



General Assembly

January Session, 2023

Raised Bill No. 1144

LCO No. 4590



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

AN ACT CONCERNING THE STATE'S PROPERTY ACQUISITION AND CONDEMNATION AUTHORITY FOR CERTAIN FLOOD PREVENTION, CLIMATE RESILIENCE AND EROSION CONTROL SYSTEMS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) Notwithstanding any
2 provision of the general statutes, the state, acting through any
3 commissioner of a state agency that has the authority to acquire land or
4 interests therein, including by condemnation, may provide assurances
5 to, accept funds from or otherwise cooperate with any federal agency
6 and any other state agency for the construction, operation and
7 maintenance of a flood prevention, climate resilience or erosion control
8 system and all related public purposes. For the purposes of this section,
9 "state agency" has the same meaning as provided in section 4-37e of the
10 general statutes and "flood prevention, climate resilience or erosion
11 control system" has the same meaning as provided in section 25-85 of
12 the general statutes, as amended by this act.

13 (b) Notwithstanding any provision of the general statutes, the state,
14 acting through any commissioner of a state agency with the authority to

15 acquire land or interests therein, including by condemnation, may for
16 the purposes of the construction, operation or maintenance of a flood
17 prevention, climate resilience or erosion control system and all related
18 public purposes, acquire title to real property in fee simple, or any lesser
19 estate and any interests or rights in such real property. Such acquisition
20 may be by means of purchase, gift, devise, exchange or condemnation
21 in accordance with the provisions of subsection (b) of section 13a-73 of
22 the general statutes for the taking of land for state highways.

23 (c) Any owner of real property taken by eminent domain pursuant to
24 subsection (b) of this section, including condemnation, shall be entitled
25 to challenge the amount of compensation, in accordance with the
26 applicable provisions of chapter 238 of the general statutes, except the
27 provisions of section 13a-76a of the general statutes shall not apply to
28 any condemnation conducted in accordance with this section.

29 (d) Whenever the commissioner of a state agency that has custody
30 and control of land that contains a flood prevention, climate resilience
31 or erosion control system determines that a public service facility, as
32 defined in section 13a-126 of the general statutes, shall be readjusted or
33 relocated in or removed from, such land because of the construction,
34 operation, maintenance, repair or reconstruction of such flood
35 prevention, climate resilience or erosion control system, such
36 commissioner may issue a readjustment, relocation or removal order to
37 the company, corporation or municipality that owns or operates such
38 public service facility. Such company, corporation or municipality shall
39 readjust, relocate or remove such public service facility promptly, in
40 accordance with such order, provided an equitable share of the cost of
41 any such readjustment, relocation or removal, including the cost of
42 installing and constructing a public service facility of equal capacity in
43 a new location, shall be calculated in accordance with the provisions of
44 section 13a-126 of the general statutes and be borne by the state.

45 (e) (1) In the event that any commissioner of a state agency
46 determines that (A) a proposed flood prevention, climate resilience or
47 erosion control system under such agency's purview is of state-wide or

48 regional significance, and (B) such system is proposed to be located in
49 one or more municipalities that have not adopted the provisions of
50 sections 25-84 to 25-94, inclusive, of the general statutes, as amended by
51 this act, the Commissioner of Energy and Environmental Protection
52 may, for each such municipality, create an interim flood prevention,
53 climate resilience and erosion control board, and appoint not less than
54 five and no more than seven members, each of whom shall be electors
55 of such municipality, to serve a term that is coterminous with such
56 commissioner, except that in any municipality that has a population of
57 less than fifty thousand persons, the commissioner shall designate the
58 board of selectmen as such board.

59 (2) Any interim board created pursuant to this subsection shall have
60 all of the powers of a flood prevention, climate resilience and erosion
61 control board, as set forth in sections 25-84 to 25-94, inclusive, of the
62 general statutes, as amended by this act. Any such interim board shall
63 continue until such time as the applicable municipality adopts the
64 provisions of sections 25-84 to 25-94, inclusive, of the general statutes,
65 as amended by this act, and selects members to such flood prevention,
66 climate resilience and erosion control board. Upon such selection of
67 members, such interim board shall cease to exist and such flood
68 prevention, climate resilience and erosion control board shall be
69 deemed to assume, on behalf of such municipality, all obligations, debts,
70 authorities and responsibilities of such interim board.

71 Sec. 2. Section 7-326 of the general statutes is repealed and the
72 following is substituted in lieu thereof (*Effective from passage*):

73 At such meeting, the voters may establish a district for any or all of
74 the following purposes: To extinguish fires, to light streets, to plant and
75 care for shade and ornamental trees, to construct and maintain roads,
76 sidewalks, crosswalks, drains and sewers, to appoint and employ
77 watchmen or police officers, to acquire, construct, maintain and regulate
78 the use of recreational facilities, to plan, lay out, acquire, construct,
79 reconstruct, repair, maintain, supervise and manage a flood prevention,
80 climate resilience [and] or erosion control system, to plan, lay out,

81 acquire, construct, maintain, operate and regulate the use of a
82 community water system, to collect garbage, ashes and all other refuse
83 matter in any portion of such district and provide for the disposal of
84 such matter, to implement tick control measures, to install highway
85 sound barriers, to maintain water quality in lakes that are located solely
86 in one town in this state, to establish a zoning commission and a zoning
87 board of appeals or a planning commission, or both, by adoption of
88 chapter 124 or chapter 126, excluding section 8-29, or both chapters, as
89 the case may be, which commissions or board shall be dissolved upon
90 adoption by the town of subdivision or zoning regulations by the town
91 planning or zoning commission, to adopt building regulations, which
92 regulations shall be superseded upon adoption by the town of building
93 regulations, and to provide ferry service. Any district may contract with
94 a town, city, borough or other district for carrying out any of the
95 purposes for which such district was established.

96 Sec. 3. Section 7-328 of the general statutes is repealed and the
97 following is substituted in lieu thereof (*Effective from passage*):

98 (a) The territorial limits of the district shall constitute a separate
99 taxing district, and the assessor or assessors of the town shall separate
100 the property within the district from the other property in the town and
101 shall annually furnish the clerk of the district with a copy of the grand
102 list of all property in the district after it has been completed by the board
103 of assessment appeals of the town. If the legislative body of the town
104 elects, pursuant to section 12-62c, to defer all or any part of the amount
105 of the increase in the assessed value of real property in the year a
106 revaluation becomes effective and in any succeeding year in which such
107 deferment is allowed, the grand list furnished to the clerk of the district
108 for each such year shall reflect assessments based upon such deferment.
109 When the district meeting has fixed the tax rate, the clerk shall prepare
110 a rate bill, apportioning to each owner of property his proportionate
111 share of the taxes, which rate bill, when prepared, shall be delivered to
112 the treasurer; and the district and the treasurer thereof shall have the
113 same powers as towns and collectors of taxes to collect and enforce
114 payment of such taxes, and such taxes when laid shall be a lien upon the

115 property in the same manner as town taxes, and such liens may be
116 continued by certificates recorded in the land record office of the town,
117 and foreclosed in the same manner as liens for town taxes or enforced
118 in accordance with any provision of the general statutes for the
119 collection of property taxes. The assessor or board of assessment appeals
120 shall promptly forward to the clerk of the district any certificate of
121 correction or notice of any other lawful change to the grand list of the
122 district. The district clerk shall, within ten days of receipt of any such
123 certificate or notice, forward a copy thereof to the treasurer, and the
124 assessment of the property for which such certificate or notice was
125 issued and the rate bill related thereto shall be corrected accordingly. If
126 the district constructs any drain, sewer, sidewalk, curb or gutter, such
127 proportion of the cost thereof as such district determines may be
128 assessed by the board of directors, in the manner prescribed by such
129 district, upon the property specially benefited by such drain, sewer,
130 sidewalk, curb or gutter, and the balance of such costs shall be paid from
131 the general funds of the district. In the construction of any flood
132 prevention, climate resilience [and] or erosion control system, the cost
133 to such district may be assessed and shall be payable in accordance with
134 sections 25-87 to 25-93, inclusive, as amended by this act. The cost for
135 the maintenance of water quality in a lake shall be assessed on the land
136 in a district and payment shall be apportioned equally among the
137 owners of parcels of property. Subject to the provisions of the general
138 statutes, the district may issue bonds and the board of directors may
139 pledge the credit of the district for any money borrowed for the
140 construction of any public works or the acquisition of recreational
141 facilities authorized by sections 7-324 to 7-329, inclusive, and such board
142 shall keep a record of all notes, bonds and certificates of indebtedness
143 issued, disposed of or pledged by the district. All moneys received by
144 the directors on behalf of the district shall be paid to the treasurer. No
145 contract or obligation which involves an expenditure in the amount of
146 (1) ten thousand dollars or more in districts where the grand list is less
147 than or equal to twenty million dollars, or (2) twenty thousand dollars
148 or more in districts where the grand list is greater than twenty million
149 dollars, in any one year shall be made by the board of directors, unless

150 the same is specially authorized by a vote of the district, nor shall the
151 directors borrow money without like authority. The clerk of the district
152 shall give written notice to the treasurer of the town in which the district
153 is located of any final decision of the board of directors to borrow
154 money, not later than thirty days after the date of such decision. The
155 district may adopt ordinances, with penalties to secure their
156 enforcement, for the purpose of regulating the carrying out of the
157 provisions of sections 7-324 to 7-329, inclusive, and defining the duties
158 and compensation of its officers and the manner in which their duties
159 shall be carried out.

160 (b) Upon the request of the clerk of any district, the registrar of voters
161 and the assessor of the town in which the district is located shall provide
162 a list of voters of the district.

163 Sec. 4. Subdivision (2) of subsection (e) of section 22a-361 of the
164 general statutes is repealed and the following is substituted in lieu
165 thereof (*Effective from passage*):

166 (2) The commissioner may require that any person, firm or
167 corporation, public, municipal or private, who removes sand, gravel or
168 other material lying waterward of the mean high water mark of the
169 tidal, coastal or navigable waters shall make available such sand, gravel
170 or other material of appropriate grain size and composition to any
171 coastal municipality or to any district established pursuant to chapter
172 105 or by special act to plan, lay out, acquire, construct, reconstruct,
173 repair, maintain, supervise and manage a flood prevention, climate
174 resilience [and] or erosion control system. Such sand, gravel or other
175 material shall be offered for the purposes of an appropriately authorized
176 beach nourishment or habitat restoration project and shall be available
177 (A) to municipalities for the cost of transporting such sand, gravel or
178 other material, and (B) to districts for a reasonable fee.

179 Sec. 5. Subsection (c) of section 25-84 of the general statutes is
180 repealed and the following is substituted in lieu thereof (*Effective from*
181 *passage*):

182 (c) Each flood prevention, climate resilience and erosion control
183 board shall publish a biannual report on the Internet web site of each
184 municipality under the jurisdiction of such board. Such report shall
185 include, but not be limited to, (1) a current inventory and description of
186 the flood prevention, climate resilience [and] or erosion control system
187 managed by such board, (2) the extent and value of property,
188 infrastructure and natural resources protected by such system, (3) an
189 analysis of the manner in which vulnerable communities, as defined in
190 subsection (a) of section 16-243y, are prioritized and protected by such
191 system, and (4) the revenues and expenditures of such board.

192 Sec. 6. Subsection (a) of section 25-85 of the general statutes is
193 repealed and the following is substituted in lieu thereof (*Effective from*
194 *passage*):

195 (a) Such board shall have authority, within the limits of
196 appropriations from time to time made by the municipality or
197 municipalities, as applicable, to plan, lay out, acquire, construct,
198 reconstruct, repair, maintain, supervise, operate and manage a flood
199 prevention, climate resilience [and] or erosion control system. As used
200 in sections 25-84 to 25-94, inclusive, as amended by this act, ["flood
201 prevention, climate resilience and erosion control system"] "flood
202 prevention, climate resilience or erosion control system" means any
203 dike, berm, dam, piping, groin, jetty, sea wall, embankment, revetment,
204 tide-gate, water storage area, ditch, drain or other structure or facility,
205 and any nonstructural and nature-based measure, including, but not
206 limited to, removal, relocation or modification of existing structures,
207 restoration and maintenance of open floodplain or other water storage
208 area and any feasible, less environmentally damaging alternative, as
209 defined in section 22a-92, that is useful in preventing or ameliorating
210 damage from floods or erosion, whether caused by fresh or salt water,
211 any dam forming a lake or pond that benefits abutting properties or any
212 open space reserved for future accommodation or establishment of
213 wetlands or watercourses, and shall include any easements, rights-of-
214 way and riparian rights which may be required in furtherance of any
215 such system.

216 Sec. 7. Section 25-86 of the general statutes is repealed and the
217 following is substituted in lieu thereof (*Effective from passage*):

218 Such board is authorized to enter upon and to take and hold, by
219 purchase, condemnation or otherwise, any real property or interest
220 therein which it determines is necessary for use in connection with the
221 flood prevention, climate resilience [and] or erosion control system.
222 Whenever the board is unable to agree with the owner of any such
223 property as to the compensation to be paid for the taking thereof, the
224 board, in the name of the municipality, may bring condemnation
225 proceedings in accordance with the procedure provided by part I of
226 chapter 835 for condemnation by municipal corporations generally. In
227 such case, the court or judge may permit immediate possession of such
228 property by the board in accordance with the procedure provided by
229 said chapter.

230 Sec. 8. Section 25-87 of the general statutes is repealed and the
231 following is substituted in lieu thereof (*Effective from passage*):

232 At any time after voting to acquire, construct, reconstruct, operate or
233 maintain any flood prevention, climate resilience [and] or erosion
234 control system or portion thereof, the board in its discretion may elect
235 to defray the cost thereof by issuing bonds or other evidences of debt,
236 from general taxation, special assessment, federal, state or private grant
237 funds or any combination thereof or by drawing upon a municipal
238 Climate Change and Coastal Resiliency Reserve Fund created pursuant
239 to section 7-159d. If it elects to defray any part of such cost from special
240 assessment, it may apportion and assess such part upon the lands and
241 buildings in the municipality which, in its judgment, are especially
242 benefited thereby, whether they abut on such flood prevention, climate
243 resilience [and] or erosion control system or not, and upon the owners
244 of such lands and buildings, subject to the right of appeal as hereinafter
245 provided. Such assessment may include a proportionate share of any
246 expenses incidental to the completion of such flood prevention, climate
247 resilience [and] or erosion control system, such as fees and expenses of
248 attorneys, engineers, surveyors, superintendents or inspectors, the cost

249 of any property purchased or acquired for such work, interest on
250 securities, the cost of preparing maps, plans and specifications, the cost
251 to reconstruct, repair, maintain, supervise, operate and manage such
252 system and the cost of printing, publishing or serving advertisements or
253 notices incidental thereto. The board may divide the total territory to be
254 benefited by any flood prevention, climate resilience [and] or erosion
255 control system into sections and may levy assessments against the
256 property benefited in each section separately. In assessing benefits
257 against the property in any section, the board may add to the cost of the
258 part of the flood prevention, climate resilience [and] or erosion control
259 system located in such section a proportionate share of the cost of any
260 part of such system located outside the section which is useful for the
261 operation or effectiveness of that part of such system within the section
262 and of any of the other items of cost or expense above enumerated.

263 Sec. 9. Section 25-92 of the general statutes is repealed and the
264 following is substituted in lieu thereof (*Effective from passage*):

265 The proceeds of such assessments, whether or not pledged for the
266 payment of securities, shall be segregated from other funds of the
267 municipality and shall be used only to pay for the construction,
268 reconstruction, repair, maintenance, supervision, operation or
269 management of the flood prevention, climate resilience [and] or erosion
270 control system or particular portion thereof in respect to which such
271 assessments are made or, as the case may be, for the payment of the
272 interest on or principal of any securities issued to pay for such system
273 or particular portion thereof.

274 Sec. 10. Section 25-94 of the general statutes is repealed and the
275 following is substituted in lieu thereof (*Effective from passage*):

276 Any flood prevention, climate resilience and erosion control board
277 established under section 25-84, as amended by this act, any such board
278 or commission established by special act or any district having as one of
279 its powers and purposes the right to construct or maintain a flood
280 prevention, climate resilience [and] or erosion control system under

281 chapter 105, acting through its officers, is authorized to negotiate,
 282 cooperate and enter into agreements with (1) the United States, (2) the
 283 United States and the state of Connecticut, (3) the state of Connecticut,
 284 or (4) one or more municipalities in the state of Connecticut, in order to
 285 satisfy the conditions imposed by the United States or the state of
 286 Connecticut in authorizing any system for the improvement of
 287 navigation of any harbor or river and for constructing, reconstructing,
 288 operating or maintaining any flood prevention, climate resilience [and]
 289 or erosion control system, provided such system shall have been
 290 approved by the Commissioner of Energy and Environmental
 291 Protection.

292 Sec. 11. Section 25-95 of the general statutes is repealed and the
 293 following is substituted in lieu thereof (*Effective from passage*):

294 The state, acting through [the Commissioner of Energy and
 295 Environmental Protection] any commissioner of a state agency with the
 296 authority to acquire land or interests therein, including by
 297 condemnation, may enter into agreements with such local authority
 298 authorized to contract under section 25-94, as amended by this act, for
 299 the purpose of constructing projects or systems to prevent, correct and
 300 arrest erosion and flood damage [and impacts of climate change] within
 301 the boundaries of the state. The plans, specifications, system and
 302 construction shall be under the direct control and supervision of the
 303 commissioner. The contract shall describe (1) the nature and extent of
 304 the system, (2) the amount of the cost to the state, (3) the share to be paid
 305 by the district or board, and (4) the method of financing the payment by
 306 such local authority, all of which shall be subject to the approval of the
 307 commissioner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	7-326
Sec. 3	<i>from passage</i>	7-328
Sec. 4	<i>from passage</i>	22a-361(e)(2)

Sec. 5	<i>from passage</i>	25-84(c)
Sec. 6	<i>from passage</i>	25-85(a)
Sec. 7	<i>from passage</i>	25-86
Sec. 8	<i>from passage</i>	25-87
Sec. 9	<i>from passage</i>	25-92
Sec. 10	<i>from passage</i>	25-94
Sec. 11	<i>from passage</i>	25-95

Statement of Purpose:

To establish authority for the state to take real property, by eminent domain and condemnation, for the construction of flood prevention, climate resilience or erosion control systems and grant authority for the Commissioner of Energy and Environmental Protection to establish and appoint interim flood prevention, climate resilience and erosion control boards for certain municipalities.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]