

PA 11-079

SB0860

House	9285-9288	4
Planning & Development	666-667, 669-674, 675, 678- 679, 685-692, 875-876, 943- 948, 962	28
<u>Senate</u>	<u>4877-4881, 4945-4949</u>	<u>10</u>
		42

**JOINT
STANDING
COMMITTEE
HEARINGS**

**PLANNING AND
DEVELOPMENT
PART 3
628 – 964**

2011

SENATOR CASSANO: Thank you.

SENATOR MEYER: Thank you very much.

SENATOR CASSANO: Deanna Rhodes, and then Senator Kissel.

DEANNA RHODES: Good morning. I'm here on behalf of the Town of Portland. I'm the land use administrator. I'm Deanna Rhodes. Susan Bransfield, the First Selectwoman, asked me to come and speak with you regarding two bills that are being considered, and they are Bills 860 and 862.

I have prepared statements for you that I'm going to read. You do not have them in your -- your stack of files there for your yourselves.

On behalf of Susan Bransfield, the Town of Portland First Selectwoman, and the Planning and Zoning Commission of the Town of Portland, I strongly urge you to oppose Bill 860. That would amend Section 825 of the General Statutes to add a new subsection (d).

This new section relative to bonding requirements is very disconcerting, as bonding of public improvements hired to the recording of the records subdivision map is a necessary protection for communities.

Currently a subdivision requiring public improvements may not be filed in the land records until the required bonds are posted.

Under the proposal, developers would be permitted to sell building lots whose only access could be for proposed new underdeveloped roads that may never be

constructed.

There is no way that an unsuspecting buyer would be aware that there was no provisions in place such as bonding to ensure that the required public improvements would be installed for future development of their lot.

The existing conditional approval provisions of 825 already provide developers sufficient mechanisms to circumvent the bonding requirements, for they're still able to provide adequate protection to municipalities and buyers of subdivision lots from any potential fiscal and public safety risk should a developer walk away from a project.

We urge you to oppose Bill 860 for the reasons stated above.

SENATOR CASSANO: [Inaudible] a comment?

DEANNA RHODES: I'm going to move on to Bill 862, if that's okay.

SENATOR CASSANO: Yes.

DEANNA RHODES: On behalf of Susan Bransfield, Town of Portland First Selectwoman and Planning and Zoning Commission of the Town of Portland, I strongly urge you to support proposed Bill 862 to eliminate the word "treble" from the text in subsection (c) of 812a pertaining to imposition of treble damages on a zoning enforcement officer in any civil action if the court finds that a zoning citation was issued frivolously or without probable cause.

The imposition of treble damages unfairly

It is unlikely that such an egregious penalty as treble damages is imposed for enforcement of any other law, statute or ordinance in the State of Connecticut. We urge you to support the repeal of the treble damages in the statute of 812a.

SENATOR CASSANO: Questions? Senator Fasano.

SENATOR FASANO: Thank you, Mr. Chairman. So explain to me just more succinctly on 860.

DEANNA RHODES: Sure.

SENATOR FASANO: Your objection to that is exactly -- what are the fears?

DEANNA RHODES: Well, right now when you have a record subdivision map and it's approved by a Planning and Zoning Commission, you cannot -- and if there's public improvements required, such as a road, you cannot file that mylar under land records or sell lots until the bonds are posted for the municipality to potentially have to construct that road if a developer does not keep the property or walks off on it.

So the town has some protections this. They have relief right now under that same statute that the commission can sign off on their mylar as a conditional approval. They don't have to post the bonds, but they have to construct those improvements, such as the roads, before they sell lots.

So there's one or the other. They have -- they can either post the bond, sell lots, and at least there's some assurances by the town that a road was going to be built by the developer and they're not left hanging, or

they build the road and -- and not post the bonds with the town, and then they sell the lot after the town has approved that loan, at least approved that it -- it meets certain standards. Not necessarily standards, but at least it meets certain standards.

The way that this is written would be that a developer cannot only file the mylars, not post bonds, but also sell the lot. So the -- the towns are left with potentially the concern that a developer sells all these lots on this -- this road that was shown on a subdivision map.

People don't know that there's no assurances that that road's ever going to be built. A developer could leave, and the town obviously would be in a position that these lot owners would want to have their road constructed, and there's no monies put aside to develop this road. There's no bonding. It's just a really dangerous legislation.

SENATOR FASANO: So in your town, if I did a subdivision --

DEANNA RHODES: Uh-huh.

SENATOR FASANO: -- and I decided that I can't get a bond because the economy is such that those are extraordinarily difficult to get nowadays --

DEANNA RHODES: Exactly.

SENATOR FASANO: -- right, but I have the ability to put in a road and I put in everything but the final coat --

DEANNA RHODES: Yes.

SENATOR FASANO: -- under your town, I could do that and sell lots even though I didn't post the bond as long as I put in the road and it met the town's --

DEANNA RHODES: It's actually in the statutes that way. It's not specifically in -- in Portland. That's the way it's in the statutes. You could have a -- an approval or conditional approval, and a conditional approval would allow the developer -- because sometimes they may think that they can put the road in less expensive than maybe what the bond would be.

SENATOR FASANO: Right.

DEANNA RHODES: Because the bond costs are going to be what the cost would be, you know, if the town had to put that road in, all those municipal improvements.

So however, you know, if you're a developer and, you know, you have the means that you can put the road in --

SENATOR FASANO: Right.

DEANNA RHODES: -- and drainage and everything else that you need to do, sometimes it's more cost-effective for you to do that.

However, you can't sell lots onto that road until the town has looked at it and said, yes, the drainage is in and the road is sufficient for people to be able to now live out here.

But, however, that holds them -- that delays them being able to sell lots. However, if

they post the bond, file the mylar, they can,
you know --

SENATOR FASANO: Right.

DEANNA RHODES: -- immediately sell lots.

SENATOR FASANO: Right.

DEANNA RHODES: Because there's some assurances that
they're going to be able to -- that road's
going to be put in.

SENATOR FASANO: My concern is I'm -- I'm -- I hear
that you're saying it's in the statute, that
flexibility, and I'm double-checking that.
It's not my -- been my experience that all
towns follow that that way.

A number of towns have said, look, I don't
care if you put in a road -- if you're going
to put in a road before you sell the lots.
If you start working on that subdivision, you
have to give me a performance bond. That's
my understanding how towns --

And I think this is an effort to address,
perhaps, maybe your correct interpretation
and their in-error interpretation, or the
ambiguity by making it clear that you can do
your option, because what I have found is
that with the bonding procedures, towns try
to ask for a lot more, as you suggest,
perhaps, than what is required economically.
Especially as the cost of construction has
been going down, their sense of what it
should be is not in reality. And I think
that's kind of hurt the ability to get some
things off the ground.

DEANNA RHODES: Well, this obviously would be, like,

erosion and setoff and control bond. That is a bond that, you know, you need to post.

SENATOR FASANO: Right.

DEANNA RHODES: You know, there's potential that there could be issues, so that -- but the performance bond, you're correct in that --

In our case of Portland, the town engineers calculate the performance bond, and I believe it's on the standards of today and how much it would be to -- cost to put in the road.

And, like I said, a developer may be able to do that, you know, considerably at a less expense to him. So the cost of that bond sometimes -- that they have to post may not be the most attractive thing to do, but the town is protected, you know, if they have to construct that road.

But, like I said, there is the -- they are able to go ahead and construct the road, do the improvement and then sell the lot. So it -- it depends on how anxious they are to sell their lot.

You know, if they want to do the road and they can get it in quickly and -- and the town can -- other improvements as well, you know, drainage and -- and the town thinks it's sufficient, then they're all set to sell lots.

So, you know, but this -- this legislation kind of gives them -- it opens the door and lets them have all the powers, you know. It says you can sell your lots, not have to put the road in, no bond. The town's not protected. It's just too wide open, and --

SENATOR FASANO: And I don't think that's the import of it, but I'm mindful of what you said, and I appreciate the comments. Thank you.

Thank you, Mr. Chairman.

SENATOR CASSANO: Other questions or comments?

DEANNA RHODES: Thank you.

SENATOR CASSANO: Seeing none, thank you very much. Senator Kissel.

SENATOR KISSEL: Good morning, Chairman Cassano, Chairman Gentile, Ranking Member Fasano, esteemed members of the Planning and Development Committee. I'll be brief.

I'm here to speak in favor of Committee Bill No. 5780, and I'm delighted to see that the co-chairs of this committee are co-sponsors of this legislation as well. It's An Act Concerning Interlocal Agreements.

And essentially what we're all striving for, I believe, this year -- as much as any other year -- is trying to look for efficiencies as to how we can serve our citizens here in the State of Connecticut.

And what this bill does is take away some of the ambiguities in our statutes, some of the impediments in our statutes that may discourage municipalities or various local agencies from working cooperatively together to try to glean some efficiencies and do things for the people that we serve.

It's not always easy. I know in our neck of the woods, a couple of communities we're

thinking about combine animal control services, and it ended up that the townspeople voted against that.

I do note in here that there is a provision making sure that the public does have a form of input as to these proposals, and I just encourage you to move forward with this legislation so that municipalities that want to work cooperatively together have no impediments in moving forward, at least nothing to discourage them through our statutes, and I'm happy to answer any questions.

SENATOR CASSANO: Thank you, Senator Kissel. Questions? Okay. Thank you.

SENATOR KISSEL: Great. Have a nice day. Thank you.

SENATOR CASSANO: Okay. All right. Bill 487, Bill Ethier, Bob Wiedenmann from the Homeowners Association.

Make a suggestion to the Committee here. The Home Builders have eight bills before us, which will be at least 24 minutes. I suggest that maybe Mr. Ethier will have about ten or eleven minutes to deal with the eight bills at this time instead of coming back and forth.

BILL ETHIER: I wish every Chairman was this gracious.

SENATOR CASSANO: I'd rather say it once than eight times, Bill.

<u>SB 487</u>	<u>SB 491</u>
<u>SB 859</u>	<u>SB 860</u>
<u>SB 869</u>	<u>HB 5473</u>

BILL ETHIER: Well, thank you very much, Senator Cassano and Representative Gentile, members

appropriately so at the front end when the rules of the game are -- are being created.

The next bill is Senate Bill 859, An Act Extending the Time of Expiration of Certain Land Use Permits. As you -- I'm sure you know, subdivision site plan and wetlands permits have a five-year life. They expire after five years. In 2009, you extended that temporarily to six years to deal with the -- the economy that was just starting to go bad at that point.

While due to the severe and lengthy economic recession, particularly for our industry in development where we're experiencing 30 percent unemployment in construction, the number of building permits issued for housing in 2009 and 2010 are the lowest two years on record.

So in order to help deal with this very severe economy we're in, this bill asks for a further extension of three more years of that initial permit timeline.

That will allow markets to hopefully catch up as we crawl out of this -- this mess we're in. And that way, approvals will not expire.

This bill will save municipalities and the state money, because if permits expire, you have to go back through the whole process again. And not only us, but the governments are -- would be wasting resources to re-approve something they've approved in the past. So we urge your support of that.

The next bill is Senate Bill 860 that you heard already some words on, and that's concerning bonds for approved subdivisions.

This is a -- what's before you is a one-sentence concept, and I would offer somewhat agreement with the previous speaker. We don't think the language is worded correctly, that one sentence.

I've attached to my testimony a fully drafted bill that fixes some of the bonding issues for not only subdivisions but site plans. There are a number of issues that we're supporting. We urge you to take a look at our substitute and would be happy to work with the Committee to -- to, you know, get the right language and make sure that municipalities in the public are protected.

We would not support, as has been suggested, doing away with bonding. They -- they do serve purposes -- purpose. But in the interest of time, I'll quickly go on.

The last bill I want to mention is Senate Bill 869, which is at the end of your agenda. It's An Act Concerning Inland Wetland Permits.

You heard me say that a wetland permit has a life of five years. There's a discretionary extension, and hopefully you'll pass the extension bill, but there's a quirk in the wetlands law that allows local wetland agencies to require a developer to do the actual physical work within a much shorter period of time.

So you may have a five-year permit by statute, but you have to complete the work -- Wetland Commission agency may say you have to do the work within one year of approval.

careful. That's all our caution is, be careful about those procedural due process issues. And that I'm not sure if a -- as was suggested earlier, that a -- some type of notice or certification in the town clerk's office that the zoning commission has given something to the town clerk suffices. Courts would not buy that.

The only adequate procedural due process notice in the court's eyes is actual publication that the public sees. It doesn't matter if the clerk gets it. The notice is for the public benefit, not the clerk's benefit.

So there should be -- and we offered in our testimony some statement put on the Internet, a certified statement either from the town clerk or an official from the local commission, that notice was published in this form on this date, you know, and put that in some form on the Internet that will meet the procedural due process concerns.

SENATOR FASANO: And then I want to turn your attention to SB 860. I know you had some substitute language. I haven't really been able to get through it yet, but let's turn to the attention that was raised by the woman -- Deanna Rhodes from Portland.

BILL ETHIER: Yes.

SENATOR FASANO: Her concerns, as I understand them, was that absent the ability to have a bond, people could sell lots -- and we all understand what the import of the bond is. So the bill that you're supporting, how does that jibe with what her concerns are that if this goes through, there would be anarchy in

our subdivisions?

BILL ETHIER: Well, we don't want to create anarchy, and we actually agree with the concern that she raised.

I mean, this one-line concept is not our language, and it was -- as I suggested in my testimony, it was actually one phrase in that one steps that we would oppose.

What our proposal does is address a number of concerns. We do need to fix the bonding process. And our proposal goes to a number of different issues. Perhaps in some respect, our proposal will go too far as well.

I mean, again, I'd be happy to work with you, but one issue we try to address in our language is alternative forms of surety. Towns that require a performance bond, it's -- it's -- as you've suggested, it's very difficult to get. Performance bonds are -- you get from an insurance company. And a lot of insurance companies are out of that market. They're not giving them anymore.

So it's very difficult and it's very expensive. There are alternative forms of surety to ensure that development is done right and that the town has a -- some cash to complete the development if the developer walks away. There are letters of credit, cash bonds.

I know of one town who allows the developer after a subdivision is approved to deed to the town a lot, right, they don't record it, so the town never officially owns it, but

they're holding the deed to a lot.

And if the developer walks away, they record it, and then they can sell the lot and they get the money. I mean, there are -- there are alternative forms of surety. So our proposal would allow that -- those alternative forms of surety at the applicant's option to come in.

There other issues with bonding that -- the release of bonds, if you complete the development work and then you go to the town and say I need my bond back -- and I understand what a bond is or a letter of credit or a cash bond. They're expensive, too. They cost anywhere between a quarter percent to two percent of the value.

And just to throw out an example, let's say you have a moderate-sized development. It's going to cost you a million dollars to build the roads and sewers and water lines and -- and do all the improvements that have -- have been approved. You not only have to spend that money to do that on your workers, but you also have to put up an equivalent cash bond of another million dollars that you give to the town that they hold, plus the fees that are involved, a quarter to two percent, sometimes will want an extra -- some fluff. They have take -- they want a hundred different -- ten percent of what it's going to cost. That's more.

And they're holding all that money. That's tied up. And you complete the development. You spend a million bucks on the development, and then you want that other million dollars back, and they -- they -- you know, some towns will send you through, you know,

nightmares, jump through hoops to get that back, and what -- we've offered some language that they have to give it back to you within 30 days. And if they don't, they have to tell you what you have to do with -- we use the language objective specificity, what you need to do to complete the development to their standards to get your money back.

So -- and we offer some other things in there that fix some of the other bonding process.

SENATOR FASANO: One of the concerns I do have -- I know in your bonding aspect you have letters of credit. You know, one of the concerns I have is that in the late '80s, early '90s when people used to use letter of credits --

BILL ETHIER: Yes.

SENATOR FASANO: -- and then banks went under and the FDIC refused to recognize the letter of credits, many towns were left holding the bag.

So I'm a little skeptical on the letter of credit side of it, because I think when you really look through the details, as I understand it, they don't carry enough weight to protect towns. I have a little concern over that.

BILL ETHIER: Yes, I agree. I've heard that as well.

And it really depends, I suppose, what bank the letter of credit -- the letter of credit is issued from. So perhaps there's some language that we can add to that, that it's a -- I don't know how banks are rated creditworthywise and all that, but -- but

it -- they are used often by some towns.

Some towns, you know, accept them. They're easy for towns. They're much easier for towns to deal with than a performance bond.

Towns have a lot of issues with performance bonds, because if they have to basically cash it in, they have to essentially sue an insurance company.

SENATOR FASANO: Right.

BILL ETHIER: So -- and that can be difficult.
Insurance companies put up fights over that.

So maybe we can work on language on the letters of credit to assure that the letter of credit is drawn from a creditworthy bank. I don't know how -- you know, exactly what that words -- those words would be, but there are options.

SENATOR FASANO: Thank you. Thank you, Madam Chair.

REP. GENTILE: Thank you. Representative Reynolds.

RESENTATIVE REYNOLDS: Thank you, Madam Chairwoman.
Thank you, Bill.

Quick question on 5473 on septic inspections. If there was an exemption for new construction, the homebuilders would support the bill or were there other changes that you would seek?

BILL ETHIER: Well, we're new construction people. We sell new homes. We're not in the business of selling existing homes, so we would -- obviously if there was an exemption from -- for new construction, it would be off the

bill.

REPRESENTATIVE REYNOLDS: Great, thank you.

REP. GENTILE: Representative Simanski.

REP. SIMANSKI: Thank you, Madam Chairwoman.

Bill, I want to thank you for clarifying 860, because I looked at our one-liner here and I looked at your four pages of statutory language, and I don't know which end is up as a freshman legislator.

Does it really boil down to just alternative forms of surety? Is that the difference between you and the testimony we heard from the Town of Portland?

BILL ETHIER: Well, it's -- it's several issues. If you read through our -- our draft, it's alternative forms of surety. It's the process for returning the surety to the developer if the --

REP. SIMANSKI: Right, uh-huh.

BILL ETHIER: -- improvements are done. And I'm drawing a blank right now, but I believe there was another issue in there as well.

And actually, you know, and I do want to point out, I don't want it to go hidden by any means, but we were dealing with the subdivision statute as well as the site plan statute, the zoning statute. And because we had the statute in front of us, there is another provision you -- you may want to strike.

I would urge support, but I think it's

line 98 of our proposal. We have a fix in there of the open-space exemption. It's a simple -- simple issue to us but a very serious issue that, you know, I would hope you would take on, but I just don't know if there's political will to do it. I throw that out there as a -- as a fact of life.

But the open-space issue is a huge one. And as -- as the issue is, as you may know, if a developer has to pay a fee into an open-space fund or if the town wants a combination of fee and land, the statute limits that to ten percent of the value of the property prior to approval.

But if they only want to take land, it's kind of a quirk the way the statute's written. There's no limit.

And there are some towns who take 30, 40, even 50 percent of your property off the top for open space of your property off the top for open space, and there are some towns that go further. They take what's left after they reduce wetlands, steep slopes, ridge lines. You're left with developable land. Then they take 50 percent of that. I mean, that's just not right.

We think it violates the US Constitution, particularly in the US Supreme Court case precedence, particularly the Dolan case from the -- I think it was '94, case that I was involved in.

But, you know, it's very hard to get Bob or one of our members to sue a town and tie themselves up for ten years in court to pursue that issue.

So we offer that. It's in the -- in the amendment as an additional issue. Has nothing to do with bonding, but it's dealing with the same section of the statute.

REP. SIMANSKI: Thank you. One more question.

BILL ETHIER: Thank you.

REP. SIMANSKI: Also I want to question Senate Bill 487 prohibiting local building standards. It seems like you wanted to nip this in the bud. It was more of a nuisance you saw coming.

Can you give us some issue -- some examples of where the towns may be imposing stricter standards than the building code?

BILL ETHIER: Two that I know of off the top of my head is a requirement to install fire sprinklers in a single-family home. That is not required by state statute, and that is a huge expense.

It can be anywhere from seven to ten thousand dollars. That's one. Another one is I've heard of a developer complain about a town. I don't know if they actually -- the town actually went through with it, but the town was talking about imposing certain green building construction standards for homes that go far beyond what the state building code requires in terms of energy efficiency and other things.

And, you know, if that trend is allowed to continue, then we will end up with a wide variety of construction requirements that really eviscerates our statewide building code that we've had since 1970.



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POSITION STATEMENT

PLANNING AND DEVELOPMENT COMMITTEE – FEBRUARY 18, 2011

BILLS:

- **SB 491 An Act Reducing the Number of Public Hearings on Subdivision and Site Plan Applications**
- **SB 860 An Act Concerning Bonds for Approved Subdivisions**
- **SB 896 An Act Making Procedural Changes to the Site Plan and Subdivision Application Process**

OVERVIEW: These proposed bills address procedural requirements for regulatory review of subdivisions and bonding of required public improvements.

ANALYSIS: SB 491 would prohibit a public hearing for a subdivision proposal associated with a zone regulation or boundary change for which a public hearing has been held. SB 860 would allow for a developer to record an approved subdivision prior to posting any required bond for public improvements. SB 896 would permit the zoning, planning, or planning and zoning commission to assign site plan approval and subdivision plan approval to an authorized agent and would prohibit a public hearing on subdivision proposals. These bills appear intended to adjust regulatory and procedural requirements for subdivisions to reduce costs and time required for subdivision reviews.

Municipal land use agencies and developers have long applied public participation, technical review, and bonding procedures as currently provided. Each town has developed and followed procedures that meet individual community goals and these proposed changes will disrupt those established systems.

RECOMMENDATIONS:

SB 491 – Any modifications of subdivision review and approval requirements should carefully evaluate the potential costs and benefits. Rather than a blanket prohibition on public hearings, statutory guidelines may more effectively provide threshold criteria that trigger public hearings, such as number of lots, extent of public improvements, and conformance to open space and other Plan of Conservation and Development goals. Another tool that may ensure the exercise of the public hearing option only where necessary to support informed decision making is the hearing petition process such as provided for inland wetlands and watercourse application reviews in CGS

12a-43. This procedure applies a public interest threshold that has been successfully applied to wetlands reviews for many years and may provide an appropriate model for subdivision reviews.

SB 860 - Bonding of public improvements prior to the recording of record subdivision maps is a necessary protection to the community; further, the conditional approval provisions in CGS 8-25 as well as the recently adopted authorization for provisional sale of lots already provide flexibility for developers.

SB 896 - Discretionary assignment of subdivision approval authority to an agent of the commission raises questions of staffing capacity and technical expertise, as well as a concern for allocation of necessary review costs for outside technical expertise, which many towns incorporate into their application fee structure. Any such authorization should recognize the need for towns to have adequate staff and other resources to ensure adequate protection of public health, safety, and property values.

CCAPA POSITION:

SB 491 - : Reducing the time require for land use decisions is an appropriate goal and CCAPA supports such efforts where they are based on sound planning policies and principles that include meaningful opportunities for public participations and decision-making transparency. Currently, a public hearing on a subdivision is discretionary and this bill would prohibit the exercise of such discretion. The value of a public hearing on a subdivision proposal, where such proposal complies with the applicable technical standards, may vary depending on circumstances. However, in most cases, there are subjective variables that factor into the decision making process, most significantly the location and quality of proposed open space to be provided where required as authorized by CGS 8-23. Thus, planning commissions should not be prohibited from holding a hearing but should be provided with guidelines or criteria that provide predictability to the overall subdivision approval process. CCAPA does not support this bill as currently drafted.

SB 860 - CCAPA believes that weakening the bonding requirements for subdivision site development, particularly in light of significant economic and financial uncertainty, would unduly expose municipalities to fiscal and public safety risks. CCAPA does not support this bill.

SB 896 - CCAPA does not oppose discretionary assignment of administrative tasks to designated agents, although we do not believe the municipal land use agencies will readily apply this concept to subdivision approvals without additional assurances of cost recovery and adequate public protections.



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February 18, 2011

To: Senator Steve Cassano, Co-Chairman
 Representative Linda M. Gentile, Co-Chairman
 Members of the Planning and Development Committee

From: Bill Ethier, Chief Executive Officer

Re: Senate Bill 860, AAC Bonds for Approved Subdivisions

The HBA of Connecticut is a professional trade association with 1,100 member firms statewide, employing tens of thousands of Connecticut citizens. Our members, all small businesses, are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. Our members build 70% to 80% of all new homes and apartments in the state each year.

We thank the committee for raising this bill to fix the performance bond issues related to subdivisions. However, as drafted we cannot support lines 5-6, and the proposal does not go far enough to address a myriad of issues surrounding development bond requirements. We, therefore, attach and request your consideration of a proposed draft that would enact needed changes.

As background, municipal planning and zoning commissions have the authority when approving subdivisions and site plans to require that applicants provide performance bonds or other surety for the approved improvements to land (i.e., roads, sidewalks, utilities, grading and other site development work). This surety protects the ultimate buyers of homes or other users of the developed site, i.e., the municipality exercises its rights under the bond or surety to complete work the applicant fails to do. As improvements are made, towns inspect and approve the work and eventually release the surety back to the permittee.

However, municipalities have widely varying practices and, in our view, many abuse their performance bond authority. Many require specific types of surety that is more expensive for applicants. Some require excessive surety, and many impose substantial delays in releasing the surety that is provided, costing applicants significant financial loss. It does not have to be this way.

Our attached proposal is designed to correct some of the abuses and adopt a more rational, flexible approach that guarantees the public's enjoyment of development improvements as approved by local commissions. Regarding SB 860, as drafted, the provision, "provided work on the subdivision shall not commence prior to the posting of such bond" must be deleted. That line alone would make matters much worse since often developers, allowed by a town, will make improvements prior to providing the required surety in order to "buy down" the amount of surety that is necessary.

"Leading Our Members to Professional Excellence."

Serving the Residential Development & Construction Industry Through Advocacy, Education & Networking

Testimony, Home Builders Association of Connecticut, Inc.
SB 860, AAC Bonds for Approved Subdivisions
February 18, 2011, page 2

Section 1 and section 2 of our proposal addresses, respectively, site plans under sec. 8-3 and subdivisions under sec. 8-25 of the general statutes.

Both sections require the zoning and planning commission to accept, at the discretion of the permittee, common alternate forms of surety, such as letters of credit, cash bonds, and passbook savings account.

Both sections allow such surety to be provided, at the discretion of the permittee, at any time up to and just prior to the first certificate of occupancy. After all, the purpose of the surety is to protect the ultimate owner or user, who cannot enter the property prior to a certificate of occupancy. Requiring the provision of surety at an earlier time just causes the permittee more unnecessary expense for no additional public benefit. The proposal also accommodates the common practice of approving developments in phases and the posting of bonds or surety for each phase.

Further, our proposal lays out conditions and a timeline for the release of a performance bond or other surety.

Also contained in section 2 of our proposal, at line 98, and since it deals with the same statutory section, is a fix to the municipal open space exaction process. Under our subdivision law, when a town requires the payment of an open space fee, or requires a combination of a fee and the actual dedication of open space land, the amount is limited to 10% of the value of the property prior to subdivision approval. However, if a town takes only land, there is no upper limit. And, many towns are savvy to this quirk in the law and exercise their authority to take 30%, 40%, even 50% of your private property. Some even apply the 50% to the developable land that is left after deducting wetlands, steep slopes and ridgelines, effectively taking a majority of your land. We believe this violates the Constitution and U.S. Supreme Court precedent, but no home builder has the resources to fight this battle. We're asking you to fix this wrong.

Finally, section 3 of our proposal fixes another growing trend of municipalities requiring the provision of cash bonds, the interest on which, funds the lifetime or long-term maintenance of public improvements, such as storm water detention basins. These public maintenance costs should be borne by the property taxes all citizens pay. It's a perniciously expensive cost to new developments to have to front principal amounts enough to generate interest for long-term maintenance of public amenities. If this is not stopped, there is nothing to prevent towns from requiring such maintenance bonds for whatever public improvements they can dream of. Please include section 3 of our proposal in legislation that you move forward.

We look forward to working with the committee to address these bonding and open space wrongs we and other development applicants face, and request that you consider the attached as a favorable substitute to SB 860.

Thank you for considering our comments on this important legislation.

Proposal to fix the municipal bonding process for site plans (8-3) and subdivisions (8-25). Also, under 8-25, the open space provisions, as between transfers of land, payment of open space fees, or a combination thereof, is also clarified (see line 98):

1 Section 1. Amend Conn. Gen. Stat. § 8-3(g), as follows:
2

3 (g) The zoning regulations may require that a site plan be filed with the commission or other
4 municipal agency or official to aid in determining the conformity of a proposed building, use or
5 structure with specific provisions of such regulations. If a site plan application involves an
6 activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, the applicant shall submit an
7 application for a permit to the agency responsible for administration of the inland wetlands
8 regulations not later than the day such application is filed with the zoning commission. The
9 commission shall, within the period of time established in section 8-7d, accept the filing of and
10 shall process, pursuant to section 8-7d, any site plan application involving land regulated as an
11 inland wetland or watercourse under chapter 440. The decision of the zoning commission shall
12 not be rendered on the site plan application until the inland wetlands agency has submitted a
13 report with its final decision. In making its decision, the commission shall give due
14 consideration to the report of the inland wetlands agency and if the commission establishes
15 terms and conditions for approval that are not consistent with the final decision of the inland
16 wetlands agency, the commission shall state on the record the reason for such terms and
17 conditions. A site plan may be modified or denied only if it fails to comply with requirements
18 already set forth in the zoning or inland wetlands regulations. Approval of a site plan shall be
19 presumed unless a decision to deny or modify it is rendered within the period specified in
20 section 8-7d. A certificate of approval of any plan for which the period for approval has expired
21 and on which no action has been taken shall be sent to the applicant within fifteen days of the
22 date on which the period for approval has expired. A decision to deny or modify a site plan
23 shall set forth the reasons for such denial or modification. A copy of any decision shall be sent
24 by certified mail to the person who submitted such plan within fifteen days after such decision
25 is rendered. The zoning commission may, as a condition of approval of any modified site plan,
26 require a bond in an amount and with surety and conditions satisfactory to it, securing that any
27 modifications of such site plan are made or may grant an extension of the time to complete
28 work in connection with such modified site plan, provided the zoning commission shall accept,
29 at the sole election of the permittee, surety bonds, letters of credit, cash bonds, passbook or
30 statement savings accounts or other surety, such as the deed to an approved building lot, in a
31 sufficient, but no greater, amount necessary to perform the approved improvements. Such
32 bond or other surety provided under this section may, at the sole election of the permittee, be
33 provided at any time up to and just before the first certificate of occupancy is issued for any
34 building or unit within a building. For any such site plan that is approved to be developed in
35 phases, the surety provisions of this section shall be applied to each phase as if each phase was
36 approved as a separate site plan. [The commission may condition the approval of such
37 extension on a determination of the adequacy of the amount of the bond or other surety
38 furnished under this section.] The commission or its agent shall release any bond or other
39 surety provided under this section within thirty days of the permittee requesting such release,
40 or a portion thereof, provided the commission or its agent is reasonably satisfied that the

41 Improvements relevant to such request have been completed. If the commission or its agent is
42 not so satisfied, the permittee shall be notified, with objective specificity, within 15 days what
43 further work is necessary to complete the improvements relative to such request. The
44 commission shall publish notice of the approval or denial of site plans in a newspaper having a
45 general circulation in the municipality. In any case in which such notice is not published within
46 the fifteen-day period after a decision has been rendered, the person who submitted such plan
47 may provide for the publication of such notice within ten days thereafter. The provisions of this
48 subsection shall apply to all zoning commissions or other final zoning authority of each
49 municipality whether or not such municipality has adopted the provisions of this chapter or the
50 charter of such municipality or special act establishing zoning in the municipality contains
51 similar provisions.

52
53 Section 2. Amend 8-25(a), as follows:

54
55 Sec. 8-25. Subdivision of land. (a) No subdivision of land shall be made until a plan for such
56 subdivision has been approved by the commission. Any person, firm or corporation making any
57 subdivision of land without the approval of the commission shall be fined not more than five
58 hundred dollars for each lot sold or offered for sale or so subdivided. Any plan for subdivision
59 shall, upon approval, or when taken as approved by reason of the failure of the commission to
60 act, be filed or recorded by the applicant in the office of the town clerk not later than ninety
61 days after the expiration of the appeal period under section 8-8, or in the case of an appeal, not
62 later than ninety days after the termination of such appeal by dismissal, withdrawal or
63 judgment in favor of the applicant but, if it is a plan for subdivision wholly or partially within a
64 district, it shall be filed in the offices of both the district clerk and the town clerk, and any plan
65 not so filed or recorded within the prescribed time shall become null and void, except that the
66 commission may extend the time for such filing for two additional periods of ninety days and
67 the plan shall remain valid until the expiration of such extended time. All such plans shall be
68 delivered to the applicant for filing or recording not more than thirty days after the time for
69 taking an appeal from the action of the commission has elapsed or not more than thirty days
70 after the date that plans modified in accordance with the commission's approval and that
71 comply with section 7-31 are delivered to the commission, whichever is later, and in the event
72 of an appeal, not more than thirty days after the termination of such appeal by dismissal,
73 withdrawal or judgment in favor of the applicant or not more than thirty days after the date
74 that plans modified in accordance with the commission's approval and that comply with section
75 7-31 are delivered to the commission, whichever is later. No such plan shall be recorded or
76 filed by the town clerk or district clerk or other officer authorized to record or file plans until its
77 approval has been endorsed thereon by the chairman or secretary of the commission, and the
78 filing or recording of a subdivision plan without such approval shall be void. Before exercising
79 the powers granted in this section, the commission shall adopt regulations covering the
80 subdivision of land. No such regulations shall become effective until after a public hearing held
81 in accordance with the provisions of section 8-7d. Such regulations shall provide that the land
82 to be subdivided shall be of such character that it can be used for building purposes without
83 danger to health or the public safety, that proper provision shall be made for water, sewerage
84 and drainage, including the upgrading of any downstream ditch, culvert or other drainage
85 structure which, through the introduction of additional drainage due to such subdivision,
86 becomes undersized and creates the potential for flooding on a state highway, and, in areas

87 contiguous to brooks, rivers or other bodies of water subject to flooding, including tidal
88 flooding, that proper provision shall be made for protective flood control measures and that
89 the proposed streets are in harmony with existing or proposed principal thoroughfares shown
90 in the plan of conservation and development as described in section 8-23, especially in regard
91 to safe intersections with such thoroughfares, and so arranged and of such width, as to provide
92 an adequate and convenient system for present and prospective traffic needs. Such regulations
93 shall also provide that the commission may require the provision of open spaces, parks and
94 playgrounds when, and in places, deemed proper by the planning commission, which open
95 spaces, parks and playgrounds shall be shown on the subdivision plan. Such regulations may,
96 with the approval of the commission, authorize the applicant to pay a fee to the municipality or
97 pay a fee to the municipality and transfer land to the municipality in lieu of any requirement to
98 provide open spaces. Such transfer of open space, payment of a fee, or combination of
99 payment and the fair market value of land transferred shall be equal to not more than ten per
100 cent of the fair market value of the land to be subdivided prior to the approval of the
101 subdivision. The fair market value shall be determined by an appraiser jointly selected by the
102 commission and the applicant. A fraction of such payment the numerator of which is one and
103 the denominator of which is the number of approved parcels in the subdivision shall be made
104 at the time of the sale of each approved parcel of land in the subdivision and placed in a fund in
105 accordance with the provisions of section 8-25b. The open space requirements of this section
106 shall not apply if the transfer of all land in a subdivision of less than five parcels is to a parent,
107 child, brother, sister, grandparent, grandchild, aunt, uncle or first cousin for no consideration,
108 or if the subdivision is to contain affordable housing, as defined in section 8-39a, equal to
109 twenty per cent or more of the total housing to be constructed in such subdivision. Such
110 regulations, on and after July 1, 1985, shall provide that proper provision be made for soil
111 erosion and sediment control pursuant to section 22a-329. Such regulations shall not impose
112 conditions and requirements on manufactured homes having as their narrowest dimension
113 twenty-two feet or more and built in accordance with federal manufactured home construction
114 and safety standards or on lots containing such manufactured homes which are substantially
115 different from conditions and requirements imposed on single-family dwellings and lots
116 containing single-family dwellings. Such regulations shall not impose conditions and
117 requirements on developments to be occupied by manufactured homes having as their
118 narrowest dimension twenty-two feet or more and built in accordance with federal
119 manufactured home construction and safety standards which are substantially different from
120 conditions and requirements imposed on multifamily dwellings, lots containing multifamily
121 dwellings, cluster developments or planned unit developments. The commission may also
122 prescribe the extent to which and the manner in which streets shall be graded and improved
123 and public utilities and services provided and, in lieu of the completion of such work and
124 installations previous to the final approval of a plan, the commission may accept a bond in an
125 amount and with surety and conditions satisfactory to it securing to the municipality the actual
126 construction, maintenance and installation of such public improvements and utilities within a
127 period specified in the bond, provided the commission shall accept, at the sole election of the
128 permittee, surety bonds, letters of credit, cash bonds, passbook or statement savings accounts
129 or other surety, such as the deed to an approved building lot, in a sufficient, but no greater,
130 amount necessary to perform the approved improvements. Such bond or other surety
131 provided under this section may, at the sole election of the permittee, be provided at any time
132 up to and just before the first certificate of occupancy is issued for any building or unit within a

133 building. For any such subdivision that is approved to be developed in phases, the surety
134 provisions of this section shall be applied to each phase as if each phase was approved as a
135 separate subdivision. Such regulations may provide, in lieu of the completion of the work and
136 installations above referred to, previous to the final approval of a plan, for an assessment or
137 other method whereby the municipality is put in an assured position to do such work and make
138 such installations at the expense of the owners of the property within the subdivision. Such
139 regulations may provide that in lieu of either the completion of the work or the furnishing of a
140 bond or other surety as provided in this section, the commission may authorize the filing of a
141 plan with a conditional approval endorsed thereon. Such approval shall be conditioned on (1)
142 the actual construction, maintenance and installation of any improvements or utilities
143 prescribed by the commission, or (2) the provision of a bond or other surety as provided in this
144 section. Upon the occurrence of either of such events, the commission shall cause a final
145 approval to be endorsed thereon in the manner provided by this section. The commission or its
146 agent shall release any bond or other surety provided under this section within thirty days of
147 the permittee requesting such release, or a portion thereof, provided the commission or its
148 agent is reasonably satisfied that the improvements relevant to such request have been
149 completed. If the commission or its agent is not so satisfied, the permittee shall be notified,
150 with objective specificity, within 15 days what further work is necessary to complete the
151 improvements relative to such request. Any such conditional approval shall lapse five years
152 from the date it is granted, provided the applicant may apply for and the commission may, in its
153 discretion, grant a renewal of such conditional approval for an additional period of five years at
154 the end of any five-year period, except that the commission may, by regulation, provide for a
155 shorter period of conditional approval or renewal of such approval. Any person who enters
156 into a contract for the purchase of any lot subdivided pursuant to a conditional approval may
157 rescind such contract by delivering a written notice of rescission to the seller not later than
158 three days after receipt of written notice of final approval if such final approval has additional
159 amendments or any conditions that were not included in the conditional approval and are
160 unacceptable to the buyer. Any person, firm or corporation who, prior to such final approval,
161 transfers title to any lot subdivided pursuant to a conditional approval shall be fined not more
162 than one thousand dollars for each lot transferred. Nothing in this subsection shall be
163 construed to authorize the marketing of any lot prior to the granting of conditional approval or
164 renewal of such conditional approval.

165

166 Section 3. (NEW) No municipal regulation, ordinance or municipal charter provision, nor any
167 provision of any special act municipality, shall provide authority to require of a site plan
168 applicant under chapter 124, subdivision applicant under chapter 126, or development under
169 any special act authority, the provision of a maintenance bond or other surety intended to
170 securitize or pay for the maintenance of roads, streets, or other improvements associated with
171 the site plan or subdivision approved under such chapters or special act authority.

172



TESTIMONY
of the
CONNECTICUT CONFERENCE OF MUNICIPALITIES
to the
PLANNING AND DEVELOPMENT COMMITTEE

February 18, 2011

The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities and the voice of local governments - your partners in governing Connecticut. Our members represent over 93% of Connecticut's population. We appreciate the opportunity to testify on the following bill of interest to towns and cities:

S.B. 860, "An Act Concerning Bonds for Approved Subdivisions"

CCM opposes this bill.

S.B. 860 would increase municipal liability exposure by weakening the bonding requirements for approved subdivisions.

The bill would strip the most basic protection that a lot purchaser and a municipality has under the subdivision process. Subdivision regulations are consumer protection regulations first and foremost. When stripped down to its basics, an approved subdivision plan provides a guarantee to a lot purchaser that he/she will be able to build on a lot that they purchased in good faith.

The requirement that a bond be posted prior to the filing provides a guarantee to the buyer that the infrastructure will be in place to support the residential structure he or she hopes to someday build. Without the bond, a developer would conceivably be able to sell all the lots without building the improvements and leave town. That might lead many lot buyers to pressure the municipality to complete the improvements, since they approved and signed the plans.

CCM urges the Committee to consider the conditional approval provisions in CGS Section 8-25, which provide enough flexibility for developers.

Considering the uniqueness of the economic and fiscal crisis facing towns and cities, this is not the time to increase municipal liability exposure.

CCM urges the Committee to take no action on this bill.

##

If you have any questions, please contact Ron Thomas at rthomas@ccm-ct.org or (203) 498-3000.

H – 1118

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2011**

**VOL.54
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8965 – 9294**

law/lxe/jr/fst/gbr
HOUSE OF REPRESENTATIVES

800
June 7, 2011

Any objection to summarization? Hearing none,
Representative, you may proceed.

REP. GENTILE (104th):

Yes, just quickly. This changes the timeframe from
15 days to 30 days before the expiration of the filing of
such declaration. I move adoption.

SPEAKER DONOVAN:

The question is on adoption. Remark further?
Remark further? If not, all those in favor, please
signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER DONOVAN:

Opposed nay. The ayes have it. The amendment's
adopted. Representative Gentile.

REP. GENTILE (104th):

Mr. Speaker, I would move this item to Consent.

SPEAKER DONOVAN:

Without objection, placed on the Consent Calendar.

Will the Clerk please call Calendar 593.

THE CLERK:

On page 32, Calendar 593, Substitute for Senate Bill
860, AN ACT CONCERNING BONDS AND OTHER SURETY FOR APPROVED
SITE PLANS AND SUBDIVISIONS, favorable report of the

Committee on Planning and Development.

SPEAKER DONOVAN:

Representative Gentile.

REP. GENTILE (104th):

Thank you, Mr. Speaker.

Mr. Speaker, this bill will allow -- I'm sorry. Mr. Speaker, I move for acceptance of the Joint Committee's favorable report and passage of the bill.

SPEAKER DONOVAN:

The question is on acceptance and passage.

REP. GENTILE (104th):

Mr. Speaker, this bill will allow subdivision applicants to post surety bonds after subdivision plans are filed, as long as the work on the subdivision does not start before the bond is posted.

Mr. Speaker, the Clerk is in possession of LCO Number 7899. I -- I ask that the Clerk please call and I be granted leave to summarize.

SPEAKER DONOVAN:

Clerk, please call LCO 7899, designated Senate "A".

THE CLERK:

LCO Number 7899, Senate "A", offered by Senator Williams et al.

SPEAKER DONOVAN:

Clerk, will you -- summarize -- any objection?

Hearing none, Representative, please proceed. Please proceed with summarization.

REP. GENTILE (104th):

Thank you, Mr. Speaker.

Mr. Speaker, this amendment is just some clean-up language, and I urge adoption.

SPEAKER DONOVAN:

Remark further on the amendment. Remark further? Any other remarks? All those in favor of the amendment, please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER DONOVAN:

Opposed nay. The ayes have it. The amendment's adopted.

Remark further on the bill? If not, staff and guests come to the well of the House. Members, take their seats. The machine will be opened.

REP. GENTILE (104th):

Thank you.

THE CLERK:

The House of Representatives is voting by roll call.

Members the to the Chamber. The House is voting by roll

call. Members to the chamber please.

SPEAKER DONOVAN:

Have all the members voted? Have all the members voted? Please check the roll call board to make sure your vote has been properly cast. If all the members have voted, the machine will be locked. Clerk, please take a tally. Clerk, please announce the tally.

THE CLERK:

Senate Bill Number 860 as amended by Senate "A" in concurrence with the Senate.

Total number voting	140
Necessary for passage	71
Those voting Yea	98
Those voting Nay	42
Those absent and not voting	11

SPEAKER DONOVAN:

Bill as amended is passed. Representative Sharkey.

Representative Sharkey?

A VOICE:

Just call the Consent Calendar.

SPEAKER DONOVAN:

Clerk, please call the Consent Calendar.

A VOICE:

What's the first one on there?

S - 626

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2011**

**VOL. 54
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4617 - 4950**

pab/cd/gbr
SENATE

261
June 2, 2011

Senator Looney.

SENATOR LOONEY:

Yes. Thank you, Mr. President. |

Mr. President, would like to move now, to a couple of items from the Committee on Planning and Development. First is Calendar page 7, Calendar 304, Senate Bill 860. Would like to -- to mark that item go at this time and also calendar 3 - Calendar page 39, Calendar 303, Senate Bill 764.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Mr. Clerk.

THE CLERK:

Calendar page 7, Calendar 304, File Number 504, substitute for Senate Bill 860, AN ACT CONCERNING BONDS AND OTHER SURETY FOR APPROVED SITE PLANS AND SUBDIVISIONS, Favorable Report of the Committee on Planning and Development. The Clerk is in possession of the amendments.

THE CHAIR:

Conversations, please, outside the Chamber.
Senator Cassano is bringing out a bill.

pab/cd/gbr
SENATE

262
June 2, 2011

SENATOR CASSANO:

Thank you, Mr. President.

THE CHAIR:

Senator Cassano.

SENATOR CASSANO:

I'd like to move acceptance of the Joint Committee Favorable Report, move passage of the bill and waive its reading. The bill 860 is an act concerning bonds and other surety, for approved site plans and subdivisions.

THE CHAIR:

On acceptance and passage, will you remark?

SENATOR CASSANO:

Yes. Mr. President, this is one of a series of bills that we have brought forward through Planning and Zoning. And I would, first of all, be remiss if I did not thank two Ranking Members, Senator Fasano and Representative Aman, who have been here through the years and have helped us with a lot of these bills, many of them designed to speed up the process, the approval process, or to allow existing projects to continue, simply because of the recession that we have been undergoing, and its impact on -- on builders and

pab/cd/gbr
SENATE

263
June 2, 2011

on communities.

The bill has been amended. The amendment
LCO number is 7899.

THE CHAIR:

Senator Cassano is having a hard time --

SENATOR CASSANO:

-- hearing myself.

THE CHAIR:

-- hearing himself. Can we please take
conversations outside the Chamber? Thank you.
Senator Cassano, would you repeat the LCO number?

SENATOR CASSANO:

LCO 7899.

THE CHAIR:

Thank you, Mr. Clerk.

THE CLERK:

LCO 7899, which will be designated Senate
Amendment Schedule "A". It is offered by Senator
Cassano, the 4th District, et al.

THE CHAIR:

Senator Cassano.

SENATOR CASSANO:

Yes. I move approval of the amendment.

THE CHAIR:

pab/cd/gbr
SENATE

264
June 2, 2011

On adoption, will you remark?

SENATOR CASSANO:

Yes. There are a couple of sections of the amendment, most of it is to add "or surety" throughout the bill, but it gives a couple of options to satisfy any bond or surety requirement. The Commission can accept surety bonds, cash bonds, payment or state book (sic.) savings accounts by the approval of the Commission itself, so that that doesn't change the way we do things at a local level.

It allows for 65 days upon completion of a project, to be reimbursed, instead of 30. And the last amendment lines, line 71, for maintenance occurring, there is a bond posted once the road is accepted by the municipality, then the builder would get back that particular bonding.

With that I would move for adoption of the amendment.

THE CHAIR:

Thank you, Senator.

Will you remark further on the amendment?

Will you remark further, Senator Meyer? Will you

pab/cd/gbr
SENATE

265
June 2, 2011

remark further on the amendment? If not, I'll
try your minds. All those in favor please
signify by saying, aye.

SENATORS:

Aye.

THE CHAIR:

Opposed, nay. The ayes have it. The
amendment's adopted.

Will you remark further on the bill as
amended?

Senator Cassano.

SENATOR CASSANO:

I would urge adoption of the bill as
amended.

THE CHAIR:

Will you remark further on the bill as
amended? Will you remark further on the bill as
amended?

SENATOR CASSANO:

Hearing no comment, I'd ask that it be put
on Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR CASSANO:

pab/cd/gbr
SENATE

329
June 2, 2011

Thank you, Madam President.

THE CHAIR:

And at this time, I'd ask if there's --
seeing no objection, the bill will be put on
Consent.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President. Good evening,
again, Madam President.

THE CHAIR:

Good evening, sir.

SENATOR LOONEY:

Madam President would like to have the Clerk
call the items on the Consent Calendar, so that
we might move to a vote on that Consent Calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

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

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

pab/cd/gbr
SENATE

330
June 2, 2011

Madam President, the items placed on the First Consent Calendar begin on Calendar page 1, Calendar 571, House Joint Resolution Number 122; Calendar 593, Senate Joint Resolution Number 52; Calendar page 3, Calendar Number 130, substitute for Senate Bill 999; Calendar page 5, Calendar Number 221, substitute for Senate Bill 858; Calendar 222, substitute for Senate Bill 973; Calendar page 7, Calendar Number 270, substitute for Senate Bill 212; Calendar 299, substitute for Senate Bill 139; Calendar 304, substitute for Senate Bill 860; Calendar page 10, Calendar Number 439, substitute for Senate Bill 1216; Calendar page 11, Calendar 456, substitute for Senate Bill 927; Calendar page 29, Calendar Number 41, substitute for Senate Bill 98; Calendar page 31, Calendar Number 114, substitute for Senate Bill 881; Calendar page 32, Calendar 140, substitute for Senate Bill 863; Calendar page 34, Calendar Number 201, substitute for Senate Bill 1038; Calendar page 35, Calendar 215, Senate Bill 227; Calendar 236, Senate Bill 371; Calendar page 37, Calendar Number 271, substitute for Senate Bill 1111, Calendar page 38, Calendar

pab/cd/gbr
SENATE

331
June 2, 2011

293, substitute for Senate Bill 1103; Calendar page 39, Calendar 303, substitute for Senate Bill 764; Calendar page 40, Calendar 342, Senate Bill 843; Calendar page 41, Calendar 362, substitute for Senate Bill 1217; Calendar 368, substitute for Senate Bill 882; Calendar 369, substitute for Senate Bill 939; Calendar page 43, Calendar 382, substitute for Senate Bill 1224; Calendar page 44, Calendar 398, substitute for Senate Bill 1044; Calendar page 45, Calendar 410, House Bill 5021; Calendar page 46, Calendar 434, substitute for Senate Bill 1219.

Madam President, that completes the items placed on the First Consent Calendar.

THE CHAIR:

We'll wait a moment. Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, there is one item that we will need to remove from the Consent Calendar, because it needs to be amended and be reconsidered and then amended, and that is Calendar page 5, Calendar 222, Senate Bill 973. If that item might be removed from the Consent

pab/cd/gbr
SENATE

332
June 2, 2011

Calendar and called after the Consent Calendar,
so it can be corrected?

THE CHAIR:

The bill is removed from the Consent
Calendar. At this time, Mr. Clerk, will you re-
announce the roll call vote and the machine will
be open?

THE CLERK:

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

THE CHAIR:

All members voted? All members have noted.
The machine will be closed. Mr. Clerk, will you
call the tally?

THE CLERK:

Motions on adoption and Consent Calendar

Number 1:

Total number voting	36
Those voting Yea	36
Those voting Nay	0

pab/cd/gbr
SENATE

333
June 2, 2011

Those absent, not voting 0

THE CHAIR:

The Consent Calendar passed. Mr. Clerk, do you want to recall that bill? Senator Looney.

SENATOR LOONEY:

Yes. Thank you, Madam President.

Madam President, if that item might -- might be passed temporarily, I believe the amendment that would be a strike-all that we needed is not -- not here yet. So we will pass that item.

SB913

Madam President would yield the floor for Members for purposes of announcements or points of personal privilege.

THE CHAIR:

Are there any announcements or points of personal privilege? Any point of personal privilege or announcements? Seeing none.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, it's our intention to convene tomorrow at 11:00. Also, advise Members that you should make the weekend, especially Saturday, available for possible session, as