

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 25-90—sHB 7153

Planning and Development Committee

AN ACT CONCERNING THE ESTABLISHMENT OF THE PORT EASTSIDE INFRASTRUCTURE IMPROVEMENT DISTRICT IN THE TOWN OF EAST HARTFORD AND THE PARK CITY LANDING INFRASTRUCTURE IMPROVEMENT DISTRICT IN THE CITY OF BRIDGEPORT

SUMMARY: This act authorizes two special taxing districts to provide services and finance infrastructure improvements in designated areas: the Port Eastside Infrastructure Improvement District in East Hartford and the Park City Landing Infrastructure Improvement District in Bridgeport. It delineates each district's geographic boundaries and formation process, each of which is similar to the one for establishing special taxing districts under the statutes (statutory districts).

The act authorizes the districts to levy taxes, charges, and benefit assessments and, after entering into an interlocal agreement with their respective municipalities, issue and secure bonds backed by these revenues and their full faith and credit. Specifically, the act authorizes the Port Eastside district to issue up to \$125 million in bonds and the Park City Landing district to issue up to \$190 million in bonds.

The act also sets an expedited process for state agency administrative actions, permit issuances, and approvals related to specified infrastructure improvements for the Port Eastside district that supersedes all statutory requirements for these approvals. It also (1) sets an expedited process for appeals of administrative actions taken by a state agency commissioner connected with these improvements and (2) exempts these improvements from specified traffic control and highway safety laws.

EFFECTIVE DATE: Upon passage

PORT EASTSIDE AND PARK CITY LANDING DISTRICT FORMATION

Petition to Create the District

Under the act, the districts are created only if the eligible voters approve their formation by following a process that is largely the same as the one for statutory districts. It starts when 15 or more people eligible to vote in the municipality petition the mayor to call a meeting of the district's eligible voters (as described below) to vote on the issue.

Decision

Each respective mayor has 30 days after receiving this petition to schedule the meeting. The meeting notice must be published in two successive issues of a

newspaper published in the municipality or having general circulation there.

Up to 24 hours before the meeting, at least 200 voters or 10% of the proposed district's total eligible voters can petition the respective mayor for a referendum on the question of establishing the proposed district. Alternatively, the mayor can order a referendum on his own authority. In either case, the referendum must be held between 7 and 14 days after receiving the petition or ordering the referendum. The referendum is subject to the same procedural requirements as those for statutory districts.

Approving and Creating the District

Each district is formed if voters representing two-thirds of the assessments of holders of record in the district that attend the meeting vote to create it (either at the meeting or referendum).

Each district clerk must then notify the municipality about its formation, a requirement that also applies to statutory districts. The report must identify the district's officers, include a copy of its charter or special act, and describe its organizational structure and finances. Once the clerk completes this step, the district becomes a body corporate and politic with the powers granted to it by the act as well as the powers the law grants to statutory districts. Those powers include assessing and collecting property taxes. The clerk must also record the district's name and boundaries in the land records and include a caveat in those records.

The act specifies that the provisions on approving and creating the district (e.g., provisions specifying that it acquires taxing powers when it is formally established) do not limit the municipality's power to tax property in the district.

Eligible Voters

For each district, the act gives voting rights to the following people and entities:

1. district electors (registered voters);
2. U.S. citizens age 18 or older who are liable (or would be but for certain tax exemptions) to the district for property taxes on an assessment of at least \$1,000; and
3. holders of record of interests in real property in the district.

Holders of record include (1) business and legal entities and (2) people who hold interests jointly or in common with other people or entities. A corporation must cast its vote through its chief executive officer or his or her designee. A noncorporate entity must designate someone to cast its vote. Each owner gets only one vote, and the act explicitly bans the district from excluding holders of record from participating in its affairs.

In the case of tenants in common and joint tenants of any interest in real property, a tenant in common's vote equals the fraction of its ownership interest and a joint tenant votes as if each such tenant owned an equal fractional share.

ORGANIZING THE DISTRICT

OLR PUBLIC ACT SUMMARY

Organizational Meeting

At the meeting called to establish the respective district (organizational meeting), voters may transact business if they have a quorum, which they have if:

1. 15 or more voters are present or
2. a majority of the holders of record are present and the assessed value of their properties exceeds half of the assessed value of all real property in the district.

The mayors can adjourn the meeting until a quorum is met.

District Purposes

At the organizational meeting, the voters may establish the district's purposes. In the case of the Port Eastside district, these "district improvements" include:

1. lighting streets;
2. planting and caring for shade and ornamental trees;
3. planning, laying out, acquiring, building, maintaining, and financing roads, sidewalks, crosswalks, drains, sewers, water lines, parking facilities, open space, waterside improvements, environmental remediation, and other infrastructure improvements; and
4. acquiring, building, maintaining, and regulating the use of recreational facilities.

They also include off-site locations or improvements made outside the district that are related to or necessary because of the district's establishment. These include:

1. transit enhancements, bridges, roads, and traffic signals;
2. easements;
3. environmental protection devices, stormwater or sanitary sewer lines, water lines, and utility lines; and
4. waterfront improvements along the Connecticut River.

In the case of the Park City Landing district, its purposes generally include the improvements specified above (other than waterside improvements and waterfront improvements along the Connecticut River) as well as (1) bulkhead repairs, (2) dredging and construction, (3) a flood or erosion control system, and (4) waterfront improvements along the Pequonnock River.

The act allows each district to contract with a town, city, borough, or other district (1) for any of these purposes, just as existing law allows for statutory districts, and (2) to buy or sell any of the improvements for which the district was established.

Under the act, a majority of each district's voters may discontinue a district purpose or take on any additional allowed purpose. They may do so at any annual or special meeting.

Governance. At the organizational meeting, voters must elect each district's nine officers and set the date of its annual meeting. The officers are generally the same as those for the statutory districts (president, vice president, clerk, treasurer, and five directors) except that the act requires the respective mayor to appoint one

of the directors, who serves at the mayor's pleasure. It also requires that at least three directors be Connecticut residents.

Under the act, the directors elected at the first annual meeting serve staggered one-, two-, three-, or four-year terms. At each subsequent annual meeting, any director elected to fill a vacancy serves a four-year term.

OPERATIONS

Meetings

The act's provisions for calling special meetings and requiring votes on agenda items at regular and special meetings are generally the same as those that apply to statutory districts. The act requires each district clerk to prescribe the form for submitting petitions and imposes generally the same requirements for these petitions that apply to statutory districts.

The quorum requirement is the same as the one for the organizational meeting, except that each district's president (or vice president if the president is absent), not the mayor, may adjourn the meeting until the quorum is met. A majority of voters can adjourn any district meeting where a quorum is present.

Activity Reports

Each district clerk must submit quarterly activity reports to the Office of Policy and Management (OPM) secretary and the Finance, Revenue and Bonding Committee. The reports must provide information and updates on the districts' projects, including their design, financing, construction, sales, and any other aspect the secretary or committee chairpersons request.

Financial Disclosure to Existing and Prospective Residents

Each district must disclose the public funds used to finance and maintain the improvements. They must disclose this information to all existing and prospective residents and give each developer who constructs housing in the district enough documents containing this information to pass along to prospective buyers. Developers must also include the information in any public offering statement the law requires them to provide.

Financial Powers and Management

Each district board must adopt budgets and set taxes, fees, rents, benefit assessments, and other charges according to procedures that it must establish at a meeting held for that purpose. These procedures must include a requirement that interested people receive notice and a hearing opportunity. The act requires the boards to adopt their budgets and revenue measures at least annually, within 30 days of the start of their fiscal year.

Each board must hold at least two public hearings on any proposed revenue

measures and give notice of these hearings to the respective mayor and city or town council and the public by publishing notice in a newspaper with general circulation in the municipality at least 10 days before. They must also make the proposed revenue schedule available to the mayor, council, and public by this date.

The act authorizes each district to impose and forgive taxes, fees, rents, benefit assessments, and other charges to finance district improvements, cover its financing and operating costs, and pay for other services and commodities provided to district properties. The districts can use the revenue from these measures to pay the (1) entire cost of these improvements, including financing and related costs, or (2) debt service on bonds or notes issued to finance them. They can impose the taxes and other charges before or after they acquire or construct the improvements. The districts must base the taxes and charges they impose before acquiring or starting an improvement on the estimated costs. (The act specifies that these provisions do not limit the host municipality's power to duly impose, abate, and forgive taxes, fees, rents, and benefit assessments on property in the districts.)

Each district has the same powers as statutory districts and its respective municipality to collect and enforce revenues. These include charging interest and imposing liens, which take precedence over all other liens except the municipality's tax liens.

The act requires each district to maintain financial records, which it must make available to its respective municipal and state officials. The districts must comply with the municipal auditing act, as the law requires for statutory districts.

BENEFIT ASSESSMENTS

Authorization

The districts can assess land and buildings that benefit, in their judgment, from district-financed improvements. Specifically, whenever the districts construct, improve, extend, equip, rehabilitate, repair, acquire, or provide a grant for district improvements, or finances these improvements, they may assess a proportion of these costs on property that benefits from these improvements. (The act specifies that this does not limit the respective municipality's power to impose benefit assessments on the district's land and buildings.)

Each district can decide how to apportion the costs among the properties benefiting from the improvements and pay the balance from the general revenues. The district may (1) require property owners to pay the benefit assessments in annual installments for up to 30 years and (2) forgive the benefit assessments in any given year without affecting future installments. It may assess buildings or structures constructed or expanded in the district after the initial benefit assessment is imposed as if they had existed at the time of the original benefit assessment. The district can also adjust assessments that were imposed before the improvements were completed to reflect their actual costs.

The act specifies that providing open space in the district benefits all property within the district.

Public Hearing and Notice Requirement

Before imposing a benefit assessment, each district must hold at least one public hearing on the proposed assessment where assessed property owners have the opportunity to be heard. It must (1) publish a notice of the hearing's time, place, and purpose at least 10 days in advance in a newspaper with general circulation in the town and (2) mail a copy of this notice to affected property owners (at the address on the most recent grand list or any other known address). A copy of all proposed assessments must be made available for inspection with the district clerk at least 10 days before the hearing.

Once the respective board has determined the actual amount of the assessment, it must file a copy of the assessment with the district clerk and, within five days after the filing, publish and mail copies of it as described above for proposed assessments. The mailings and publications must state the date on which the assessment was filed and that all appeals must be taken within 21 days of that date.

Appeals

People aggrieved by a benefit assessment may appeal to the Superior Court for the judicial district in which the property is located. A court appeal (1) must have a return date that is between 12 and 30 days after the appeal is served and (2) is privileged in respect to its assignment for trial. The court may appoint a state referee to appraise the benefits to the property and report to the court. The court's judgment confirming or altering the assessment is final. The owner's appeal does not stay proceedings for collecting the assessment, but the appellant must be reimbursed for any overpayments made if his or her assessment is reduced as a result of the appeal.

Collection

The district boards must set the payment due date for the benefit assessments at least 30 days in advance by (1) publishing it in a newspaper with general circulation in the municipality and (2) mailing it to the last known address of the affected property owners.

BONDING

Bond Limits

Before they can issue bonds, the districts must enter into an interlocal agreement with the respective municipality on the sharing of incremental tax revenues collected on real property in the districts. The interlocal agreement must be ratified by the city or town council and have at least one public hearing. Once the district has done so, the act allows the board, by resolution, to issue:

1. bonds (up to \$125 million for Port Eastside and up to \$190 million for Park City Landing) to finance district improvements secured by (a) the district's full faith and credit; (b) fees, revenues, and benefit assessments; or (c) a

OLR PUBLIC ACT SUMMARY

- combination of the two;
- 2. bonds secured only by taxes, fees, revenues, benefit assessments, or charges the district imposes on the specific properties financed by this debt; and
- 3. refunding bonds.

While the bonds are outstanding, the district's powers may not be impaired in any way that would adversely affect bondholders' interests.

Bond Terms

The districts can use the bond proceeds to finance the improvements, create and maintain necessary reserves, and cover the issuance costs. They may use their revenues and full faith and credit to secure the bonds, whose terms cannot exceed 30 years.

The act allows each district board to determine how it will issue and repay the bonds and specifies the kinds of terms and conditions it may include in its agreements with the bondholders. It declares the bonds negotiable instruments under the Uniform Commercial Code. The act makes the bonds securities in which governments and private entities may invest.

Unless the law provides otherwise, the bonds are not considered debt of the state or the municipalities and only the districts are liable for them.

TAX EXEMPTION

The act exempts the districts' revenues and real and personal property used for public purposes from state and municipal taxes and benefit assessments. It also exempts the principal and interest on their bonds from taxes except state estate and gift, franchise, and excise taxes. But this exemption does not limit the state's and respective municipality's authority to levy taxes on the people and businesses living or operating in the district and their respective real or personal property.

INTERACTION WITH STATE AND LOCAL LAWS

The act specifies that the districts' powers are in addition to those the law gives to statutory districts, but the act's provisions control where they conflict with the statutes or any law or respective municipal ordinance or resolution. State and municipal laws, ordinances, and resolutions still govern property, residents, and businesses in the districts (except as described below, regarding the expedited approval process for Port Eastside District).

Each respective municipality may help the district finance its projects, but it is under no obligation to do so or pledge any funds to pay its debt service. If it chooses to provide financial or other assistance, it must do so under an interlocal agreement negotiated with the district.

The act requires the portions of the act outlining how the special taxing districts are created and operated to be liberally construed to carry out their purposes.

MERGER WITH THE MUNICIPALITY

OLR PUBLIC ACT SUMMARY

The act allows each municipality's city or town council to merge the district into the municipality (1) if the district fails to issue bonds 10 years after the act takes effect or (2) after the district's bonds are no longer outstanding. In either case, the district's property is conveyed to the municipality at the time of the merger.

TERMINATION

The requirements for terminating the districts are the same as those for statutory districts. The decision must be made at a district meeting, which the officers can call for this purpose by voting to terminate the district. The voters can also trigger the meeting if at least 10% of voters or 20 voters, whichever is less, sign a petition calling for a meeting on termination. Or, instead of the meeting, voters can petition for a referendum on termination, subject to the same requirements as those for referenda on whether to form a district. In either case, the district's officers must terminate the district if two-thirds of the voters at the meeting or in the referendum approve.

If the district's termination is approved, the district must still pay off its debt and transfer its remaining assets to the municipality if its council approves. Alternatively, the district may dissolve if the council agrees, in writing, to assume that debt.

The district officially terminates when either of these events occur and the officers complete their duties. At that point, the clerk must record a certificate of the termination vote in the municipality's land records and notify OPM about the termination.

STATE APPROVALS FOR PORT EASTSIDE DISTRICT IMPROVEMENTS

Applicable District Improvements

The act's process applies to state administrative actions, permit issuances, and approvals ("approvals for district improvements") for any work connected to the Port Eastside District's "district improvements," as described above.

Additionally, administrative actions by a public entity (i.e. the state and any of its agencies) are generally subject to the act's approval process if the district enters into a written agreement with the entity for this work (e.g., to get a government permit, license, or approval; acquire property; or build utility connections). But the process does not apply if federal law or an applicable agreement requires otherwise.

Approval Authority

Approvals for district improvements must be issued by (1) the commissioner with relevant jurisdiction over the matter, or (2) another state official designated by the commissioner. The act prohibits any agency, commission, council, committee, panel, or other body, other than the commissioner, from having jurisdiction over these approvals for district improvements unless the commissioner with approval

OLR PUBLIC ACT SUMMARY

authority requires it. And it exempts these approvals from any notice requirements for tentative or final determinations or approvals, except those required by the act itself.

Approval Process

To the extent each commissioner finds practicable, he or she must adopt a “master process” to consider multiple licenses, permits, approvals, and administrative actions. Approval applications are submitted directly to commissioners. Commissioners must hold any required hearing, legal notice of which must be published between 5 and 10 days before the hearing in a newspaper with general circulation in the municipality.

Unless they deny a license, permit, or approval (including a request for administrative action), commissioners must issue their approval or take the requested action within 10 business days after an application is submitted, unless they must hold a hearing on it. If commissioners do not deny or grant conditional approval by the 10th business day after the hearing is held, approval is deemed to have been given on the next day.

The act requires commissioners to weigh all competent material and substantial evidence presented by the applicant and the public when making decisions on these applications. Commissioners must issue written findings and determinations that address appropriate evidence, including the nature of any major adverse health and environmental effects of the improvements. They may reverse or modify an order or action at any time on their own initiative. In making such a reversal or modification, they must follow the same procedure they followed in approving the application.

Satisfying State Building and Fire Permits and Inspections

For any work connected to district improvements that requires a permit or inspection by the state building inspector or state fire marshal, the district can instead have an engineer or other duly state-certified or -licensed professional certify the work. This certification satisfies these permit and inspection requirements if the work complies with any applicable state building and fire codes and safety regulations.

Records Disclosure

The act makes all applications, supporting documentation, and other records submitted in connection with any application, together with records of related proceedings, public records. These must be made, kept, and disclosed according to the state’s freedom of information law.

Appeals

The act allows any administrative action taken by a commissioner connected

OLR PUBLIC ACT SUMMARY

with the district improvements to be appealed to the Hartford Superior Court according to the process for appeals to court under the Uniform Administrative Procedure Act (UAPA), with certain modifications that expedite the process. Under the act:

1. appeals must be filed and copies must be served within 10 days after the commissioner's mailing of the order, decision, or action, rather than within 45 days as the UAPA generally requires;
2. the commissioner who made the decision must transmit the proceeding's record to court within 10 days, rather than 30 days, after the appeal is served; and
3. the court must render its decision within 21 days after the record is filed, unlike under the UAPA, which does not provide a deadline for the court.

The appeal must state the reasons on which it is based and does not stay the improvements' development. As under the UAPA, the proceeding's records must separately state the agency's findings and conclusions. Under the act, if more than one commissioner has jurisdiction over the matter, the commissioners must issue joint findings and conclusions. Additionally, the act requires the commissioner who made the decision to appear as the respondent.

Under the act, if the court finds material prejudice, it can sustain the appeal and render a judgment that modifies the commissioner's decision or orders the commissioner to take specific actions. Following these court actions, an applicant may file an amended application, and the commissioner may consider it for approval.

TRAFFIC LAW EXEMPTIONS

In addition to exempting district improvements from statutory state-approval processes, the act exempts the same Port Eastside district improvements from laws:

1. requiring major traffic-generating developments to get a certificate of operation from the Office of the State Traffic Administration (OSTA);
2. authorizing OSTA and local traffic authorities to require traffic controls for access to and from specified parking areas or commercial establishments with an entrance or exit on or near a state or local road, as applicable;
3. establishing a 60-day timeframe for the Department of Transportation and OSTA to make a final determination on economic development project petitions, applications, or requests;
4. authorizing traffic authorities to make and enforce temporary regulations to cover emergencies and special conditions;
5. allowing anyone aggrieved by a traffic authority's order or regulation under the traffic control and highway safety laws to appeal it;
6. setting penalties for failing to comply with traffic control and safety orders and damaging or removing traffic control devices, signs, or lights;
7. requiring OSTA, if requested, to put up special warning signs near the residences of children who are deaf; and
8. allowing OSTA or a local traffic authority to designate locations on roads within their respective jurisdictions at which signs saying "State Law

OLR PUBLIC ACT SUMMARY

Requires Use of Signal Lights When Changing Lanes” may be put up.