

PA13-152

HB6587

House	4359-4364	6
Judiciary	1867-1873, 2054-2055, 2061	10
Senate	4142-4144	3
		19

H – 1162

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2013**

**VOL.56
PART 13
4177 – 4511**

Have all the members voted? Have all the members voted?

Members please check the board to make sure that your vote is properly cast.

If, in fact, all the members have voted, the machine will be locked by the Speaker. Careful now. And the Clerk will take a tally.

Will the Clerk please call the tally.

THE CLERK:

Bill Number 6488

Total Number Voting 134

Necessary for Passage 68

Those voting Yea 134

Those voting Nay 0

Absent and not voting 16

DEPUTY SPEAKER GODFREY:

The bill passes.

Will the Clerk please call the Calendar 422?

THE CLERK:

Calendar 422, Page 21, Favorable Report of the Joint Standing Committee on Judiciary, AN ACT --, House Bill 6587, AN ACT CONCERNING AMENDMENTS TO CONTRACTS BETWEEN THE STATE AND MUNICIPALITY IN WHICH A CORRECTIONAL FACILITY IS LOCATED.

DEPUTY SPEAKER GODFREY:

Representative Fritz of the 90th.

REP. FRITZ (90th):

Thank you, Mr. Speaker.

I move acceptance of the Joint Committee's favorable report and passage of the bill.

DEPUTY SPEAKER GODFREY:

Question is acceptance of the Joint Committee's favorable report and passage of the bill.

Will you remark, madam?

REP. FRITZ (90th):

For a very brief explanation. This deals with contracts that are made between prison communities or communities which house correctional facilities and the towns where they are located. And for some reason, there is one town that has not been able to accomplish this, so that's why this bill is before us.

And I move for passage.

DEPUTY SPEAKER GODFREY:

Thank you, madam.

REP. FRITZ (90th):

Mr. Speaker, the Clerk has an Amendment, LCO 6769. If I may -- if he may call it and I may summarize, please.

hac/gbr
HOUSE OF REPRESENTATIVES

433
May 15, 2013

DEPUTY SPEAKER GODFREY:

Will the Clerk please call LCO 6769, which will be designated House Amendment "A".

THE CLERK:

House Amendment "A", LCO 6769, introduced by Representative Fritz.

REP. FRITZ (90th):

It's just a very simple Amendment. In fact, it's two words. It --

DEPUTY SPEAKER GODFREY:

If I may, madam? I just want to -- she's -- the Chairwoman seeks leave of the Chamber to summarize.

Is there objection to summarization?

I can't imagine there would be. There is none.

You may proceed, madam.

REP. FRITZ (90th):

Thank you, Mr. Speaker.

This is a very simple Amendment, which removes two words, which are, in fact, and obtain, which I believe makes this bill much better.

And I move passage, sir.

DEPUTY SPEAKER GODFREY:

Thank you, madam.

Will you remark further on the Amendment that's before us?

Representative Rebimbas of the 70th.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker.

I stand in support of the Amendment, as it does not change the meaning, just clarifies the sentence.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, madam.

Will you remark further on the Amendment that's before us? Will you remark further on the Amendment?

If not, let me try your minds. All those in favor of House Amendment "A", please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Those opposed, nay.

REPRESENTATIVES:

Nay.

DEPUTY SPEAKER GODFREY:

The ayes have it.

The amendment is adopted.

Do you care to remark further on the bill as amended? Do you care to remark further on the bill as amended?

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. -- thank you, Mr. Speaker.

I rise in support of the bill as amended before us. This is certainly permissive and it certainly would provide a fairness and equality for any town that may have a correctional facility that they needed to negotiate, again, in the interest of fairness and equality, based on all the other contracts in any other towns with a correctional facility.

So I do rise in support of the Amendment that's before us, Mr. Speaker.

A fiscal impact is unknown at this time, as we don't know what potential changes there might be down the line, but I do support this bill.

DEPUTY SPEAKER GODFREY:

Thank you, madam.

Would you care to remark further on the bill as amended?

If not, staff and guests to the Well of the House? Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll.

The House of Representative is voting by roll. Will members please return to the Chamber immediately?

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members voted?

Would the members please check the board to make sure your vote is properly cast.

If all the members have voted, the machine will be locked. And the Clerk will take a tally.

Will the Clerk please announce the tally?

THE CLERK:

Bill Number 6587 as amended by House "A".

Total Number Voting 133

Necessary for Passage 67

Those voting Yea 137

Those voting Nay 1

Absent and not voting 17

DEPUTY SPEAKER GODFREY:

The bill, as amended, passes.

S - 665

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
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SENATORS:

Aye.

THE CHAIR:

Opposed.

Senate B has been adopted.

This time, Senator Leone.

SENATOR LEONE:

If there are no objections, I would put to move this on the Consent Calendar.

THE CHAIR:

Are there -- seeing no objections, so ordered.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, before calling for a vote on the first Consent Calendar, I have some additional items to add to that Consent Calendar. Appreciate the cooperation, the bipartisan cooperation of the membership in preparing this Consent Calendar. First item to add, Madam President, is on Calendar page 6, Calendar 349, House Bill Number 5513.

Next item, Madam President, Calendar page 9, Calendar 450, 450, Senate Bill Number 921. Next one, Madam President, is on Calendar page 16, Calendar 559, House Bill Number 6508. Next, Madam President, is on Calendar page 23, Calendar 614, House Bill Number 6587 and also on Calendar page 23, Calendar 616, substitute for House Bill Number 6678.

Moving, Madam President, to Calendar page 25, Calendar 629, substitute for House Bill Number 6662. And, Madam President, Calendar page 28, Calendar 650, substitute for House Bill Number 6659. And on

Calendar page 29, Calendar 653, substitute for House Bill Number 6699. And, finally, Madam President, on Calendar page 31, Calendar 664, substitute for House Bill Number 6689.

I would like to add those items to our Consent Calendar and, and now call for a, I would ask the Clerk to list all of the items on the Consent Calendar and then proceed to a vote on that first Consent Calendar.

Thank you, Madam President.

THE CHAIR:

Thank you.

Mr. Clerk.

THE CLERK:

Today's first Consent Calendar, on page 5, Calendar 341, House Bill 6364; Calendar 343, House Bill 5425; Calendar 346, House Bill 6322; Calendar 347, House Bill 6547; and on page 6, Calendar 349, House Bill 5513; page 9, Calendar 450, Senate Bill 921; on page 13, Calendar 506, House Bill 6491; Calendar 515, House Bill 6235.

On page 14, Calendar 524, House Bill 6380; on page 16, Calendar 559, House Bill 6508; page 17, Calendar 563, House Bill 5617; Calendar 569, House Bill 6485; and on page 19, Calendar 588, House Bill 6549; on page 23, Calendar 614, House Bill 6587; Calendar 616, House Bill 6678; page 25, Calendar 629, House Bill 6662; on page 26, Calendar 633, House Bill 6576; and on page 27, Calendar 640, House Bill 6550; on page 28, Calendar 650, House Bill 6659.

And on Page 29, Calendar 653, House Bill 6699; Calendar 655, House Bill 6339; page 31, Calendar 664, House Bill 6689; Calendar 665, House Bill 6355; page 34, Calendar 201, Senate Bill 911; and on page 40, Calendar 514, House Bill 5725.

THE CHAIR:

Mr. Clerk, will you call for a roll call vote on the first Consent Calendar. And the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate roll call in the Senate on the first Consent Calendar of the day.

THE CHAIR:

Yeah, thank you. Good. There we go.

If all members have voted, all members have voted, the machine will be closed.

Mr. Clerk, will you please call the tally.

THE CLERK:

On the first Consent Calendar,

Total Number Voting 34

Necessary for Adoption 18

Those voting Yea 34

Those voting Nay 0

Those absent and not voting 2

THE CHAIR:

Consent Calendar passes.

Senator Looney.

SENATOR LOONEY:

Madam President.

THE CHAIR:

Senator Looney.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 6
1718 - 2061**

2013

they cost 300 -- 400 bucks, just because it wasn't entered into evidence be excluded, so would be happy to work with some language there if you would like to.

SUSAN GIACALONE: Absolutely.

REP. SMITH: Thank you.

SENATOR COLEMAN: Do other members have questions?

Seeing none, thank you, Sue.

SUSAN GIACALONE: Thank you.

SENATOR COLEMAN: Michael Lilone is next.

HB 6587

How do I pronounce L-i-l-o-n-e?

MICHAEL MILONE: (Inaudible).

SENATOR COLEMAN: Oh, okay. That makes me feel a little better.

MICHAEL MILONE: (Inaudible).

SENATOR COLEMAN: Mr. Manager, would you press the button to activate your microphone. There you go.

MICHAEL MILONE: Can you hear me now?

SENATOR COLEMAN: Can hear you now.

MICHAEL MILONE: Okay. You don't want me to repeat my introduction I hope?

SENATOR COLEMAN: Pick up from where -- wherever you like.

MICHAEL MILONE: Okay. Fine. Thank you.

Cheshire is host to the second largest prison complex in the state of Connecticut and our most recent formal relationship with the -- with the state was established in an agreement dated October 31st, 1990. While this agreement addressed the state's needs in 1990 much has changed resulting in a need to revisit this agreement and revise it to address the increasing demands that the corrections facilities now impose on the town of Cheshire.

Unfortunately, repeated efforts to renegotiate a successor agreement or an amendment have been rebuffed by the State Department of Corrections and the Office of Policy and Management dating back to September 2006. Consequently, our only remaining recourse is to seek relief from the legislature.

By way of background, the state of Connecticut also has contractual agreements with other prison towns which outlines the parameters and more importantly the financial conditions for this relationship. These agreements with other prison towns include ongoing financial support from the state where the capital cost incurred by the towns for treatment plant improvements, modifications and replacement or upgrade such that the cost, "Shall be apportioned between the town and the state on the basis of their respective average daily flows."

This contractual provision is extremely important to us sense Cheshire is embarking on a \$32.1 million wastewater treatment plant upgrade. Without state support the full cost of the repayment of the clean water funds loan and the corollary benefit to the prison will be borne exclusively by our local taxpayers.

Additionally, other prison towns have contractual provisions that allow them to

impose a surcharge for excess flow beyond gallons permitted in the contract.

In Cheshire's agreement with the DOC the daily flow is permitted for 350,000 gallons per day, yet their daily flow has averaged well in excess of 450,000 gallons per day and while the state is exceeding their contracted flows by at least 100,000 gallons a day and using up vital plant capacity, the state is not paying a surcharge under our current agreement.

Additional, and as a result of the DOC's past history of exceeding their contractual capacity with significant excess flows, about five years ago the town of Cheshire reached 90 percent of plant capacity and we were forced by DEEP to conduct a very expensive and time consuming expansion capacity study, which was the direct result of the prison's excess flows.

With no other recourse the town of Cheshire sued the state over this breach of contract about six months ago; however, we would prefer not to continue to pursue litigation if we can simply get the State Department of Corrections and OPM to negotiate a successor agreement that provides parity to Cheshire. By parity we are requesting that our contractual language mirrors of that Enfield and Suffield that the state pay a proportionate share of the treatment plant upgrade as well as buying additional capacity in our plant or pay a surcharge for their excess flow of effluent. Being a host community for a prison is not an asset nor a benefit and to exacerbate the situation the Governor's proposed budget would eliminate the pilot for state property for the prison, which is a revenue loss of \$2.1 million for Cheshire.

Consequently, it is now more critical than ever

that we realize some financial relief through an amendment to our prison agreement and I urge your support of this legislation.

Thank you very much for allowing me to testify and I wish you all well in your deliberations during this legislative session.

Thank you.

SENATOR COLEMAN: Thank you.

Are there questions?

Representative Adinolfi.

REP. ADINOLFI: Welcome, Michael Milone.

MICHAEL MILONE: Thank you.

REP. ADINOLFI: I -- I know you well.

MICHAEL MILONE: Thank you.

REP. ADINOLFI: I served on the Town Council seven years in Cheshire and if I remember correctly the change that we're looking for we really shouldn't have had to look for because it was understood that they were going to pay for the extra flow; however, it was just missed in the contract where the other towns that are in the same situation have that. Am -- am I correct on that?

MICHAEL MILONE: Yes, you are, Representative Adinolfi, and the reason that I eluded to Enfield and Suffield is for those of you who are close in age to me you will recall that back in the late '80s there was a major prison expansion, and as part of that expansion Enfield, Suffield and Cheshire were singled out for significant increases in their prison

complex, and as a result of that, these contracts were developed, so the specific references were to those two towns simply because they were at the same time expanding as Cheshire did.

And I presume that, you know, the expectation was that our agreement would mirror their agreements. Unfortunately that never happened and it never came to light until within the last six or seven years when we started to realize the need for upgrading our treatment plants and the fact that our agreement was absent a provision that was included in the other two agreements.

REP. ADINOLFI: Thank you.

If I remember, the 100,000 gallons that you're alluding to, was that the actual measurement because I know we did discover that the measurement system was way off and we were actually receiving a lot more gallon than they had said they sent.

MICHAEL MILONE: No, you're correct.

We -- we've had a problem with the metering at the prison. What we discovered is that the meter is under reporting the flow on the effluent that's going to our treatment, so the 100,000 excess gallons that I'm referring to was based on what was in place at the time and is a malfunctioning meter, which has since been corrected.

REP. ADINOLFI: All right. Thank you.

I'm done.

SENATOR COLEMAN: Are there others with questions?

Representative Rebimbas.

REP. REBIMBAS: Thank you, Mr. Chair.

And thank you for your testimony.

One question just for clarification purposes. Is the response from the state merely the fact that that provision isn't part of the contract? And then another question would be what -- do you know the average cost that the town of Cheshire is incurring?

MICHAEL MILONE: The first question is the -- the state's -- the state's reaction to us was that they do not amend prison agreements. We found, in fact, that prison agreements have been amended. Enfield was amended I think in 2006, Suffield in 2010 for the very reasons that we're today and that is excess flow.

As far as the cost, Representative, the state prison is paying for the amount of flow that is going to our treatment plant, but they're not paying a surcharge, as the other prison towns are receiving. And the reason the surcharge is so important to us is because what's happening is, is they're using up capacity that we could otherwise distribute for commercial and residential development.

And the other concern we have is, is that when you reach 90 percent of capacity, the state forces you again to do an expansion study, and so because of that they put us in the precarious position of one, using up capacity that we could otherwise use for development and two, putting us in the position where we're going to incur additional cost from the state and possibly have to do an expansion on top of an upgrade simply because the prison is continued to -- continued to exceed the flow

that they in fact agreed to when we signed this contract.

REP. REBIMBAS: Thank you for your response.

SENATOR COLEMAN: Are there other questions?

Mr. (inaudible) I have a question related I guess to this issue, but really on another bill. I'm wondering whether your office keeps any statistics concerning the number of inmates that reside in Cheshire upon release from the correctional institutions in Cheshire.

MICHAEL MILONE: The number of inmates that we have at the correctional institutes?

SENATOR COLEMAN: No, that upon release or discharge

--

MICHAEL MILONE: Yes.

SENATOR COLEMAN: -- from the correctional institution are residing in Cheshire.

MICHAEL MILONE: I don't have those statistics --

SENATOR COLEMAN: Okay.

MICHAEL MILONE: -- Mr. Chairman.

SENATOR COLEMAN: All right. Thank you.

Any other questions?

MICHAEL MILONE: Thank you very much for your time.

SENATOR COLEMAN: Harry Mitchell.

HARRY MITCHELL: Good afternoon, Senator Coleman and members of the Judiciary Committee.

HB 6572

PAGE 3
LINE 15

Testimony by Michael A. Milone
Town Manager, Cheshire
Judiciary Committee
Wednesday, March 13, 2013
Legislative Office Building

Re: H.B. No. 6587 -- An Act Concerning Amendments to Contracts Between the State and any Municipality in which a Correction Facility is Located.

Honorable Committee Members, good afternoon and thank you for allowing me to address you. My name is Michael A. Milone, and I am the Town Manager for the Town of Cheshire, and I am here to support H.B. No. 6587 – An Act Concerning Amendments to Contracts Between the State and any Municipality in which a Correction Facility is Located.

Cheshire is host to the second largest prison complex in the State of Connecticut, and our most recent formal relationship with the State was established in an agreement dated October 31, 1990. While this agreement addressed the Town's needs in 1990, much has changed resulting in a need to revisit this agreement and revise it to address the increasing demands that the Corrections facilities now impose on the Town of Cheshire.

Unfortunately, repeated efforts to renegotiate a successor agreement or an amendment have been rebuffed by the State Department of Corrections (DOC) and the Office of Policy and Management (OPM) dating back to September 2006. Consequently, our only remaining recourse is to seek relief from the Legislature.

By way of background, the State of Connecticut also has contractual agreements with other prison towns, which outline the parameters and more importantly, the financial conditions for this relationship. These agreements with other prison towns include ongoing financial support from the State for the capital costs incurred by the towns for treatment plant improvements, modifications and replacement or upgrades such that the costs "*shall be apportioned between the Town and the State on the basis of their respective average daily flows.*"

This contractual provision is extremely important to us since Cheshire is embarking on a \$32.15 million Wastewater Treatment Plant upgrade.

Without State support, the full cost of the repayment of Clean Water funds, and the corollary benefit to the prison, will be borne by our local taxpayers.

Additionally, other prison towns have contractual provisions that allow them to impose a surcharge for excess flow beyond the gallons permitted in the contract. In Cheshire's agreement with the DOC the daily flow is permitted for 350,000 gallons per day yet their daily flow has averaged in excess of 450,000 gallons per day; and while the State is exceeding their contracted flows by at least 100,000 gallons a day and using up vital plant capacity, the State is not paying a surcharge under our current agreement.

Additionally, and as a result of the DOC's past history of exceeding their contractual capacity with significantly excess flows, about five years ago the Town of Cheshire reached 90% of plant capacity and had to conduct a very expensive and time consuming expansion/capacity study, which was the direct result of the prison's excess flows.

With no other recourse, the Town of Cheshire sued the State over this breach of contract about 6 months ago. However, we would prefer not to continue to pursue litigation if we can simply get the State DOC and OPM to negotiate a successor agreement that provides parity to Cheshire. By parity we are requesting that our contractual language mirrors that of Enfield and Suffield and that the State pay a proportionate share of the Treatment Plant upgrade as well as buying additional capacity in our plant or pay a surcharge for their excess flow of effluent.

Being a host community for a prison is not an asset or a benefit, and to exacerbate the situation the Governor's proposed budget would eliminate the PILOT-State Property for the prison, which is a revenue loss of \$2.1 million for Cheshire.

Consequently, it is now more critical than ever that we realize some financial relief through an amendment to our Prison Agreement, and I urge your support of this legislation.

Thank you for allowing me to testify before you, and I wish you well in your deliberations during this legislative session.



JUDICIARY COMMITTEE

March 13, 2013

The Connecticut Conference of Municipalities (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 92% of Connecticut's population. We appreciate the opportunity to testify on bills of interest to towns and cities.

HB 6587 *An Act Concerning Amendments to Contracts Between the State and Any Municipality in Which a Correctional Facility is Located*

CCM **supports** the bill as it would allow any town or city in which a state correctional facility is located, the ability to amend any contract that is in effect between the municipality and a state agency related to the correctional facility.

HB 6587 would provide a much-needed flexibility for local and state officials to amend contracts relating to these correctional facilities, as circumstances would and as local-state partnerships evolve.

CCM urges the committee to **favorably report** HB 6587.

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If you have any questions, please contact Mike Muszynski, Legislative Associate at (mmuszynski@ccm-ct.org) or via phone (203) 500-7556.