**

**PUBLIC
SAFETY AND
SECURITY**

**PART 3
659 – 992A**

2011

Have all the Members voted? Have all Members voted? Will the Members please check the board to determine whether their vote is properly cast.

If all Members have voted, the machine will be locked and the Clerk will take the tally. The Clerk will please announce the tally.

THE CLERK:

House Bill 5308 as amended by House "A".

Total Number Voting	141
Necessary for Passage	71
Those voting Yea	138
Those voting Nay	3
Those absent and not voting	10

DEPUTY SPEAKER RYAN:

The Bill as amended is passed.

Will the Clerk please call Calendar Number 278.

THE CLERK:

On Page 40, Calendar 278, Substitute for House Bill Number 6250 AN ACT CONCERNING THE SITING COUNCIL. Favorable Report of the Committee on Planning and Development.

DEPUTY SPEAKER RYAN:

Representative Reed of the 102nd.

REP. REED (102nd):

Good evening, Mr. Speaker. I move for acceptance of the Joint Committee's Favorable Report and for passage of the Bill.

DEPUTY SPEAKER RYAN:

The question is acceptance of the Joint Committee's Favorable Report and passage of the Bill. Representative Reed, you have the floor.

REP. REED (102nd):

Mr. Speaker, this Bill requires telecommunications companies to give towns more time and more opportunities to participate in the process for siting cell towers in their communities.

For instance, the Bill expands the pre-application process from 60 days to 90 days and requires more vigorous interaction with town leaders.

It also encourages the Connecticut Siting Council to keep cell towers at least 250 feet away from schools or commercial child daycare centers.

This Bill also allows the Siting Council to seek legal action should a party in the proceedings intentionally omit or misrepresent a material fact during the proceedings. This legal action can

tmj/pat/gbr
HOUSE OF REPRESENTATIVES

414
May 26, 2011

include injunctive relief and a fine of up to \$10,000.

Mr. Speaker, the Clerk has in his possession an Amendment, LCO 6591. I ask that he call it and that I be given permission to summarize.

DEPUTY SPEAKER RYAN:

Will the Clerk please call LCO 6591, which will be designated House Amendment Schedule "A".

THE CLERK:

LCO Number 6591, House "A" offered by Representative Reed.

DEPUTY SPEAKER RYAN:

The Representative seeks leave of the Chamber to summarize the Amendment. Is there objection to summarization? Is there objection? Hearing none, Representative Reed, you may proceed with summarization.

REP. REED (102nd):

Thank you, Mr. Speaker. This Amendment makes technical corrections to ensure that the Bill's language is cell tower specific, and to make certain that the term child daycare center is correctly stated in the setback provision. I move for its adoption.

DEPUTY SPEAKER RYAN:

The question before the Chamber is adoption of House Amendment Schedule "A". Will you remark on the Amendment? Will you remark on the Amendment? Representative Hoydick, do you wish to remark on the Amendment.

REP. HOYDICK (120th):

Thank you, Mr. Speaker, yes, I would like, I have some questions for the proponent of the Bill.

DEPUTY SPEAKER RYAN:

Please proceed.

REP. HOYDICK (120th):

Through you, Mr. Speaker, why did you insert this Amendment, or why are you recommending this Amendment?

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, in the case of the commercial child daycare center, that was actually amended in Committee and failed to show up in the draft that was submitted.

And in the other language, there were issues that the Bill sort of spread too wide a net and was

tmj/pat/gbr
HOUSE OF REPRESENTATIVES

416
May 26, 2011

capturing other installations, so we refined it to be cell tower specific.

DEPUTY SPEAKER RYAN:

Representative Hoydick.

REP. HOYDICK (120th):

Thank you, Mr. Speaker, and I thank the kind lady for her answer.

The intent of this legislation, through you, Mr. Speaker, is to allow municipalities, I believe, more say and more time to vet these applications.

Is that true?

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Yes to the very helpful Ranking Member of the Energy and Technology Committee, through you, Mr. Speaker, it is indeed.

DEPUTY SPEAKER RYAN:

Representative Hoydick.

REP. HOYDICK (120th):

And is there any size restrictions, through you, Mr. Speaker, about the size of the school or daycare, or is it just distance specific to the cell tower?

tmj/pat/gbr
HOUSE OF REPRESENTATIVES

417
May 26, 2011

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, it is distance specific but again, commercial child daycare center.

DEPUTY SPEAKER RYAN:

Representative Hoydick.

REP. HOYDICK (120th):

Thank you, Mr. Speaker. So I understand that if I have a home daycare center even if I employ multiple people in my home daycare center, the cell tower regulations would not be required, or could not be employed through this legislation.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, that's correct. But if there is an issue with that, that could always be next Session's bill.

DEPUTY SPEAKER RYAN:

Representative Hoydick.

REP. HOYDICK (120th):

I thank the gentle lady for her answer, and I support this Amendment.

tmj/pat/gbr
HOUSE OF REPRESENTATIVES

418
May 26, 2011

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative
Alberts of the 50th.

REP. ALBERTS (50th):

Thank you, Mr. Speaker, a question to the
proponent of the Amendment.

DEPUTY SPEAKER RYAN:

Please proceed.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. When we make the
reference to commercial child daycare center, is
that, as I am beginning to understand, is that any
facility that's not in a residence? Through you,
Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, regardless of its
location by facility I'm hoping that you mean child
daycare center. Wherever that's located this would
ask, if possible, to have a 250 foot setback.

DEPUTY SPEAKER RYAN:

Representative Alberts.

REP. ALBERTS (50th):

tmj/pat/gbr
HOUSE OF REPRESENTATIVES

419
May 26, 2011

Through you, Mr. Speaker, would this include then daycare centers or facilities at parochial schools or in conjunction with that, is it strictly for profit enterprises. I guess I just want a little more explanation. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, I believe that we're considering commercial commercial, and not nonprofit. Again, if that becomes an issue, that can always be next Session's bill.

DEPUTY SPEAKER RYAN:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. I thank the lady for her responses.

DEPUTY SPEAKER RYAN:

Thank you, sir. Representative Chapin of the 67th.

REP. CHAPIN (67th):

Thank you, Mr. Speaker. Through you, a couple of questions to the proponent.

DEPUTY SPEAKER RYAN:

Please proceed.

REP. CHAPIN (67th):

Thank you, Mr. Speaker. Following up on Representative Alberts' questions about the commercial child daycare center, that would include anybody who may be running a child daycare center out of their home commercially? Through you, Mr. Speaker.

REP. REED (102nd):

Through you, Mr. Speaker, yes, indeed, if it is correctly licensed and is a commercial center, that is indeed true.

DEPUTY SPEAKER RYAN:

Representative Chapin.

REP. CHAPIN (67th):

Thank you, Mr. Speaker. And again, through you, I think generally the terms we see in bills that talk about daycare centers are licensed child daycare centers. Is the proponent using these words interchangeably, licensed and commercial? Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, I believe all daycare centers with a certain number of children have to be licensed, but some are probably in house.

As far as I know, I believe that we mean commercial daycare centers and that the licensing would, of course, be part of that.

DEPUTY SPEAKER RYAN:

Representative Chapin.

REP. CHAPIN (67th):

Thank you, Mr. Speaker, and I thank the proponent for her answers.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Srinivasan of the 31st.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker. Through you, Mr. Speaker, to the proponent of the Bill.

DEPUTY SPEAKER RYAN:

Please proceed.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker. In the event that the municipality does not allow the cell tower to go forward with doing what they need to do, what recourse is there, or that's the end of the subject

and they have no other opportunity to try some other way to get that cell tower in that environment in that location?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, I think when we begin to discuss the underlying Bill, we'll begin to understand some of the issues that have occasioned this Bill.

Actually, cell towers are approved by the Connecticut Siting Council so that's a state organization and not by municipalities. And this is an effort to honor that because that does seem to make these facilities that are needed, not just cell towers, but other facilities, happen in a way that is for the greater good, at least that's the philosophy.

And so, this is an attempt and an effort to really get the municipalities involved in the process of really talking to the Siting Council and to the telecom companies about what might be preferable sites in their municipalities.

And we, and I'll say this as well, that the Siting Council and the telecom companies came to the table and they do realize this is an issue, so they actually cooperated in developing some of these ideas.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

So through you, Mr. Speaker, so if there is through this Siting Council, if such a location is not identified in that area, the end result is the cell tower is not established there? Would that be the end result of that? Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, the issue of where to put cell towers is occasioned with a good deal of drama in a lot of municipalities, and so it's a give and take process. But in the final analysis, the Siting Council makes the decision after proceedings.

And we're just trying to, through you, Mr. Speaker, we're just trying to expand the

opportunities for municipal leaders and municipal groups such as land trusts and concerned neighborhood associations to participate in that whole process.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

REP. SRINIVASAN (31st):

Through you, Mr. Speaker, I do understand that the municipalities will cooperate with by and large in most of the situations.

But the situation that I'm just painting is, if such were not to occur for whatever be the reason with the municipality and the Siting organization, in that case, who, what happens in that situation? That is my question.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, if the Siting Council rejects an application, the telecom company has to look elsewhere for a site. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Srinivasan.

tmj/pat/gbr
HOUSE OF REPRESENTATIVES

425
May 26, 2011

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker, and I thank you for your answers, kind lady. Thank you.

DEPUTY SPEAKER RYAN:

Will you remark further on the Amendment before us? Representative Sampson of the 80th.

REP. SAMPSON (80th):

Thank you, Mr. Speaker. A question for the proponent of the Bill, if I may, through you?

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. SAMPSON (80th):

Just following up on the previous conversation about the definition of a commercial child daycare center. Forgive me, I heard the back and forth, but I'm still at a loss as to what actually makes a child day care center commercial or otherwise, and if I could ask for a clarification. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, I believe in statute it involves a commercial licensing. It's a for

tmj/pat/gbr
HOUSE OF REPRESENTATIVES

426
May 26, 2011

profit commercial enterprise, and it's run as a business.

DEPUTY SPEAKER RYAN:

Representative Sampson.

REP. SAMPSON (80th):

Thank you very much for that answer. And through you, Mr. Speaker, just to clarify that one tiny bit further.

So any daycare that is run, licensed and run for a profit would be classified as a commercial child daycare center as far as this Bill is concerned.

Through you, Mr. Speaker, thank you.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, I think for the purposes of this Bill, perhaps, I mean there's probably, you know, there's always examining language, but the reality is that we want to give a heads up when telecom companies want to locate cell towers close to these places, these facilities where children are and so that probably the definition of whether something is commercial or you know, whether

tmj/pat/gbr
HOUSE OF REPRESENTATIVES

427
May 26, 2011

there are sort of other parameters that are being discussed will probably come before the Siting Council as part of the process. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, and through you, Mr. Speaker, I appreciate the Representative's responses.

And forgive me, I just, as we discussed yesterday, we're making laws here, and as a result I think that we should be as clear as possible in the definitions for when we specify what something means as far as a definition goes before we pass a law.

And I'm really not trying to be difficult. It just seems to me that if we're going to change this Bill to reflect commercial child daycare center and be unclear about what it is, we should just fix that.

And I'm getting to understand that it means any for profit daycare center and that's fine. It wouldn't matter to me one way or the other. I just want to make sure that we are clear about whether it includes one that takes place in a residence and may

tmj/pat/gbr
HOUSE OF REPRESENTATIVES

428
May 26, 2011

have one employee or ten employees or maybe zero employees but it is, you know, self-employed business owner has one person and maybe one kid. Does that count? Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

As all things involving cell towers, through you, Mr. Speaker, I imagine there will be a great deal of discussion about whether a facility fully is commercial, how many children are involved and all of that.

But the reality is that it does need to be discussed, and this Bill will put it on the front burner.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Sampson.

REP. SAMPSON (80th):

Thank you. And through you, Mr. Speaker, well actually I no longer need the Representative. Thank you very much.

I was just informed by my fellow colleague that the underlying Bill actually defines statutorily

tmj/pat/gbr
HOUSE OF REPRESENTATIVES

429
May 26, 2011

commercial child daycare center in lines 84 and 85 of the Bill, and I'm afraid that I didn't see that initially.

So thank you very much, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, sir. Representative Miner of the 66th, on the Amendment.

REP. MINER (66th):

Thank you, Mr. Speaker. If I might just ask a question or two to the proponent of the Amendment through you, please.

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. MINER (66th):

Thank you, Mr. Speaker. Mr. Speaker, the Amendment proposes to add the language, or commercial child daycare center on line 86 after school. Is that correct?

Through you.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, yes.

DEPUTY SPEAKER RYAN:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. The reason for my question is, it appears to me that the way this Amendment has been drafted, you would then be giving the chief elected official the authority to shorten the distance between which someone might site a cell tower and a child commercial daycare center. Was that the intent?

Through you.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, the intent was to have a municipality, including the chief elected official, subject to whatever his municipal components bless, to sign off on locating it closer if that's the only place the municipality feels it should go or if there's some overriding reason that it should go there.

We've discovered from anecdotal stories about people who want to be in total contact with their children at all times. They're frightened by world events, and they want to be able to text them or

tmj/pat/gbr
HOUSE OF REPRESENTATIVES

431
May 26, 2011

call them and it also comforts them, and so some people actually like them near schools and child daycare centers.

And if that were to be the will of a municipality, that would be under discussion in terms of choosing a site.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. And in terms of again, the approval process at the local level, was there much discussion, if any, about whether or not a school might actually exist in a regional school system under which a chief elected official probably wouldn't have that kind of authority? It would probably be more appropriately the regional school system? Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, I believe there was some discussion, but no feel, no need to be so specific since what we're essentially saying is,

tmj/pat/gbr
HOUSE OF REPRESENTATIVES

432
May 26, 2011

these are things, this is a heads up. These are things that should be discussed. We invite them to be discussed. We're encouraging the Siting Council to give weight to these issues.

But as you'll notice, we're not mandating that anybody do anything, really. We're just trying to honor some of the concerns of people in many communities.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you. Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker, and I thank the gentle lady for her explanation.

It just seems to me that while I think the intent of making people know that they have a place in the process is a good one, it just seems to me that the way that this is drafted it may not actually work.

I can tell you in the Town of Litchfield we have a regional school system in Litchfield, a regional school system to which the Town of Litchfield is not a party.

And so theoretically the Towns of Goshen, Morris and Warren would have to somehow, I guess, persuade the first selectman of Litchfield that it was either okay or not okay to put that cell tower that close to the school.

Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Rowe of the 123rd.

REP. ROWE (123rd):

Thank you and good evening Mr. Speaker.

DEPUTY SPEAKER RYAN:

Good evening, Representative.

REP. ROWE (123rd):

I rise in support and I might just have one or two brief questions, if I could. Brief.

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. ROWE (123rd):

Thank you. Through you, am I correct that initially the idea was to not have the 250 feet but rather the 750 feet? Through you.

DEPUTY SPEAKER RYAN:

Representative Reed.

tmj/pat/gbr
HOUSE OF REPRESENTATIVES

434
May 26, 2011

REP. REED (102nd):

Through you, Mr. Speaker, yes.

DEPUTY SPEAKER RYAN:

Representative Rowe.

REP. ROWE (123rd):

Thank you. And through you, I would have liked to see us keep that 750 feet. I expect it was the, maybe there was some, I wasn't involved in this at all, nor should I have been because I'm not on the Committee, but I think that's a good idea, the 750 was good and the 250 is a bare bone minimum.

But when this Bill was the subject of a public hearing, I assume it was, I imagine there was testimony in a number of areas. But did you hear testimony on the health issues that we often hear about? Through you.

DEPUTY SPEAKER RYAN:

Representative Reed.

REP. REED (102nd):

Through you, Mr. Speaker, I think the good Representative probably knows that there is a Federal Telecommunications Act of 1996 that really prohibits us from making decisions based on the physical health since no one has embraced in the

federal government yet, any of the studies that suggest that there may be a health problem.

So while we did have parents who expressed that concern in the process, the Siting Council is not allowed to weigh those in that way. So we figured a good way to do this was to say that the safety issues that we can really talk about have to do with maintaining cell towers, you know, the kinds of things that, maybe a fall zone for cell towers, the kinds of things that are also safety concerns. But we're not allowed to consider health issues.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you. Representative Rowe.

REP. ROWE (123rd):

Thank you. And I appreciate that answer and I hope that one day soon we are able to, the Siting Council will be able to under, whether it's federal law or not, be able to look at the health issues.

I think eventually we will come to understand that it's not just an anecdote here or there, but there's real issues that arise out of this, and I'm happy that we're doing at least this.

Municipalities do need more say. This will help toward that end. I do think that Representative Miner made a fair point on the commercial daycare that maybe can be looked at.

Nevertheless, I'm supportive. I'm glad this is coming out and urge passage. Thank you.

DEPUTY SPEAKER RYAN:

Thank you, Representative Rowe. Will you remark further on the Amendment? Will you remark further on the Amendment before us?

If not, I will try your minds. All those in favor please signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER RYAN:

All those opposed, Nay. The Ayes have it, and the Amendment is adopted.

Will you remark further on the Bill as amended? Representative Lyddy of the 106th.

REP. LYDDY (106th):

Thank you, Mr. Speaker. Mr. Speaker, very quickly, I want to add my voice to the congratulations and thanks to Representative Reed for her work on this very important legislation in

engaging the public and the feedback and the proposal process. I think it's absolutely integral to ensuring that we make good decisions in our municipalities and that our municipal elected officials have a say in what's happening in their back yards.

So I appreciate the Bill and I urge passage.

Thank you.

DEPUTY SPEAKER RYAN:

Thank you, Representative. I'd just like to take a moment to remind Members of the Assembly that the use of cell phones while we are in Session is not allowed. Just a reminder.

Representative Shaban of the 135th.

REP. SHABAN (135th):

Thank you, Mr. Speaker. I rise in support of the Bill. There's been a fairly long-term perception, I think, in a lot of towns including my own, that the Siting Council process has gone a little bit awry and has robbed some of the local control and some local interest of getting pushed aside.

So there were several versions of this Bill or similar bills, some stronger. There's several

amendments around the system, some by me and some by others that were stronger, contain stronger language.

But I think, and I congratulate the Representative for bringing this out and working with all the interested parties to create what at least, while not perfect, is a good first effort, a balanced approach, a step in the right direction to get some local control back in the hands of towns, which too typically were just a check on a list when people were applying to the Siting Council for a cell tower placement.

And that's no longer going to be the case, so I urge support of the Bill as amended and thank you for the time.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Camillo of the 151st.

REP. CAMILLO (151st):

Thank you, Mr. Speaker. I rise in support of the Bill. We had submitted a bill two years ago very similar to this. It's a good first step, a great first step, I think.

The Siting Council was implemented in 1972. It's since been expanded to include things like the siting of telecommunications towers and many of us have daycare centers and schools located very, very close to some proposed sites, so this would be, as Representative Shaban said, not a perfect answer but certainly a great first step and I urge passage of it. Thank you very much.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Floren of the 149th.

REP. FLOREN (149th):

Thank you, Mr. Speaker. I, too, rise in support of this Bill and I want to thank Representative Reed for her support for this initiative.

As Representative Camillo said, we have tried to get to be part of the conversation for many, many years, and this I think will make the local communities a part of the conversation, and with the proliferation of cell towers in all of our communities.

This is very, very important that local residents, local citizens, are able to express their concerns.

Thank you very much.

DEPUTY SPEAKER RYAN:

Thank you, Representative. 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. Will the Members please take your seats. The machine will be opened.

THE 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 RYAN:

Have all Members voted? Have all Members voted? Will the Members please check the board to see if their vote is properly cast.

If all Members have voted, the machine will be locked and the Clerk will take a tally. The Clerk will please announce the tally.

THE CLERK:

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HOUSE OF REPRESENTATIVES

441
May 26, 2011

House Bill 6250 as amended by House "A".

Total Number Voting	138
Necessary for Passage	70
Those voting Yea	128
Those voting Nay	10
Those absent and not voting	13

DEPUTY SPEAKER RYAN:

The Bill as amended is passed.

Will the Clerk please call Calendar Number 261.

THE CLERK:

On Page 39, Calendar 261, Substitute for House Bill Number 6581 AN ACT MAKING REVISIONS TO MOTOR VEHICLE STATUTES. Favorable Report of the Committee on Appropriations.

DEPUTY SPEAKER RYAN:

Representative Olson of the 46th.

REP. OLSON (46th):

Thank you, Mr. Speaker. Mr. Speaker, I move that this matter be referred to the Committee on Public Safety.

DEPUTY SPEAKER RYAN:

Is there objection? Is there objection?

Hearing none, it is so ordered.

Will the Clerk please call Calendar Number 414.

mhr/cd/gbr
SENATE

545
June 7, 2011

See no objections, so ordered.

Senator Looney.

(Pause.)

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes, thank you, Madam President.

A couple of additional items to place on the
Consent Calendar at this time before voting...

THE CHAIR:

Please proceed.

SENATOR LOONEY:

Before voting that second Consent Calendar.
The first, Madam President, is calendar page 2,
Calendar 580, 580, Substitute for House Bill 6250.

THE CHAIR:

So ordered sir.

SENATOR LOONEY:

Thank you, Madam President.

And the second...

THE CHAIR:

mhr/cd/gbr
SENATE

546
June 7, 2011

Hold on. Hold on a minute sir. Excuse me sir.

Would you repeat that one more time sir?

SENATOR LOONEY:

It was page 25. Excuse me, Madam President,
it's calendar page 25, Calendar 580, Substitute for
House Bill 6250.

THE CHAIR:

So ordered sir.

SENATOR LOONEY:

Thank you, Madam President.

And the final item placed on the Consent
Calendar at this time is on calendar page 23,
Calendar 569, Substitute for House Bill 5816.

THE CHAIR:

So ordered sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, if the Clerk might call the
second Consent Calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Madam President.

mhr/cd/gbr
SENATE

547
June 7, 2011

From the items previously placed on the Consent Calendar, the first one is on calendar page 12, Calendar 507, Substitute for House Bill Number 6295.

The second is on page 20, Calendar number 556, House Bill 6249.

The next is on calendar page 23, House Bill 569, I mean Calendar 596, House Bill 5816.

Next is on page 25, Calendar 580, House Bill 6250.

The next is on page 44, Calendar 296, Senate Bill 1160.

THE CHAIR:

Will you call for a roll call vote, please?
And the machine will be open.

THE CLERK:

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

THE CHAIR:

Senator Musto, will you join us in a vote please?

Thank you sir.

mhr/cd/gbr
SENATE

548
June 7, 2011

If all members have voted. All members have voted. The machine will be closed and Mr. Clerk will you call the tally?

THE CLERK:

Madam President.

Vote on the second Consent Calendar.

Total Number Voting	36
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

Consent Calendar 2 has passed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, would move all items voted this evening that require additional action in the House of Representatives be immediately transmitted.

THE CHAIR:

See no objections, so ordered sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, since it is midnight I was tempted to make a motion for sine die but I think

a lot of concern over the money, the money that's already been allocated to this.

And to me it seems like it would be -- if I bought a toy for my child on E-Bay and after I already paid for it I found out that there's a lot of talk this toy could be hazardous to my child. Should I just give it to my child anyway because I've already spent the money on it or should we stop and investigate and see if it actually is hazardous before we just go ahead and push forward because -- simply because of the money. That's all I have to say. I thank you for your consideration.

REP. NARDELLO: Thank you. Just wait for just a minute.

Are there any questions from members of the Committee?

Seeing none, thank you very much for your testimony, Mr. LaMontagne.

JOHN LAMONTAGNE: Thank you.

REP. NARDELLO: Our next testifier is Tom -- excuse me. Before Mr. Satkunas, Representative Shaban did come back into the room. So if you would allow us and he would give his testimony and then it will be Mr. Satkunas.

REP. SHABAN: Thank you, Madam Chair. For those of you who don't know me, I'm Representative Shaban. I'm one of the freshman representatives. I represent the 135 District which is Easton, Reading and Weston. I'm here to testify and express support in favor of raised Bill 6250. I'm here for basically two reasons.

SB 833
HB 5124
HB 5125

First, and sort of an interesting segue, I sit on the Environmental Committee and last week we had a public hearing on Senate Bill 833, AN ACT CONCERNING THE APPROVAL AND SITING OF CERTAIN TELECOMMUNICATION TOWER APPLICATIONS.

Now, for those of you who don't know S.B. 833 is somewhat similar to Bill 6250 which is before your Committee today but sort of from an opposite angle. It would require that any towers cited within 250 feet of a school, church or a home basically get a second look by the local land use boards or at least the municipality in general. Obviously the goals of that act are similar to the goals of what you have before you today and that's why I'm expressing my support of it.

Bill 6250 kind of comes up from the opposite angle; 750 feet -- power within 750 feet of a similar residence, daycare, what not, the Siting Council would be required to -- could only approve it if there were no other viable alternatives whether it be environmentally, technically, whatever. From the same -- I mean, obviously the bills have the same basic goal is to try and restore some kind of needed local control over what a lot of the citizens in the State and what my constituents believe has been not a blind but feel like they're not a sufficiently part of the Siting Council process.

And I've experienced this both professionally with my day job as an attorney and also as, you know, with constituents and seeing their needs. Apropos the same discussion, there are actually two proposed bills that have also been referred to this Committee. One is 5124, the other's 5125 which actually blends in nicely to the bill that's before you today.

What those proposed bills, which of course you might imagine were proposed by me, would require that the Siting Council give -- pose an evidentiary burden or an evidentiary presumption in favor of town alternative sites. And section 5E of the proposed legislation of the bill that's before you today actually starts to do that. So I would -- what I'm proposing whether it be my bill or --

REP. NARDELLO: Representative Shaban, in deference to everybody I'm going to ask you to summarize because the bell has gone off. So thank you.

REP. SHABAN: That's all right.

REP. NARDELLO: Just summarize. You can finish your statement.

REP. SHABAN: Well all I'm saying is, A I'm in support of the bill both on behalf of myself and my constituents and B I think if we're going to impose or we're going to restore some local control, just a modicum of it that more deference has to be paid to local town boards alternative sites. That's the key thing. It's already in the bill. I think we need to beef that up a little bit.

REP. NARDELLO: Thank you, Representative Shaban.

Representative Reed.

REP. REED: Thank you, Madam Chair. I'll keep this short.

I just was trying to get the level of passion you feel for this bill versus the environmental bill. You could work within the framework of this bill?

REP. SHABAN: Yes. In fact I think we could. I mean I think they come at it from different -- and there was a previous witness up here talking about distances and you know we can agree or disagree on what the proper distance is from a school or a church or a residence.

But I think -- I think the approach is essentially the same. Wouldn't you? Within a certain set distance from a residence, a school, a daycare, and what not, the locals have to get involved. So this -- the confines of this bill I think are workable as well.

REP. REED: Thank you. And thank you for your testimony.

REP. SHABAN: Thank you.

REP. NARDELLO: Thank you. Representative Shaban, I just wanted to state for the record so there's confusion in the crowd that you were actually testifying to 6250 which is a Siting Council bill.

REP. SHABAN: That's correct.

REP. NARDELLO: Not the moratorium bill.

REP. SHABAN: That's correct. Yes.

REP. NARDELLO: Okay. Thank you. Thank you very much.

REP. SHABAN: Thank you.

REP. NARDELLO: Representative Shaban, Representative Greene has a question.

REP. CARTER: Actually, it's -- Madam Chair, it's Representative Carter. That's okay.

REP. NARDELLO: Carter. I'm so sorry.

REP. CARTER: No problem.

Thank you for being here, Representative Shaban. You mention here in S.B. 833 that it was specifically about telecommunications. Was any discussion given then about wind turbines or anything else that, you know is a tower?

REP. SHABAN: Well it -- the discussion -- it wasn't an in depth discussion. It was acknowledged that, you know if we do this to respect to telecommunication towers that at some point we're probably going to have to connect the dots on potential wind turbine towers. But no, there was not a direct discussion of it.

REP. CARTER: Okay. Thank you.

Thank you, Madam Chair.

REP. SHABAN: Thank you.

REP. NARDELLO: Thank you.

Any further questions?

Thank you, Representative Shaban.

We're going to move to Tom Satkunas.

TOM SATKUNAS: (Inaudible.) -- before this Committee to discuss this important matter. My family and I live at 232 New Haven Road in Prospect, Connecticut. My mother lives at 220 New Haven and she's about 400 feet from the property line of the proposed site of this wind

HB6249

homes but I wouldn't be quantified to answer that.

REP. BECKER: Thank you.

REP. NARDELLO: Further questions?

Thank you very much for presenting the video.

Okay. In deference to the time issue. Okay. What we've got is we've got some other bills that are on the agenda that only have very, very few speakers. Like one or two. And rather -- and we have quite a few speakers still left on this bill. So what we would like to do is just call those bills with those speakers since we don't expect -- like I said there's very few signed up. And then we'll return to this agenda.

So, we're going to go to Bill 6250 and John Emra if he's in the room. Is John here? Okay. And John, I noticed you're signed up for more than one bill. It's up to you but you get three minutes if you stay for each bill but you also can use this time to do all of the bills. It's up to you.

JOHN EMRA: Yes Ma'am. Thank you. And thank you for the Committee's indulgence in allowing us to -- to give our comments. I've been joined by some colleagues from the wireless industry. We were all signed up as a group, Representative Nardello, so that may speed this process along a little bit as well. I'm here testifying today on behalf of AT&T, Sprint, Verizon and T-Mobile. My colleague from T-Mobile, Christopher Ternet is going to start with some comments and then I will give some comments as well. Thank you.

CHRISTOPHER TERNET: Thank you the Chairs and members of the Committee. Again I'm Chris Ternet with T-Mobile and joined with other wireless industry colleagues to testify in opposition to raised House Bill 6250 that would among other things prohibit the Siting Council from allowing wireless facilities within 750 feet of a school, daycare center, place of worship or private residence unless the Council finds that there is no feasible alternative.

It would also require utilizing the newest technological options to minimize aesthetic and environmental impacts. And would allow the Siting Council to request a civil action against any party that is intentionally omitted or misrepresented a material fact during a proceeding. And would also provide for further consideration of alternative sites proposed by a municipality.

I mention all this as part of the Siting Council's role. The Siting Council was founded or created nearly 40 years ago to enable siting of certain very important facilities which eventually included wireless which we're speaking of today. And the General Assembly certainly realized that a patchwork approach would -- would result in a process that might leave many of these important facilities undeveloped.

The legislature established the Council as the single State entity with the experience and the skill set to facilitate these development of these important facilities at a local, a regional and even a statewide level to be certain. And, you know the Siting Council balances the need for these facilities with whether or not there will be a significant environmental impact, whether that be visual,

aesthetic, wetlands, endangered species, historic impacts and the like.

And, you know, certainly to that end the Siting Council's application process is thoughtful. It's deliberate. It's fair. It's collaborative. And goes through multiple layers, multiple steps before a site is approved. And local communities are afforded the opportunity to participate throughout that process. And -- but above all else the Siting Council offers consistency. It's -- both from a statutory and practice standpoint. And that serves a very beneficial purpose. Where in the industry -- the wireless industry knows what sites will pass muster and what sites will not.

And so that ensures that any site that goes before Council has been -- goes through a solid vetting process. We also find that when local communities are involved throughout the process that that results in a better process.

REP. NARDELLO: Excuse me. Can you just summarize.

CHRISTOPHER TERNET: Yeah. I am. I'm done. I'd like to pass it over to John Emra for further comment on the bill.

JOHN ERMA: Thank you, Representative Nardello. We have a number of concerns with the bill, particularly with the -- the language that would prohibit the construction of a tower within 750 feet of a school, daycare center, place of worship or residence -- a private residence. While it's difficult to tell the reasoning behind this to the extent that that reasoning is based on health effects, such a prohibition would violate federal law.

Section 704 of the Telecommunications Act provides in part that no state or local government may regulate the placement, construction or modification of a personal wireless service facilities on the basis of environmental effects, of radio frequency emissions. I can tell you today at the Siting process, one of the things that we as applicants must do is provide information to make sure that we are compliant with the FCC standards with respect to our emissions. That's something we do and that's contingent upon an application being approved.

The legislature is not empowered or allowed under federal law to institute a blanket ban on the siting of wireless telecommunications towers on the basis of RF. I'll just talk about a couple of other things here very quickly. This legislation while we understand the intent it really flies in the face of what is now federal policy and for the development of a robust wireless internet throughout the country.

If you listen to the President Obama's State of the Union address last week he said within the next five years we'll make it possible for business to deploy the next generation of high speed wireless coverage to 98 percent of all Americans. This isn't about faster internet or fewer dropped calls it's about connecting every part of America to the digital age.

In nearby states, the State of Vermont, their new Governor Peter Shumlin has made wireless internet -- making wireless internet available to all of the State a priority of that State. So states throughout the country are understanding that this is very important technology, that connecting their citizens is

very important to their economy, to the people's way of life.

Finally, let me just speak about the language which seeks to -- to discuss technological changes. While we work today with the Council on modifying our applications with respect to technical modifications to a cell phone tower, the -- the Siting Council is prohibited again under federal law from addressing other technologies whether it be DAS as an example or wireless repeaters, remitters.

Outside -- they're really not -- it's not within their purview under federal law to be able to address other technologies. They can certainly address a particular technical modification to a tower for example, changing the tower's size, changing, you know -- changing the structure or suggesting a model pine tree tower for an example. But they're not allowed to look at technologies outside of wireless. I'm going to stop now.

I know that the Committee probably has some questions. I'm happy to do that. I'm also joined by a couple of our colleagues, Joey-Lee Miranda who represents Verizon Wireless to the Siting Council is -- is seated to my left. Thank you.

REP. NARDELLO: Are there questions from members of the Committee?

Representative Reed.

REP. REED: Thank you, Madam Chair.

John, I think one of the things that we're really interested about in doing is finding a sort of new sensitivity to what's going on in

terms of the order of magnitude. It's very clear -- and I think you testified last year that the easy sites are gone. And there is a -- so all of the industrial sites that -- I mean particularly in my district we have eight already.

Now we have three proposed so that has really got citizens -- I mean they're very confused. How many of these do we need? Where does it stop and what are we going for? And obviously the demands have changed so we're not just talking about voice. You know, we're talking about apps and downloads and texts and -- and the Smartphone's are really going to be the device that people are going to use more than anything else.

So I guess what I'm asking you is, is there a way that we can work to, you know, to make citizenry feel that we're being more sensitive to what these needs are. Because right now it feels it's all or nothing. We're saying let's have some more sensitivity.

Let's say we're trying to issue some guidelines that take into account how people in their residences and in their churches, in their schools, in their daycare centers feel. And you're saying it's all or nothing. And -- and it feels as if we need to have some sort of a, you know, a balance

JOHN ERMA: I agree with you. And I think the process should be collaborative and I think it is collaborative, Representative. Let me give you an example -- two examples if I may with AT&T with some recent siting activity.

In the Town of Redding we sited a tower not long ago that is within school property that

under this bill would not be permitted, which would be against the law. It was the site that the town wanted. It received no adverse opposition at all. It was a site that honestly was one that was sort of one of those eureka. This was a good site. It worked for everybody. Under this bill you wouldn't be able to do that. And --

REP. REED: May I correct you. Under this bill you would. I mean that -- the language in this bill specifically says unless the town has decided this is where they want it and unless no other site can be found.

JOHN ERMA: I don't believe -- I don't mean to be argumentative Representative Reed but as we read the bill --

REP. NARDELLO: If we would -- these are not meant to be like arguments between -- if we would direct questions and have answers please.

JOHN ERMA: I don't believe that's the case, Representative Reed. But let me talk a little bit again to address your issue about collaboration. And I'll use an example. In Washington, Connecticut this past weekend we had a public community meeting which is part of the siting process. This is prior to filing any application.

We'd identified a site. Had a community meeting. Got to hear from the community. Now this is a location by the way where we've been trying -- AT&T has been trying to site a tower for more than a decade, globally speaking in that neighborhood. In that town literally there is no cell phone service from any provider at all. It is a truly -- a very difficult place. It needs to get fixed.

You know, it's clear -- and it's clear from us, you know we're -- I think we're on site five now in that town that none of these five sites that we've suggested have worked. Obviously the one on -- on Saturday that community meeting was clear that that wasn't really a site that worked. And what we said simply and as part of this community meeting -- and this is something I think we do at every meeting, is we said listen, we need to get this -- we need to get a facility built in here to try to address coverage issues. Work with us community -- people in the community, elected officials, others, concerned residents and help us find a location that works to everybody's benefit.

It is not in the industry's benefit at all to have a protractive battle over a particular site. I can tell you if we know a site is likely not to get approved we don't even file an application for it. That's one of the reasons why you see a high level of applications that are approved. It's because the industry is not going to waste it's time, money, energy in trying to push a site that -- where there's -- where there's opposition to trying to do it. I agree with you, Representative Reed there needs to be a collaborative process.

I think it is to the extent we can introduce more collaboration we'd be happy to do that. We certainly try to do that as a company. I can't speak for -- for the entire industry but certainly as a company that's something we've tried to do.

REP. REED: Thank you for your testimony. The conversation begins and, you know perhaps I

think we can find a way through it. So thank you.

JOHN ERMA: Yes, Ma'am. Thank you.

REP. NARDELLO: Senator Fonfara has a question.

SENATOR FONFARA: Thank you.

And this for John or anyone else. How does the language that Representative Reed just suggested that it be not within 1,500 feet is it?

REP. REED: Seven fifty.

SENATOR FONFARA: Seven hundred fifty unless there is no other suitable site, how does that not -- why is that a problem.

JOEY-LEE MIRANDA: Senator Fonfara, again I'm Joey-Lee Miranda from Robinson and Cole. We represent Verizon Wireless in front of the Siting Council. It indicates that it can't be within 750 feet of one of these prohibited -- these specific uses unless there's -- it's not legally, technically, economically or environmentally feasible to go anywhere else.

One of the issues you have with that language, although it's better than last year when there was no out at least when the bill started that included that, the issue you have is that you're still at a conflict with federal policy and you create a potential for preemption.

The other issue I think you have is that potentially what happens is, if I'm a wireless carrier and I want to serve an area and I can go here in the middle of town. I'm just going to use that as an example. But there are

schools, daycares, private residences all within 750 feet. I could serve that need with one tower right there.

However, because of the 750 foot restriction what I now can't do with that one tower I can do with five towers. I can go out here and be outside the 750 foot parameter but now I have a tower out here, over here, over here, over here and over here to get all that coverage.

So essentially you could potentially set up a system where there's actually a higher proliferation of towers to serve a specific area that needs coverage or capacity relief as a result of the changes in the market that Representative Reed noted and --

SENATOR FONFARA: Provide you with leverage in the conversation. If the town or towns know that there is likely to be three or four more towers than if you had the one isn't that -- isn't that something that you'd want to bring to the powers that be to know about.

JOEY-LEE MIRANDA: I think the issue though, Senator Fonfara is that this particular bill as currently written actually doesn't give the town the ability. It's the other bill in front of the Environment Committee may have done that but this particular bill --

SENATOR FONFARA: Yeah but I'm saying if you -- if you were to bring what you just said to us to the towns and say look, if you -- if you don't -- if this is not acceptable then here's what we have to do. I mean it seems to me that most -- most folks would say, well, you know, do we want to have four or three towers versus one. It would seem to me that that's leverage in the conversation.

JOEY-LEE MIRANDA: Unfortunately though the statute doesn't really set up a conversation. What it does is it puts --

SENATOR FONFARA: What prohibits the conversation?

JOEY-LEE MIRANDA: Nothing with the town. The problem is that the Siting Council actually has to make a finding that there is no technical -- no feasible alternative essentially of one of those --

SENATOR FONFARA: What I'm saying is if the town -- if the town comes forward and says we support this one location because we don't want three or four.

JOEY-LEE MIRANDA: The siting -- under the way the statutes currently written the Siting Council still has to make the finding. So that puts the burden not -- obviously we'd have a conversation with the town and as John said we already go to the towns before we go in and that's why many of the towers don't face as much opposition. They face some.

SENATOR FONFARA: So you're saying that even if the town were to support strongly a location that was within that that the Siting Council would have to reject it unless there were no other site.

JOEY-LEE MIRANDA: They would have to reject it unless they could make a finding --

SENATOR FONFARA: Right.

JOEY-LEE MIRANDA: -- that there was not a technically feasible alternative.

SENATOR FONFARA: Right.

JOEY-LEE MIRANDA: So yes, we could go to the town. We could have conversations with the town but there's not -- that out is not actually in the statute as it's currently written.

SENATOR FONFARA: Thank you.

REP. NARDELLO: Further questions from members of the Committee?

Thank you very much for your testimony.

What I can see from the signup sheets that I have here on Bill S.B. 98.

Okay. Mr. Emra.

JOHN EMRA: Thank you, Representative Nardello. I appreciate it. I would have been happy to do it in the last three minutes but I don't think the two subjects would have allowed it. In respect to Senate Bill 98 there's two -- two sections to the bill. The first section one really deals with the issue of spoofing.

Two years ago I came before your Committee and said that we were very supportive of the proposal that was in front of you, thought that there probably needed to be some language added to it to make sure that you were prohibiting that activity of spoofing only where there's intent to do harm or cause fraud. And I stand before you now -- or sit before you now two years later to congress -- well sometimes the Congress is slow to act and this case has acted.

At the end of 2010 they passed a federal spoofing legislation which is nearly identical

JOHN MULROONEY: My name is John Mulrooney. I live in Prospect. Thank you for listening to me late. I appreciate it. I'd just like to bring one thing to your attention. Noise has always been a concern for me because I'm probably at a visual site of these. I'd just like read a quote that comes from James Van Dyke. He's the Vice President of Environmental Sustainability.

Jiminy Peak which was brought up, although 20 percent increase annually for business is a great thing. I agree for them. But is it always the best thing for the residents. A mile away from the turbine at Hancock Town Hall when the wind blows a certain way visitors hear it. Whoosh, whoosh, whoosh. As the blades spin. That Van Dyke was supposed -- wasn't supposed to happen.

It was his greatest regret the way Jiminy Peak pitch was -- pitched to the residents. So that's one thing I'd like to say is just the concern of noise. Because that's the one thing that's got me because that's probably going to be the biggest impact if -- if they do go in. Thank you.

REP. NARDELLO: Thank you.

Are there any questions from members of the Committee? No. Is there anyone else in the room that would like to testify on this bill before we close this hearing. There is a Miss Barbara Bell would like to testify to 6250 I believe. And you certainly can do that at this point if you wish to do so.

BARBARA BELL: Thank you, Representative Nardello. I have submitted written testimony and in view of the hour I will waive my right to testify,

appreciate being -- being noticed at the very end. But thank you for being here this long.

REP. NARDELLO: Quite an experience today.

BARBARA BELL: Thank you.

REP. NARDELLO: And if there are no other individuals to testify I declare this public hearing adjourned.



State of Connecticut

**HOUSE OF REPRESENTATIVES
STATE CAPITOL**

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MEMBER
ENVIRONMENT COMMITTEE
FINANCE, REVENUE AND BONDING COMMITTEE
JUDICIARY COMMITTEE

ENERGY AND TECHNOLOGY COMMITTEE
Senator John W. Fonfara, Co-Chair
Representative Vickie Orsini Nardello, Co-Chair

FROM: REPRESENTATIVE JOHN T. SHABAN, 135th Assembly District

DATE: February 3, 2011

RE: RB 6250 -- An Act Concerning the Siting Council

As a member of the Environmental Committee, I took part in a public hearing last week on SB 833 – An Act Concerning the Approval and Siting of Certain Telecommunication Tower Applications. SB 833 would require local approval of sites where the proposed tower would be located within 250 feet of a school, church or home. Significantly, the focus of the discussion was not whether to allow more local control concerning the placement of such towers, but how much control should be restored to local land use boards.

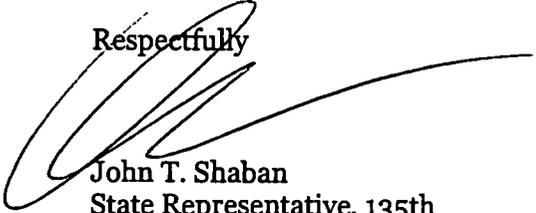
Similarly, RB 6250 -- An Act Concerning the Siting Council -- reflects the same effort to put some local control back into the mix. RB 6250 would permit the Siting Council to approve a tower placement within 750 feet of a school, church, day care or home only if the Council finds that no technically, legally and/or environmentally viable alternative sites providing a greater distance exist in the Town. On behalf of the citizens of the 135th Assembly District, I urge the Committee to support RB 6250. The citizens of my district, and our State in general, have felt disconnected from and largely ignored by the siting process as it is presently structured.

HB5124 HB5125

Page Two

Notably, Proposed Bills 5124 and 5125, both of which have been referred to this Committee, would further these same goals by creating a presumption at the Connecticut Siting Council in favor of Town-proposed sites. The proposed bills would require the Council to consider, among other things, the environmental impact, view shed, and functionality of all proposed sites, and to accept the Town-proposed site(s) absent an affirmative showing by the developer that the Town's site is "substantially inferior" considering such factors. On behalf of the citizens of the 135th Assembly District, I urge the Committee to incorporate these concepts into any final product deriving from RB 6250.

Respectfully



John T. Shaban
State Representative, 135th

Feb 2, 2011

John P. Johannemann
45 North Anguilla Rd.
North Stonington, CT 06359

Sen. Kevin Witkos
Legislative Office Building
Room 3400
Hartford, CT 06106-1591

Dear Sen. Witkos,

I am writing to urge you to reject the two bills, H.B. No. 6249 and H. B. No. 6250. At a time when we have record unemployment, investment in our state is at an all time low and citizens throughout the country are seeking solutions to the climate issues these bills are counterproductive. H.B. No. 6249 and H. B. No. 6250 before the Energy and Technology Committee provide no value added and will accomplish nothing but to delay and raise the cost of development in the state of Connecticut.

The Connecticut Siting Council is the proper place for the wind turbine permit process and their methods of approval address all of the environmental and study issues associated with wind turbine projects.

The installation of any wind turbine creates jobs in the research and wind analysis area, construction, operation and maintenance. The infrastructure upgrades and equipment installation add to the local tax rolls and the power generated provides income to companies and taxes to the state. These things are all accomplished while reducing our carbon footprint.

The first electric car charging stations in the state were announced last week. If we generate the electricity to run these chargers with coal or oil we have accomplished nothing environmentally. Generate that power with a wind turbine and we set the example for the country.

In places like Portsmouth Rhode Island and Worcester and Hull Massachusetts their wind turbine generators are a thing of pride. The citizens know that the blades dancing in the sky are generating clean renewable energy which helps the environment and future generations. Not to mention that they contribute to stabilizing taxes.

The Department of Energy has set a goal of 24% power from renewable sources; Connecticut has a chance to be a part of achieving that goal. Additional hurdles that provide no added value to the permit process will only serve to drive investors from the state and jobs that should have been in Connecticut will go elsewhere.

Gov. Dan Malloy said "Today I see an economic crisis and an employment crisis, both fueled by an unfriendly employer environment,.." The "Not in my backyard" mentality is stifling to progress, will hurt our environment and drive more businesses, jobs and people from our state.

Please reject these bills and let's get on with the business of developing clean energy resources within our state and consistent with the environmental goals of the country.

Sincerely,

A handwritten signature in black ink, appearing to read "John P. Johannemann", with a long, sweeping horizontal line extending to the right.

John P. Johannemann
45 North Anguilla Rd.
North Stonington, Ct 06359



Connecticut Trust for Historic Preservation
940 Whitney Ave
Hamden, CT 06517
T: 203-562-6312

February 3, 2011

Senator John Fonfara, Co-Chairman
Representative Vickie Nardello, Co-Chairman
Energy & Technology Committee

RE: HB No. 6249: An Act Establishing and Moratorium on the Siting of Wind Projects Until
the Adoption of Regulations
HB No. 6250: An Act Concerning the Siting Council

As the statewide nonprofit historic preservation organization, the Connecticut Trust for Historic Preservation (SA 75-93) submits the following testimony.

The improvement of CT's energy supply and the development of sustainable and renewable sources are worthy and essential goals in the 21st century. But in order to generate jobs and tourism, remain competitive and maintain the quality of life in CT, the state and its agencies must also work to preserve Connecticut's character-defining buildings and communities.

In considering new applications, the Siting Council and associated agencies should make a special effort to avoid, minimize or mitigate any potential adverse effect on historic properties, sites and landscapes. Adverse effects may be either or indirect, cumulative or immediate, but would have the net effect of undermining the preservation and continued use of buildings, sites or structures with a high degree of historical or architectural significance.

In regard to historic buildings and sites that are listed on or eligible for listing on the State or National Register of Historic Places, new construction of any type should

- a) maintain the scale and density of surrounding historic resources
- b) not be a dominant or intrusive element in the context of the surrounding landscape
- c) not interfere with significant historic viewsheds
- d) not introduce a level of noise, odors, vibration, dust or traffic that would interfere with the continued enjoyment and use of existing historic resources.

The Connecticut Trust for Historic Preservation encourages the Siting Council and other agencies to work closely with the State Historic Preservation Office and the residents of the



Connecticut
Light & Power

The Northeast Utilities System



The Northeast Utilities System

TESTIMONY OF RICHARD A. SODERMAN
THE CONNECTICUT LIGHT AND POWER COMPANY
and YANKEE GAS SERVICES COMPANY
Energy and Technology Committee—Feb. 3, 2011

H.B. No. 6250 - AN ACT CONCERNING THE SITING COUNCIL

Good afternoon. My name is Richard Soderman, and I am Director of Legislative Policy for Northeast Utilities, appearing on behalf of the Connecticut Light and Power Company and Yankee Gas Services. Thank you for the opportunity to comment on the bill before you.

This bill would add to the considerations the Siting Council must make before issuing a certificate of public need. As drafted, CL&P opposes this bill because it will make the process of siting critical infrastructure more difficult without any demonstrated benefit.

Section 1 of the proposed bill forbids the location of a telecommunications tower within 750 feet from a school, day care center, place of worship, or private residence, unless there are no technically, legally, environmentally and economically feasible alternative sites that are further away. It is not clear from the bill the rationale for this restriction. There is no basis for indiscriminately forbidding telecommunications towers to be located near these facilities. Any argument based on electromagnetic fields is simply not scientifically supportable. In addition, this section requires the Siting Council to consider the manufacturer's recommended safety standards for equipment, machinery, or technology in deciding whether or not to grant an applicant a certificate. If this provision were to be applied to transmission lines and substations, such certification may not be possible in a Siting Council decision. In many and perhaps most cases, we will not know who the manufacturer will be until after Siting Council approval has been obtained and the job is put out for bid. Further, Siting Council proceedings would become unnecessarily protracted. Electric utilities' compliance with the National Electric Safety Code should be enough to assure that safety is adequately considered.

This section also provides for penalties for omissions or misrepresentations in the course of a Siting Council proceeding. Under this legislation, the Siting Council can authorize the Attorney General to bring an action for a \$10,000 penalty, attorney's fees and related costs in such instances. A Siting Council application could contain thousands of factual statements, and will inevitably include some that need to be – and are – corrected as the proceeding goes on. Similarly, we always find it necessary to file corrections of some things in the testimony. There should be no liability for factual contentions that have evidentiary support and are made in good faith, even if they ultimately turn out to be incorrect.

Sections 3 and 4 address certificates of public need and environmental compatibility as they apply



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2



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to fuel cells. These provisions appeared in HB 5213 in the 2010 session, which was approved by the Energy and Technology Committee, but did not pass. At that time, the Office of Legislative Research commented on this provision as follows: (Contradictory Provisions on Fuel Cells) "Section 3 of the bill exempts fuel cells owned by certain entities with a generating capacity of 1 megawatt or more and those that use natural gas at a pressure above 150 pounds per square inch (approximately nine times atmospheric pressure) from the requirement that they obtain a certificate from the council. It does this by excluding them from the definition of "facility," which are the technologies over which the council has jurisdiction. In contrast, section 4 requires certificates for all fuel cells meeting these criteria regardless of ownership..." The same contradictory provisions are proposed again here in H.B. 6250.

Section 5 elaborates on the current municipal consultation process to provide that: (1) the applicant must provide "a map indicating the area of need"; (2) that the municipality may make "recommendations concerning site selection;" and (3) if it does, "the Siting Council shall consider such proposal in conjunction with the application as part of its regular approval process." This provision is not necessary. Municipalities already have the power to make an alternative recommendation to the Siting Council.

Thank you for the opportunity to present testimony on this bill.



State of Connecticut
HOUSE OF REPRESENTATIVES
 STATE CAPITOL
 HARTFORD, CONNECTICUT 06106-1591

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RANKING MEMBER
 HUMAN SERVICES COMMITTEE

MEMBER
 FINANCE, REVENUE AND BONDING COMMITTEE
 TRANSPORTATION COMMITTEE

Testimony

In Support of Raised Bill 6250
Sections 82-90
An Act Concerning The Siting Council.

Energy and Technology Committee
February 3, 2011

Dear Senators Fonfara, and Witkos, Representatives Nardello, and Hoydick and Members of the Energy and Technology Committee:

Once again, I come before you requesting your consideration of section 82 - 90 found in Raised Bill 6250, AAC Siting Council, that prohibits cell towers to be located within 750 of schools and day care centers.

The genesis of this bill came from an application by T-Mobile to the Connecticut Siting Council for permission to place a cell tower on property adjacent to a local elementary school in Greenwich.

While there is currently not definitive scientific evidence proving negative health factors to children exposed to repeated emissions from cell towers, there is much unease about these emissions and their possible affect on children. Parents of children attending schools which have cell towers sited within 750 feet are concerned about the effect of daily exposure from electromagnetic fields. Given the possible detrimental problems associated with exposure, it would be prudent for Connecticut to err on the side of caution and not allow cell towers to be placed near where children congregate on a daily basis.

The Federal Telecommunication Act of 1996 states the Council must consider the environmental impact in the siting of a facility. However, it is not required to take into consideration health factors associated with possible harmful emissions emanating from the electronic fields of a cell tower.

Page 2

I urge the committee to discuss possible negative health effects with the Connecticut Siting Council and, if necessary, mandate the Council to disallow a cell tower to be sited next to a school or day care center.

Given the strong opposition to cell towers both in the proximity of schools and day care centers and in residential neighborhoods, I believe the cell companies must assume some of the responsibility for the distribution of cell service so as not to antagonize the neighbors and the surrounding community. There is newer technology (albeit, possibly more expensive), yet this technology is constantly changing and being upgraded. Since there is so much controversy on the siting of these towers, I believe the legislature should act and mandate the cell companies research and use the latest, least conspicuous and most advanced technology.

Thank you for your consideration of this legislation.

Sincerely,

Lile R. Gibbons

Lile Gibbons
State Representative



State of Connecticut

HOUSE OF REPRESENTATIVES
STATE CAPITOL

REPRESENTATIVE FRED CAMILLO
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RANKING MEMBER
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MEMBER
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TRANSPORTATION COMMITTEE

Testimony

*In Support of Raised Bill 6250
Sections 82-90
An Act Concerning The Siting Council.*

*Energy and Technology Committee
February 3, 2011*

Dear Senators Fonfara, and Witkos, Representatives Nardello, and Hoydick and Members of the Energy and Technology Committee:

I am writing again to request your consideration of section 82 - 90 found in Raised Bill 6250, AAC Siting Council, that prohibits cell towers to be located within 750 of schools and day care centers. The proposed site that inspired our bill last session is right in my district, just a few blocks from my house.

Last year, this committee passed our stand alone bill that is referenced above and now incorporated into a larger bill. It also passed the House of Representative, 139-0, but ultimately died on the Senate calendar on the final day of session. We appreciate the support and acknowledgment this committee has given to this issue, and I know the citizens around the state do, as well.

Proponents and supporters of this bill are well aware of the 1996 Telecommunications Act and the Connecticut Siting Council. Unfortunately, the 1996 Telecommunication Act does not take into account any health factors in the location of cell towers. While I personally find this way of thinking misguided and wrong, I do realize that it will have to be dealt with on the federal level.

Page 2

In regard to the latter, the CT Siting Council was first established in 1972 and later expanded to deal with among other things, the placement of cell towers. This legislature created it, and it can disband it, or limit its powers. This bill doesn't address that, it only seeks to put added focus on the safety of children, students, and adults who work in schools and day care centers first when siting cell towers in the vicinity of these venues.

We don't have clear scientific evidence to substantiate nor deny the health risks caused by radiation emitted from these structures. However, please keep in mind that decades ago we also didn't have the data or evidence when we were told the same thing by the tobacco industry.

I am quite conservative on most issues before this legislature. This issue, however, is one which makes me subscribe to the old adage about being safe rather than sorry. No one can legitimately and reasonably fault this committee or the state legislature for erring on the side of caution. Waiting 20 years for a study to be published linking illness to these cell towers is too much of a risk to take at this time, or at any time.

To be fair and balanced, cell phones have become a vital part of our society and everyday lives. They can even be life saving devices. What we are advocating here is just some ability for municipalities to exert a degree of control when cell towers are proposed within 750 feet of schools and daycare centers.

Thanks again for your time and consideration on this very important issue.

Sincerely,

A handwritten signature in cursive script that reads "Fred Camillo". The signature is written in black ink and is positioned above the printed name.

Fred Camillo
State Representative
151st District



State of Connecticut

SENATE

STATE CAPITOL
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TRANSPORTATION COMMITTEE

Testimony

In Support of Raised Bill 6250, Lines 82-90

An Act Concerning the Siting Council

Energy and Technology Committee

February 3, 2011

Good Afternoon Senator Fonfara, Representative Nardelo, Senator Witkos, Rep. Hoydick, and members of the committee. I am here today to testify in support of Raised Bill 6250, specifically lines 82-90. This section prohibits the placement of cell towers within 750 feet of schools, day care centers and places of worship.

In previous sessions this committee has passed a stand alone bill that would have set these same standards. I appreciate all the work you all have done in the past on this issue and I thank for including it in this larger bill this session.

There is concern about the siting of cell towers so close to schools in response to several proposed towers in my district. Many parents, families and health officials have voiced their concerns about the long term health effects of placing these towers so close to schools and day cares. Notwithstanding the constraining factors of the Telecommunication Act of 1996, lines 82-90 of this bill take necessary steps to safeguard our children by prohibiting the siting of cell towers too close to schools and day cares.

While there has yet to be any conclusive studies done on the long-term effects of cell towers and radiation, a 2005 factsheet provided by the National Cancer Institute state that, among recent findings, there is a direct relationship between radiation and cancer. I believe that it is best to err on the side of caution when it comes to the long term health of our children.

Currently the Siting council is responsible for providing siting review with respect to proposals to develop large-scale utility infrastructure and telecommunications facilities including cellular towers. By passing this bill we will be giving the Siting Council one more, important, condition to consider before rendering their decision.

Again, I thank the members of the Energy and Technology Committee for including this issue in HB 6250.

Sincerely,

L. Scott Frantz, State Senator 36th District



Testimony of Denise L. Nappier
Treasurer of the State of Connecticut

SUBMITTED TO THE ENERGY AND TECHNOLOGY COMMITTEE
FEBRUARY 3, 2011

Senator Fonfara, Representative Nardello, and members of the Energy and Technology Committee, thank you for the opportunity to offer testimony regarding **Raised Bill No. 6250, An Act Concerning the Siting Council**.

Section 6 of the raised bill would amend the statutes governing certification proceedings before the Connecticut Siting Council to clarify that requests for reimbursement for expenses incurred by municipalities must be submitted after conclusion of a certification proceeding held before the Connecticut Siting Council. We support the proposed revisions.

By way of background, current law establishes a process by which municipalities that participate in certification proceedings before the Siting Council can request reimbursement of expenses incurred in connection with those proceedings. Funds for this purpose are held in a "Municipal Participation Account" funded by fees paid by utilities applying for a certificate of need. The current timeframe for submitting these applications is sixty (60) days from the onset of certification proceedings.

The administrative challenges presented by the timing set forth under current law are twofold. First, municipalities may only claim reimbursement for expenses actually incurred. So, to the extent that certification proceedings extend beyond 60 days from the commencement of the proceedings, municipalities may incur expenses for which they cannot claim reimbursement. Moreover, when more than one municipality is a party to a proceeding, there may be multiple claims for reimbursement, and State law requires that the monies in the Municipal Participation Account be evenly distributed. Second, any amounts remaining in the Municipal Participation Account must be returned to the applicant. Given the ambiguity over the timing of when these funds need to be returned, the Auditors of Public Accounts have suggested that the statute be clarified.

Section 6 of the raised bill would make clear that requests for reimbursement must be submitted within sixty (60) days after conclusion -- rather than after commencement -- of a certification proceeding. With this language, municipalities will be in a better position to claim reimbursement for expenses actually incurred, and the legislative intent of assisting municipalities that participate in the process would be better realized.

In addition, the raised bill would delete statutory language concerning amounts paid to municipalities in excess of what has been incurred. That language made sense only when towns were provided with funds up front and later substantiated the expenses. With the new wording in the raised bill, there would be no excess payments over what has been incurred because the Treasury would only make payments with proof that an expense had been incurred.

And last, but not least, there would be no fiscal impact associated with passage of this language.

For your information, we have worked together with Linda Roberts of the Connecticut Siting Council in crafting the proposed language, and she is in agreement with what is before you.

For all of these reasons, I ask for your favorable consideration of this bill.

Testimony of
THE UNITED ILLUMINATING COMPANY
before the
ENERGY AND TECHNOLOGY COMMITTEE
Re **RAISED BILL 6250,**
AN ACT CONCERNING THE SITING COUNCIL
FEBRUARY 3, 2011

The United Illuminating Company ("UI") is pleased to submit comments to the Energy and Technology Committee on Raised Bill 6250, AN ACT CONCERNING THE SITING COUNCIL.

UI opposes certain provisions of Raised Bill 6250 that would make significant changes to the siting standards applicable to electric facilities. Lines 196-198 of the Bill would delete the existing section 16-50p(h) standard that "a public need exists for an energy facility if such facility is necessary for the reliability of the electric power supply of the state." This standard has served the State well, by setting forth the fundamental premise that the State needs reliable electric power supply. By deleting this standard, the Bill would likely lead to administrative and court litigation on whether reliability remains a basis for siting, and whether something else in addition to or instead of reliability should be demonstrated for there to be a finding of public need. This would likely delay the siting and construction of reliability projects, thereby putting the State's electricity reliability in jeopardy. Section 16-50p(h) should not be deleted as part of this Bill, which otherwise seems to relate primarily to communications towers.

Lines 91-92 of the Bill would require the Council to consider "the manufacturer's recommended safety standards for any equipment, machinery or technology." The goal of assuring safety is a good one. UI is concerned, however, that it would be impossible for the Siting Council to consider and rule upon this information. An electric facility, for example, could have thousands of pieces of "equipment, machinery or technology." The Siting Council already has the authority to consider safety issues, and to require that an applicant construct a facility in accordance with applicable safety standards. The Siting Council should not be in the position of seeking to duplicate the work of fire marshals,

the National Electric Safety Code, building codes, building inspectors and others whose primary job is the public safety. Since the Siting Council already considers safety, the language proposed in the Bill can be deleted. Alternatively, the language should be modified to provide for the Siting Council to find and determine "That is has considered the safety of the proposed facility."

UI is also concerned that the language proposed to be added at lines 82-90 of the Bill could result in significant unnecessary expense and suboptimal location of infrastructure. The new language would preclude the Siting Council from approving a telecommunications tower within 750 feet of a school, day care center, place of worship of private residence, unless the Siting Council determined "that there are no technically, legally, environmentally and economically feasible alternative sites within the municipality that are more than seven hundred fifty feet from such school, day care center, place of worship, or residence." This would mean, for example, that a telecommunications tower to be used for a utility's own internal communications, to facilitate the utility's meeting its public service company obligations, could not be sited at the same location as other utility equipment, operations or property if there was any other site that was technically, legally, environmentally and economically feasible anywhere within the municipality. This could impede the utility's provision of service and add to the cost borne by a utility's ratepayers.

Lines 370-374 of the Bill would require the Siting Council to consider an alternative site location proposed by a municipality. UI does not object to this addition, provided that language is added to make clear that, since the applicant has already provided detailed information on the proposed location as well as other alternative sites, the burden is on the municipality to establish that the alternative location is preferable to the location and alternatives proposed by the applicant.



TESTIMONY
of the
CONNECTICUT CONFERENCE OF MUNICIPALITIES
to the
ENERGY AND TECHNOLOGY COMMITTEE

February 3, 2011

CCM is Connecticut's statewide association of towns and cities and the voice of local government - your partners in governing Connecticut. Our members represent over 93% of Connecticut's population. We appreciate this opportunity to provide testimony to you on issues of concern to towns and cities.

Raised Bill 6250 "An Act Concerning the Siting Council".

This bill would (1) prohibit the approval of any application for the siting of a telecommunication tower within 750 feet of land near a school, day care center, place of worship or private residence – unless the Siting Council finds that there are no alternative sites within the municipality, (2) allow the Siting Council to consider regional location preferences from neighboring municipalities, and (3) allow municipalities to recommend alternative sites and require the Siting Council to consider such recommendations.

While this bill provides limited input by local governments about the siting of telecommunication towers within their community, CCM is concerned that Section 1(3)(G) would also override local authority to choose to lease certain municipal properties for such facilities. Currently, there are a number of these towers on municipal land, generating income for the community. The decision as to where such facilities should/could be sited should first be with the municipal legislative body.

CCM understands that the siting of such facilities provides a statewide benefit and there are overarching needs for certain infrastructure, however local governments continue to struggle with their lack of decision making authority for these types of projects within their borders.

CCM urges the committee to amend this bill to provide greater decision making authority to local governments and not hamper their ability to choose to site certain facilities.

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If you have any questions, please contact Donna Hamzy, Legislative Associate of CCM
via email dhamzy@ccm-ct.org or via phone (203) 498-3000.



JOINT STATEMENT
OF
CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS,
AT&T MOBILITY, T-MOBILE AND
SPRINT NEXTEL

Regarding Raised House Bill No. 6250
An Act Concerning the Siting Council
Before the Committee on Energy and Technology
February 3, 2011

Proposal:

Raised House Bill No. 6250 ("HB 6250" or the "Bill") would, among other things: (1) prohibit the Connecticut Siting Council ("Council") from permitting the siting of a wireless telecommunications tower within 750 feet of a school, day care center, place of worship or private residence unless the Council finds that there are no other technically, legally, environmentally or economically feasible alternative sites within the municipality; (2) require an applicant to utilize the latest technological options designed to minimize aesthetic and environmental impacts; (3) allow the Council to request that a civil action be brought against any party that has intentionally omitted or misrepresented a material fact during a proceeding; and (4) provide for the further consideration of alternative sites proposed by a municipality.

Background:

As the Energy and Technology Committee is aware, the Council was established nearly forty (40) years ago and is charged with reviewing and making decisions on applications for the siting of certain "facilities" defined in Section 16-50i(a) of the General Statutes. Generally, the "facilities" over which the Council has jurisdiction are limited to electric transmission lines, fuel transmission facilities, electric generating facilities, electric substations, CATV head-end facilities and telecommunications towers. The Council maintains exclusive jurisdiction over the siting of these facilities and its authority pre-empts local land use (e.g., zoning and inland wetlands) authority. Left to a municipalities' local zoning and wetland authority, many of these important "facilities" of regional and state-wide significance might otherwise never be developed. Recognizing this, the legislature established the Council as the single State agency with the experience and skill set to facilitate local, regional, statewide and interstate planning for the appropriate siting of these important facilities. Although often making controversial decisions, the Council has done a remarkable job of balancing the public's need for these facilities against the environmental effects development of such facilities may have on our communities.

Comments:

Cellco Partnership d/b/a Verizon Wireless, AT&T Mobility, T-Mobile and Sprint Nextel (the "Wireless Carriers") respectfully oppose certain sections of this bill because they are preempted by federal law, conflict with federal telecommunications policy, would undermine the Council's preemptive authority, and hinder deployment of advanced technologies that are in the interest of consumers and businesses.

First, the Wireless Carriers oppose the language proposed to be added at lines 82 through 90 of the Bill, which would prohibit the Council from permitting the siting of a wireless telecommunications tower within 750 feet of a school, day care center, place of worship or private residence unless the Council finds that there are no other technically, legally, environmentally or economically feasible alternative sites within the municipality.

The basis for this siting restriction has not been provided. Nevertheless, proposed legislation prohibiting the siting of wireless telecommunications facilities within a particular distance from a specified use or set of uses is frequently based on the perceived health effects of radio frequency ("RF") emissions. Federal law, as established in the Telecommunications Act of 1996, ("Telecommunications Act") pre-empts such legislation. In particular, Section 704 of the Telecommunications Act provides, in relevant part: "No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the [Federal Communication] Commission's [FCC] regulations concerning such emissions."

When seeking approval for telecommunications towers, applicants must provide the Council with the information necessary to determine whether or not a proposed facility will comply with the FCC's standards regarding RF emissions. To the extent the proposed facility complies with those standards, the Council does not have the authority to deny an application on the basis of the putative effects of RF emissions. Similarly, because the Telecommunications Act bars states from regulating the placement of wireless service facilities on the basis of RF emissions, the legislature is pre-empted by federal law from instituting a blanket ban on the siting of wireless telecommunications towers within a defined area based on the perceived effects of RF emissions.

To the extent the proposed legislation is intended to serve another purpose (e.g., to address aesthetic concerns), it still may be pre-empted by the Telecommunications Act. Specifically, Section 704 of the Telecommunications Act provides, in relevant part: "The regulation of the placement, construction and modification of personal wireless service facilities by any state or local government or instrumentality thereof . . . shall not prohibit or have the effect of prohibiting the provision of personal wireless services." The proposed legislation could prohibit the Council from permitting the siting of a wireless telecommunications tower within 750 feet of a school, day care center, place of worship or private residence.

The term "school" is defined very broadly in Connecticut General Statutes Section 10-154 to include almost every public and private elementary, middle and high school within the State of Connecticut. In addition, the term "day care center" is also defined very broadly in Connecticut General Statutes Section 19a-79a to include any facility in which as few as one child is cared for outside of his/her own home. Moreover, neither the terms "place of worship" nor "private residence" are defined and also could be construed very broadly. As a consequence, the proposed legislation is likely to have the effect of entirely prohibiting the siting of a telecommunications tower within a large geographic

area, an entire municipality or portions of several adjoining municipalities depending on the distance of each school, day care center, place of worship and private residence from the next. Such a prohibition on service is pre-empted by the Telecommunications Act.

The proposed legislation also conflicts with federal policies regarding the development of a robust and reliable wireless network nationwide. For instance, in 2010, President Obama identified wireless telecommunications facilities as “critical national infrastructure” in part for the continuous service that can be provided during times of natural and manmade disasters. Often, during these times, schools and places of worship are used as shelters or outposts to provide needed services to an affected area. By prohibiting the siting of telecommunications towers within 750 feet of a school, day care center, place of worship or private residence, the proposed legislation could thwart the siting of this “critical national infrastructure” and impact the ability of those living in or stationed at these locations during times of disaster from communicating with emergency service providers and family members.

More recently, in his State of the Union address President Obama pledged to expand access to mobile broadband services to nearly all U.S. citizens. Specifically, the President said, “[w]ithin the next five years, we’ll make it possible for businesses to deploy the next generation of high-speed wireless coverage to 98 percent of all Americans This isn’t about faster Internet or fewer dropped calls. It’s about connecting every part of America to the digital age.” In addition, other states have recognized the importance of wireless broadband networks to their underlying economies and the quality of life of their citizens. The newly elected Governor of Vermont, for example, has made it a priority for his state and its citizens to have universal access to wireless networks. This goal is not achievable if wireless carriers are prohibited from installing critical national wireless infrastructure in large geographic areas simply because those areas are proximate to schools, day care centers, places of worship or private residences.

Rather than restricting possible areas where towers can be constructed, we would urge the committee to consider adding language to their bill which would allow for construction of towers in areas where they are prohibited today, including state forests and watershed lands. Allowing construction in such locales would open up areas for construction that could serve as an alternative to building in a more residential zone. In addition, while towers are allowed under the law on state property, in practice many state agencies have not been willing partners in such efforts. Building on state property might likewise lessen the need to build in residential areas, and the state would no doubt receive needed revenue for leasing such sites.

This legislation would have unintended negative consequences for municipalities, private schools and churches by depriving those entities and others who choose to host towers on their property from the monies received in rent from the wireless carriers. In many cases, this revenue is significant to their annual budgets.

Next, the Wireless Carriers oppose the language proposed to be added at lines 111 through 113 of the Bill, which would require the Council to consider “the latest technological options designed to minimize aesthetic and environmental impacts” when issuing a Certificate of

Environmental Compatibility and Public Need ("Certificate") for a wireless telecommunications tower, because its intent is unclear and, as a consequence, it may be pre-empted by federal law.

When the Wireless Carriers submit applications to the Council for telecommunications towers, various alternatives are often discussed and considered, including technological modifications to the tower structure (e.g., proposing a "monopine" tree tower) or to the antenna mounting system (e.g., proposing the use of low profile platforms or T-Arms), in an effort to reduce the potential aesthetic impacts of a proposed facility. In addition, as part of its review of an application for a Certificate, the Council also considers these design alternatives (whether or not they are proposed by the Wireless Carriers) in carrying out its statutory responsibility to consider the nature of the probable environmental impacts of a proposed facility. Since the Council's review is *limited* to determining if there is a way to mitigate the potential impacts *without* changing the essential nature of the proposed facility (i.e., a telecommunications tower), the Wireless Carriers have no objection to such a review or to a statutory provision intended to affirmatively require the Council to consider these types of technological design options.

However, as currently written, the proposed legislation could be read to broaden the Council's current review of alternatives to include the consideration of entirely different wireless technologies, such as distributed antenna systems ("DAS"), micro-cells and/or repeaters, *as an alternative to a telecommunications tower*. To the extent the proposed legislation requires such a consideration, it is pre-empted by the Supremacy Clause of the United States Constitution because it would intrude into a field occupied exclusively by the federal government.

On February 1, 1996, the United States Congress enacted the Telecommunications Act in order to facilitate the rapid deployment of advanced wireless telecommunications services nationwide. In recognition of the inherently interstate and mobile nature of wireless service, Congress sought to provide for a uniform, national scheme of regulation and to pre-empt piecemeal regulation by state and local governments. As part of the Telecommunications Act, Congress occupied the field of regulation concerning the technical and operational aspects of wireless service. Specifically, Congress has vested the FCC with *exclusive* authority to establish technical standards for wireless service. Accordingly, *only* the FCC may establish regulatory schemes aimed at the review and/or deployment of wireless service technologies. Thus, state legislation that seeks to legislate or require a state agency to regulate technological alternatives usurps the FCC's regulatory authority over the technical parameters for the provision of wireless service and is, therefore, pre-empted.

Finally, to ensure fairness and clarity, the Wireless Carriers also propose revisions to several provisions of the Bill. First, the Wireless Carriers request that line 214 of the Bill be revised to include intervenors within the scope of those who are prohibited from intentionally omitting or misrepresenting a material fact in the course of a Council proceeding. As written, the proposed legislation only imposes penalties on parties to a proceeding and does nothing to prevent intervenors before the Council from making misrepresentations or omissions. However, intervenors also are subject to discovery and cross-examination and

given the opportunity to submit pre-filed testimony in a Council proceeding. Accordingly, the Wireless Carriers request that line 214 of the Bill be revised by inserting the phrase “or intervenor” between the words “any party” and “has intentionally.”

Next, for purposes of clarity and to avoid confusion, the Wireless Carriers request that lines 365 and 366 and lines 370 through 374 of the Bill be revised (proposed additions shown as double underlined and proposed deletions shown in [brackets]) as follows:

365 “recommendations to the applicant. Such recommendations may
366 include an alternative site(s)[selection].”

370 recommendations issued by the municipality, including any proposed
371 alternative site(s)[selection]. If the municipality proposes an alternative
372 tower site(s)[selection], the siting council shall consider such [proposal in]
373 alternative(s) in conjunction with the application as part of its regular approval
374 process.

Conclusion:

Because lines 82 through 90 and lines 111 through 113 of HB 6250 are pre-empted by federal law, the Wireless Carriers oppose those provisions and urge the Committee to reject them. In addition, to ensure fairness and clarity, the Wireless Carriers also request that the Committee revise line 214, lines 365 and 366 and lines 370 through 374 of the Bill.



**TESTIMONY OF BARBARA CURRIER BELL, PH.D.
MEMBER
CONNECTICUT SITING COUNCIL**

**SUBMITTED TO THE ENERGY AND TECHNOLOGY COMMITTEE,
IN REFERENCE TO
RAISED BILL NO. 6250
AN ACT CONCERNING THE SITING COUNCIL**

FEBRUARY 3, 2011

Good afternoon Senator Fonfara, Representative Nardello, ranking and distinguished members of the Energy and Technology Committee. My name is Barbara Currier Bell; I am a member of the Connecticut Siting Council.

Thank you for this opportunity to provide this testimony in connection with Raised Bill No. 6250, An Act Concerning the Siting Council.

Raised Bill No. 6250, An Act Concerning the Siting Council seeks to make various changes to the Siting Council's procedures, including ones directly related to the siting of certain facilities.

There are already numerous provisions in the existing statutes to provide guidelines for the Siting Council, and the Council strictly adheres to them. We understand that Raised Bill No. 6250 serves to clarify legislative intent and codify existing practice, and, on that basis, the Council has no objection to it, with two exceptions.

Section 3 (B). This section of the proposed bill would place a 750-foot restriction on the siting of telecommunication towers within the proximity of schools, day care centers, places of worship and residences. The Council shares the concerns behind this proposal and has been addressing them regularly. We heavily scrutinize each application. We develop a lengthy record related to the purported need and contrast that with the evidence about adverse environmental effects. This experience leads us to believe that prohibitions against towers in selected locations will have unintended and undesirable consequences.

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Connecticut residents are expanding their demand for telecommunication services. These services are provided via statewide interconnected networks, not sets of isolated points. Picture an inflating balloon. Pushing down in one spot doesn't stop the inflation, but increases the pressure elsewhere. As carriers build out their networks to meet demand, prohibitions against towers in selected locations will likely result in more towers rather than fewer towers overall, and taller, more intrusive towers in almost every case.

Although the Council does not relish authorizing the development of towers in the areas redlined by Section 3 (B), the legislature has trusted the Council with this discretion. We continue to find this discretion key for making decisions that take into account all residents of the state.

Section 4 (i). This section would allow the Council by a majority vote to request the Attorney General to bring a civil action against any party or intervener who intentionally omitted or misrepresented a material fact in the course of a Council proceeding. We believe this part of the proposed bill, while doubtless well-intended, should not become law.

The Siting Council is an adjudicatory, fact-finding agency. We process each application individually and ask questions pertinent to that particular application. Because it is virtually impossible for applicants to anticipate every element of information we need, we make our requests through written interrogatories. Incomplete or inconsistent responses to such interrogatories are not necessarily an indication of negligence on the part of the applicant but could be used by opponents as sufficient cause for the Siting Council to petition the Attorney General to bring suit where none is warranted. The Council would prefer to conduct the questioning process in good faith. We find this is usually the best way to discover options.

If enacted, Section 4 (i) would create an environment that could discourage companies from withdrawing their applications without incurring liability and prevent them from pursuing an alternative that for legitimate reasons they believe viable. This would run counter to good decision-making on the part of the Council.

In summary, I would like to repeat that the Siting Council finds the majority of this proposed legislation serves to clarify legislative intent and codify existing practice. However we find the two sections noted above—each of which restricts the Council's discretion in different ways—give us concern. We believe they limit the Council's ability to accomplish goals the legislature has asked us to fulfill.

I would be pleased to take your questions.

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I would be pleased to take your questions.



**Testimony of the Honorable Daniel F. Caruso
Chairman
Connecticut Siting Council**

**Submitted to the Committee on Public Safety and Security
in reference to proposed bill 6250
An Act Adopting Certain Safety Recommendations of the Thomas Commission**

February 15, 2011

Good morning Senator Hartley, Representative Dargan, ranking and other distinguished members of the Committee on Public Safety and Security. My name is Linda Roberts; I serve as the Executive Director of the Connecticut Siting Council. With me today is Melanie Bachman, Staff Attorney for the Council. We are appearing on behalf of Chairman Daniel Caruso who is presently conducting a public hearing with the Council's eight other members in Old Saybrook regarding the siting of a cell tower. As you may know these hearings begin at 2:00 p.m. and like yours often continue to well past 9:00 p.m.

Thank you for this opportunity to provide testimony in connection with Proposed Bill 6250 An Act Adopting Certain Safety Recommendations of the Thomas Commission. We share with you the hope that by such means we may avoid future calamities of the regrettable events of last year.

First, I would like to note that the Council has already incorporated the recommendations of both the Nevas and the Thomas Commissions as conditions to all gas fired power plant certificates, including Kleen Energy's facility in Middletown.

In this regard, a brief overview of the requirements under which we must operate is helpful. While the Council has the authority, on our own motion, to modify certificates at any time if we find "changed conditions" as defined under Section 4-181a (b) of the Administrative Procedures Act, nevertheless, due process requires that we hold a hearing on this issue to re-open the records and modify the final decisions which allowed the plants to be constructed in the first place.

To date, the Council has acted to re-open, on our own motion, the final decision of all previously approved gas fired generating plants. This included a total of 42 dockets and petitions. We held three public hearings at the Legislative Office Building in December and expect to render final decisions next month.

(over)

We thoroughly agree with the Governor's directive to ban the use of flammable gases to conduct gas blows and the requirement that at least one special inspector be assigned to assist the municipal fire marshal during construction and that local fire marshals receive training on the issues involved in the construction of gas fired power generating plants. We also agree that the cost of these initiatives should be born by the applicant.

As to our specific comments, pursuant to Conn. Gen. Stat. Section 16-50j (h), prior to commencing any hearing, the Council must consult with and solicit written comments from certain state agencies. Those agency comments are made part of the record in the proceeding.

As a matter of course, we currently notice the Department of Environmental Protection, Department of Public Health, Council on Environmental Quality, the Department of Agriculture, the Department of Economic and Community Development and the Department of Transportation. In these matters, we deemed it prudent to also include the Department of Emergency Management and Homeland Security. We welcome the inclusion of the Department of Public Safety, Department of Consumer Protection, Department of Public Works and the Department of Labor.

Importantly, so that such requests are not viewed as routine or inquiries which might be ignored, we recommend that the designated state agencies be required to respond in writing within a set time period with specific recommendations, or to inform the Council that they need additional time to respond, or that they have no comments.

Furthermore, we support the creation of a coordinating council during construction. We strongly urge, however, including the requirement that the coordinating council report to us in writing on the satisfactory implementation of the approved development and management plan during construction of the facility. In the event that the coordinating council reports to us that the certificate holder is not in compliance with the approved development and management plan, we also urge you include language that allows us to exercise our enforcement authority under Conn. Gen. Stat. §16-50u as it relates to the certificate of that facility.

Attorney Bachman and I would be pleased to take your questions.