



# House of Representatives

**File No. 685**

General Assembly

February Session, 2022

**(Reprint of File No. 498)**

House Bill No. 5456  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 29, 2022

**AN ACT AUTHORIZING THE PURCHASE OF THE CAPITOL DISTRICT  
ENERGY CENTER COGENERATION ASSOCIATES ENERGY  
PRODUCTION PLANT.**

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

1 Section 1. Section 4b-17 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) (1) The Commissioner of Administrative Services, on behalf of the  
4 state, may purchase from TEN Companies, Inc., in accordance with the  
5 Asset Purchase Agreement dated November 4, 2008, by and [among]  
6 between the state, acting by and through the Commissioner of  
7 Administrative Services, and TEN Companies, Inc., which Asset  
8 Purchase Agreement is hereby ratified and approved, the district  
9 heating and cooling system that provides heating and cooling service to  
10 state facilities within the Capitol District and to other nonstate facilities,  
11 as listed in the Asset Purchase Agreement dated November 4, 2008, and  
12 which is known as the Capitol Area System, including all assets and

13 property necessary for the operation of said system, as described in the  
14 Asset Purchase Agreement dated November 4, 2008. The commissioner  
15 may assume all vendor contracts, customer contracts, supplier  
16 agreements [,] and third-party contracts with regard to said system. The  
17 commissioner may undertake any obligation and enter into any  
18 agreement to accomplish any transaction that is necessary to carry out  
19 the provisions of this section or said Asset Purchase Agreement,  
20 including the grant or acceptance of any release set forth in said Asset  
21 Purchase Agreement.

22 (2) The Commissioner of Administrative Services, on behalf of the  
23 state, may purchase from CDECCA Property Company, LLC, in  
24 accordance with a purchase and sale agreement, by and between the  
25 state, acting by and through the Commissioner of Administrative  
26 Services, and CDECCA Property Company, LLC, for the operation of  
27 the Capitol Area System, the energy production plant located at 490  
28 Capitol Avenue in the city of Hartford, including the related land,  
29 buildings, improvements, equipment and fixtures, that produces and  
30 provides steam and heated and chilled water to the Capitol Area System  
31 for heating and cooling service to state and nonstate facilities, together  
32 with all assets and property described in such purchase and sale  
33 agreement. The commissioner may assume all vendor contracts,  
34 customer contracts, supplier agreements and third-party contracts with  
35 regard to said system. The commissioner may undertake any obligation  
36 and enter into any agreement to accomplish any transaction that is  
37 necessary to carry out the provisions of this section or such purchase  
38 and sale agreement.

39 (b) To the extent any provision in an agreement executed or assumed  
40 by the [commissioner] Commissioner of Administrative Services  
41 pursuant to subsection (a) of this section may be interpreted as waiving  
42 the sovereign immunity of the state, including, without limitation,  
43 indemnification provisions, such provision is effective and enforceable  
44 against the state solely in accordance with its specific terms. Nothing in  
45 this subsection shall be construed as a waiver of the sovereign immunity  
46 of the state in any other context.

47 (c) In order to operate the Capitol Area System, the [commissioner]  
48 Commissioner of Administrative Services may: (1) [Furnish, from]  
49 Construct or acquire energy production plants located in the city of  
50 Hartford [,] for the purpose of furnishing heat or air conditioning, or  
51 both, by means of steam, heated or chilled water or other medium; (2)  
52 lay and maintain mains, pipes or other conduits; (3) erect such other  
53 fixtures as are, or may be, necessary or convenient in and on the streets,  
54 highways and public grounds of said city, for the purpose of carrying  
55 steam, heated or chilled water or other medium from such plants to the  
56 location to be served and returning the same; and (4) lease to one or  
57 more corporations formed or specially chartered for the purpose of  
58 furnishing heat or air conditioning, or both, one or more of such plants  
59 or distribution systems owned by it and constructed or adapted for  
60 either or both such purposes.

61 (d) The Commissioner of Administrative Services may perform all  
62 obligations of the state relating to or arising from any agreement  
63 between the state and TEN Companies, Inc., or the state and CDECCA  
64 Property Company, LLC.

65 (e) The Commissioner of Administrative Services may (1) enter into  
66 contracts with third parties for the procurement of energy products and  
67 services or for the operation and maintenance of, and repairs and  
68 improvements to, the Capitol Area System; (2) provide energy products  
69 and services, as produced from said system or distributed by said  
70 system, to any buildings owned by, or leased to, the state or any  
71 instrumentality of the state; (3) sell energy products and services, as  
72 produced from said system or distributed by said system, to the owners  
73 or tenants of buildings not owned by the state; (4) occupy and use rights-  
74 of-way necessary to own, maintain, repair, improve and operate said  
75 system in and on the streets, highways and public grounds of the city of  
76 Hartford, on all property owned by the state and on property where  
77 [the] said system is located, and to serve public and private end use  
78 customers; (5) lay and maintain mains, pipes or other conduits, and erect  
79 such other fixtures as are, or may be, necessary or convenient in and on  
80 the streets, highways and public grounds of said city, for the purpose of

81 carrying energy products to the location to be served and returning the  
82 same; and (6) enter into contracts with third parties for the procurement  
83 of other products and services, and provide or sell other products or  
84 services to the state or to the owners or tenants of buildings not owned  
85 by the state, that are being produced, provided or distributed through  
86 said system, or any part thereof, prior to, or as of, April 23, 2009.

87 (f) The Commissioner of Administrative Services may: (1) Grant  
88 easements with respect to land owned by the state in connection with  
89 the operation of the Capitol Area System, subject to the approval of the  
90 agency having supervision of the care and control of such land and the  
91 State Properties Review Board; (2) acquire easements with respect to  
92 land not owned by the state in connection with said system, subject to  
93 the approval of the State Properties Review Board; (3) enter into leases  
94 for any type of space or facility necessary to meet the needs of operating  
95 said system, subject to the approval of the State Properties Review  
96 Board; and (4) when the General Assembly is not in session, the  
97 commissioner may, subject to the provisions of section 4b-23, purchase  
98 or acquire for the state any land, or interest therein, if such action is  
99 necessary for the operation of said system. The commissioner shall  
100 provide notice of any easement granted pursuant to subdivision (1) of  
101 this subsection to the chief elected official of the municipality and the  
102 members of the General Assembly representing the municipality, in  
103 which such land is located.

104 (g) The Commissioner of Administrative Services may establish and  
105 administer an account to be known as the public works heating and  
106 cooling energy revolving account, which shall be used for: (1) The  
107 deposit of receipts from the sale of Capitol Area System energy products  
108 and services to state agencies or to the owners or tenants of buildings  
109 not owned by the state; and (2) [for] the payment of expenses related to  
110 the operation, maintenance, repair and improvement of the Capitol  
111 Area System and, if purchased pursuant to subdivision (2) of subsection  
112 (a) of this section, the energy production plant located at 490 Capitol  
113 Avenue in the city of Hartford that provides steam and heated and  
114 chilled water for said system. The commissioner may expend funds

115 necessary for all reasonable direct expenses related to said account.

116 (h) For the provision of energy products and services, the  
117 Commissioner of Administrative Services shall periodically invoice and  
118 collect a pro rata share of the costs described in this subsection from each  
119 state agency and owner or tenant of the buildings on the Capitol Area  
120 System that are not owned by the state, to the extent not prohibited by  
121 contracts in effect as of November 4, 2008. The [Commissioner of  
122 Administrative Services] commissioner shall periodically submit  
123 proposed rate setting methods and proposed rates to the Secretary of  
124 the Office of Policy and Management for the secretary's approval. No  
125 such method or rate shall be effective without the secretary's approval.  
126 Rates shall be based on: (1) A pro rata share of all costs, including for  
127 legal and consultant services, of acquiring [the] said system [, including  
128 all costs for legal and consultant services] and, if applicable, the energy  
129 production plant located at 490 Capitol Avenue in the city of Hartford,  
130 including the related land, buildings, improvements, equipment and  
131 fixtures; (2) a pro rata share of the cost of such energy products or  
132 services, whether produced by the state or purchased from third parties;  
133 (3) a pro rata share of [any and] all costs, including for services provided  
134 by vendors and for equipment, of operating, maintaining and repairing  
135 said system [, including the cost of services provided by vendors and  
136 the cost of equipment] and, if applicable, said energy production plant,  
137 including the related land, buildings, improvements, equipment and  
138 fixtures; (4) a pro rata share of an amount determined to be necessary  
139 for long-term capital improvements or replacement, which amount shall  
140 be specifically identified in the public works heating and cooling energy  
141 revolving account, and allocated for long-term capital improvements or  
142 replacement; (5) a pro rata share of the Department of Administrative  
143 Services' personnel costs related to the operation, maintenance, repair  
144 and improvement of [the Capitol Area System] said system, provided  
145 not more than one full-time employee of the department shall be  
146 allocated to [the] said system; and (6) a pro rata share of the cost of other  
147 products or services incurred and permitted by this section. Not more  
148 than forty-five days after receipt of a proposed rate setting method or a

149 proposed rate from the commissioner, the [Secretary of the Office of  
 150 Policy and Management] secretary shall approve or disapprove such  
 151 proposed method or rate. If the secretary fails to act on such proposed  
 152 method or rate within such period, the commissioner's proposal shall be  
 153 deemed to have been approved. On a quarterly basis, the  
 154 [Commissioner of Administrative Services] commissioner shall transmit  
 155 to the General Fund any portion of the costs that are attributable to the  
 156 provisions of subdivision (1) of this subsection.

157 (i) Nothing in this section shall be construed to limit the state's use of  
 158 the Capitol Area System [by the state] to its use or functional capacity as  
 159 of the date of its purchase by the state or, if applicable, the state's use of  
 160 the energy production plant located at 490 Capitol Avenue in the city of  
 161 Hartford to its use or functional capacity as of the date of its purchase  
 162 by the state.

163 (j) Except as expressly required by the provisions of this section, the  
 164 acquisition of the Capitol Area System by the Commissioner of  
 165 Administrative Services, and any transaction necessary for such  
 166 acquisition, shall not be subject to any other review, approval or  
 167 authorization by any other state agency, board, department or  
 168 instrumentality and shall not be subject to any otherwise applicable  
 169 sales or conveyance tax or taxes.

170 (k) Nothing in this section shall be construed to prohibit the state  
 171 from reselling the Capitol Area System to a third party if it is determined  
 172 that such resale is in the best interest of the state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4b-17

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Treasurer, Debt Serv.	GF - None	See Below	See Below
Department of Administrative Services; Judicial Dept.; Legislative Mgmt.	GF - Potential Savings; Potential Cost Avoidance	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill enables the Commissioner of the Department of Administrative Services (DAS) to purchase the energy production plant in Hartford which produces and provides steam and heated and chilled water for the Capitol Area System, including certain state agencies. It is anticipated that the purchase would produce long-term savings and cost avoidance to the agencies impacted, according to projections by the DAS that reflect increasing efficiencies in the facility's operation due to planned investments in its infrastructure. The DAS projections demonstrate state agency savings of over \$20 million in total over twenty years relative to the current contract to purchase energy from the facility, in addition to the avoidance of potential future costs to the agencies consuming energy from the facility as planned or unplanned maintenance and repair costs are incurred and passed on to the state.

There is no anticipated, additional projected cost to the State Treasurer's debt service line item because General Obligation bond funds authorized for the program (over \$15 million in total) have already been allocated and made available.

Electric ratepayer impact

The energy production plant in Hartford has been decommissioned as a generator of electrical energy. However, some electricity is consumed in operating the facility. Purchase of the facility by the state would result in a shift in accounting for the cost of electricity to run the facility. Instead of being a component of the overall cost of procuring energy from the third-party operator of the facility as it is done currently, the state agency DAS (as a potential future owner) would need to negotiate and pay for electricity directly via Northeast Utilities. Overall usage and rates are uncertain, pending improved efficiencies and negotiations.

The potential estimated savings indicated above of over \$20 million in total is through calendar year 2040.

House "A" strikes the original bill and its associated fiscal impact, thus becoming the bill with the above referenced fiscal impact.

***The Out Years***

The potential estimated savings indicated above of over \$20 million in total is through calendar year 2040.



**OLR Bill Analysis****HB 5456 (as amended by House "A")\******AN ACT AUTHORIZING THE PURCHASE OF THE CAPITOL DISTRICT ENERGY CENTER COGENERATION ASSOCIATES ENERGY PRODUCTION PLANT.*****SUMMARY**

This bill authorizes the administrative services commissioner to purchase from Capitol District Energy Center Cogeneration Associates (CDECCA) Property Company, LLC the energy production plant in Hartford that produces and provides steam and heated and chilled water for the Capitol Area System (CAS) (see BACKGROUND).

The bill makes conforming changes to give the commissioner broad authority to operate the plant, similar to her powers regarding the CAS. These powers include recouping the costs of acquiring and operating the plant from the state and non-state entities the CAS serves, as described below.

\*House Amendment "A" replaces references to a dated purchase and sale agreement with references to a prospective agreement and makes conforming changes.

EFFECTIVE DATE: Upon passage

**ENERGY PLANT ACQUISITION**

The bill authorizes the commissioner to:

1. assume all supplier agreements and vendor, customer, and third-party contracts related to CAS; and
2. as necessary to carry out the bill and the agreement: (a) perform and undertake any obligation and (b) enter any agreement to accomplish any transaction.

The bill specifies that it does not (1) waive sovereign immunity other than terms specified in the agreement and (2) limit the state from changing how the plant is used if purchased, including its capacity, in the future.

The bill also broadly authorizes the commissioner to construct or acquire energy production plants in Hartford to provide heating and air conditioning through CAS. (But most of the bill's conforming changes to the commissioner's authority specifically address the power plant owned by CDECCA Property Company, LLC, at 490 Capitol Avenue.)

### ***Rate Setting and Expenses***

By law, the commissioner must periodically bill and collect CAS costs from state agencies and owners of non-state buildings using the CAS. The bill, if the agreement is finalized, authorizes the commissioner to collect from these entities a pro-rata share of the acquisition, operating, maintenance, and repair costs related to the plant, including the legal and consultant costs for acquiring the plant.

Under existing law, unchanged by the bill, the commissioner must submit her proposed rates and rate-setting methods to the Office of Policy and Management secretary for approval, who must approve or disapprove the method or rate within 45 days.

Except for charges recouping the power plant's acquisition costs, which must be deposited into the General Fund, collected charges are deposited into the public works heating and cooling energy revolving account. The bill, if the agreement is finalized, correspondingly expands the purposes for which the commissioner may use the account to pay for the plant's operational, maintenance, repair, and improvement expenses.

## **BACKGROUND**

### ***Capitol Area District Heating and Cooling System***

The Capitol Area District Heating and Cooling System, referred to as CAS, is a state-owned thermal energy supply system. The system has

two closed-loop distribution systems (heated water and chilled water) and a pump house. The loop consists of over three miles of underground piping. CAS supplies heating and cooling services to ten state-owned and five privately owned buildings in the Capitol District.

Under an agreement that expires September 30, 2022, CAS purchases the steam and heated and chilled water from the CDECCA energy production plant.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable

Yea 19 Nay 0 (03/28/2022)