
OLR Bill Analysis

sHB 6890

AN ACT CONCERNING QUALIFYING TRANSIT-ORIENTED COMMUNITIES.

SUMMARY

The bill creates a framework in which a municipality's priority for receiving certain discretionary state financial assistance is tied to its adoption of zoning regulations creating a "transit-oriented district" (TOD). A TOD is an area zoned to encourage increased density of development, including mixed-use development and concentration of discretionary state investments. TODs must be close to existing infrastructure and regulations creating them must encourage housing development, including affordable housing development. Municipalities need not include environmentally sensitive or otherwise protected areas in the TOD.

Municipalities that host a district meeting criteria that generally vary with the local population size, transit services, housing market strength, and quality of life are "qualifying transit-oriented communities" ("qualifying communities"). Qualifying communities must receive priority for discretionary state infrastructure funding, including urban act grants, certain brownfield remediation grants, and transit-oriented development grants.

The bill also codifies the Office of Responsible Growth (ORG) within the Office of Policy and Management (OPM). It makes ORG the successor agency to an office of the same name established by executive order in 2006. Under the bill, ORG maintains some of its current responsibilities and is assigned others for which OPM is generally responsible, such as preparing the state plan of conservation and development and facilitating interagency and intergovernmental coordination. The bill also requires ORG to (1) develop guidelines for TODs; (2) review TODs, with input from the housing commissioner if

desired, for consistency with the bill’s requirements; and (3) direct state entities to prioritize allocating discretionary infrastructure funding to qualifying communities.

EFFECTIVE DATE: October 1, 2023

§ 1 — QUALIFYING COMMUNITIES AND TRANSIT-ORIENTED DISTRICTS

Under the bill, municipalities are qualifying communities if they host a TOD meeting specified criteria. The four broad categories of qualifying communities are rapid transit communities, bus transit communities, transit adjacent communities, and grandfathered transit-oriented communities. Qualifying communities must be prioritized for discretionary infrastructure funding.

Discretionary Infrastructure Funding

Qualifying communities may apply to the ORG coordinator, in a form he or she sets, for discretionary infrastructure funding. If ORG does not administer the funding, the coordinator must direct the responsible state entity to prioritize awarding funding to qualifying communities. (It appears these provisions on priority funding status equally apply to communities whose zoning commission adopts a resolution indicating the municipality intends to create a TOD, see below.)

Specifically, “discretionary infrastructure funding” is grants, loans, or other financial assistance that the state administers under the following programs:

1. Urban Act Grant Program,
2. Targeted Brownfield Development Loan Program,
3. Brownfield Municipal Grant Program (if related to planning),
4. Main Street Investment Fund, and
5. Incentive Housing Zone Program.

It also includes any other OPM-administered grants, loans, and financial assistance related to transit-oriented development (see BACKGROUND). (Section 2, which codifies ORG and makes it responsible for administering responsible growth and transit-oriented development and regional performance incentive grant programs, does not name the specific programs that ORG will administer.)

Indicating Intent to Become a Qualifying Community

It appears that the bill equally prioritizes, for discretionary infrastructure funding, qualified communities and communities that indicate their intent to become one. A municipality shows its intent to become a qualifying community by adopting a resolution, through its zoning commission (or presumably another body exercising zoning powers). The resolution must state that the commission intends to enact zoning regulations that will make the municipality a qualifying community.

The bill requires a municipality to adopt regulations creating a TOD within 18 months after adopting the resolution. A municipality that fails to do so must return any discretionary infrastructure funding it received after it adopted the resolution unless the ORG coordinator grants an extension at his or her discretion. A municipality can generally only qualify for funding as a prospective qualifying community for this one period of up to 18 months.

Transit-Oriented District Types and Housing Density Requirements

The bill requires a municipality's zoning regulations for its TOD to allow a specified minimum housing density, as shown in the table below. The requirements vary depending on the community's population and the existing infrastructure that the district encompasses or neighbors. Under the bill, TOD regulations cannot include "excessive lot size" or "excessive parking" requirements, as determined by the ORG coordinator.

Table: Minimum Housing Density Requirements in Transit-Oriented Districts

Qualifying Community Type and Population Thresholds	Minimum Housing Density	TOD Description
Rapid transit (over 60,000 people)	30 homes per acre	TOD contains an existing or planned rapid transit station (passenger rail or rapid bus route station); is reasonably sized; and (1) includes land located within one-half-mile of the station, or (2) is within a reasonable distance, as determined by the coordinator, of another transit service, commercial corridor, or downtown area
Rapid transit (60,000 people or fewer)	20 homes per acre	
Bus transit (over 25,000 people)	20 homes per acre	TOD contains a regular bus service station that operates on a schedule and at least five days a week; is reasonably sized; and (1) includes land located within one-half-mile of the station, or (2) is within a reasonable distance, as determined by the coordinator, of another transit service, commercial corridor, or downtown area
Bus transit (25,000 people or fewer)	15 homes per acre	
Transit adjacent	10 homes per acre	TOD (1) is located in a municipality without a transit station, but borders a municipality with one, and (2) overlays or is adjacent to a downtown area
Grandfathered	N/A	TOD adopted on or before October 1, 2023; is reasonably sized; and contains a rapid transit station or regular bus service station ORG coordinator, in consultation with the housing commissioner, determines whether a community's existing TOD makes it a qualifying community

Under the bill, a “downtown area” is a central business district or other commercial neighborhood area that (1) serves as a center of socioeconomic interaction in the municipality and (2) is characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious, and residential buildings and public spaces, that are typically arranged along a main street and intersecting side streets, and served by public infrastructure. “Mixed-use” means developments for residential or commercial use, including any single building developed for both residential and commercial uses.

Reasonable Size. Under the bill, “reasonable size” is a size the ORG coordinator determines to be adequate to require greater density of development in an equitable manner, considering the municipality’s

geographic characteristics. In determining this, the coordinator must consider (1) municipal and regional housing needs and (2) whether the TOD allows for a greater density of development than the bill's minimums. In determining reasonable size, the coordinator cannot require that the following land types be included in a TOD:

1. special flood hazard areas, as defined by the Federal Emergency Management Agency;
2. wetlands, as defined in state law;
3. existing or planned public park land;
4. land subject to conservation or preservation restrictions (e.g., an easement);
5. coastal resources protected by the Coastal Management Act;
6. areas needed to protect drinking water supplies; and
7. areas likely to be inundated during a 30-year flood event, as shown in the sea level change scenarios UConn's Marine Sciences Division publishes.

Affordability Requirements

To be a qualifying community, a municipality's zoning regulations must require certain proposed housing developments to set aside a portion of units to be sold or rented to households with incomes at or below 80% of the area median income (AMI). (Presumably, this set-aside requirement must be in the zoning regulations creating a TOD and thus, applies only to the TOD area.) The set-aside units must be preserved as affordable for these households for at least 40 years via deed restriction. Unless the proposed development area is designated "High Opportunity/Strong Market" (see below), the bill's set-aside requirements only apply to proposals for at least 10 dwelling units. The set-aside requirements apply to all developments in High Opportunity/Strong Market census tracts.

The percentage of units that a developer must set aside varies with

the strength of the area’s housing market and its quality of life (“opportunity”), as determined by the Connecticut Housing Finance Authority’s (CHFA) most recent Housing Needs Assessment. CHFA classifies census tracts separately for rental and sales markets. The table below shows the classifications and the bill’s required set-aside percentage.

Table: Set-Aside Requirements

<i>CHFA’s Census Tract Designation</i>	<i>Affordable Housing Set-Aside*</i>
High Opportunity/Strong Market	20%
High Opportunity/Weak Market	18%
Low Opportunity/Strong Market	12%
Low Opportunity/Weak Market	5%
Low Development Activity	0%

*Except in High Opportunity/Strong Market tracts, set-aside only required if the proposal is for at least 10 dwelling units

Bonus Funding

Qualifying communities that go beyond the bill’s minimum zoning criteria are eligible for additional funding from the pool of funds the ORG coordinator administers (see § 2). The coordinator sets the bonus zoning criteria for additional funding, which include:

1. adopting a TOD that allows a greater housing density than the bill requires,
2. requiring set-aside units to be affordable to lower-income people than the bill requires,
3. developing public land or public housing,
4. implementing programs to encourage homeownership throughout the community, and
5. other criteria the coordinator sets.

§ 2 — OFFICE OF RESPONSIBLE GROWTH

The bill statutorily establishes ORG, within OPM’s

Intergovernmental Policy Division, and makes it the successor agency to the office of the same name established by executive order in 2006. It gives ORG the following responsibilities, for which OPM is generally responsible under existing law:

1. preparing the state plan of conservation and development and reviewing, for consistency with the plan, state agency plans, projects, and bonding requests;
2. coordinating the Connecticut Environmental Policy Act's administration;
3. facilitating interagency coordination related to land and water resources and infrastructure improvements;
4. providing staff support to the (a) Connecticut Water Planning Council and (b) Advisory Commission on Intergovernmental Relations;
5. coordinating the neighborhood revitalization zone program;
6. helping the state's chief data officer oversee the statewide geographic information system's (GIS) data and resources and participating in the system's user-to-user network to develop GIS data standards and initiatives;
7. serving as the state liaison to the state's region councils on government;
8. administering incentive grant programs for (a) responsible growth and transit-oriented development and (b) regional performance (including coordinating the distribution of discretionary infrastructure funding and prioritizing municipalities with TODs, as the bill requires, see § 1);
9. annually preparing the public investment community index; and
10. developing guidelines for TODs (including bonus zoning criteria related to eligibility for additional funding) and collaborating

with municipalities to implement them and ensure they conform to the bill's requirements (see § 1).

The bill requires the OPM secretary to (1) adopt related regulations and (2) designate a member of his staff to serve as the State Responsible Growth Coordinator and oversee ORG.

(Executive Order No. 15, signed by Governor Rell in October 2006, created ORG within OPM's Intergovernmental Policy Division and assigned it various responsibilities. The order additionally required (1) the OPM secretary to designate a staff member as the State Responsible Growth Coordinator and (2) two additional planning staff members to be added to the division.)

BACKGROUND

Transit-Oriented Development

By law, transit-oriented development is defined as developing residential, commercial, and employment centers within one-half mile or walking distance of public transportation facilities (including rail and bus rapid transit and services) that meet transit supportive standards for land uses, built environment densities, and walkable environments, in order to facilitate and encourage the use of transit services (CGS § 13b-79o).

Related Bills

sSB 985, reported favorably by the Planning and Development Committee, requires (1) municipalities that want to receive financial assistance from the Connecticut Municipal Redevelopment Authority to enact zoning regulations that promote a substantial increase in new dwelling units in the development district area and (2) the state to determine whether there are state-owned properties suitable for housing development, especially around transit or affordable housing.

sHB 6781, reported favorably by the Housing Committee, (1) awards municipalities points toward a moratorium from the CGS § 8-30g affordable housing appeals procedure for certain middle housing units located within a ¼ mile of a transit district (§§ 26 & 27) and (2) codifies

in statute the Office of Responsible Growth and assigns it certain new housing-related responsibilities (§§ 23 & 24).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 12 Nay 9 (03/24/2023)