



# House of Representatives

General Assembly

**File No. 624**

January Session, 2023

Substitute House Bill No. 6903

*House of Representatives, April 17, 2023*

The Committee on Government Administration and Elections reported through REP. BLUMENTHAL of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT PROHIBITING CONSTRUCTION MANAGERS FROM SELF-PERFORMING PROJECT ELEMENTS OF QUASI-PUBLIC AGENCY CONSTRUCTION CONTRACTS AND SUCCESS FEES IN QUASI-PUBLIC AGENCY CONTRACTS.***

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

1 Section 1. Section 1-120 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2023*):

3 As used in sections 1-120 to 1-123, inclusive, and sections 2 and 3 of  
4 this act:

5 (1) "Quasi-public agency" means Connecticut Innovations,  
6 Incorporated, the Connecticut Health and Educational Facilities  
7 Authority, the Connecticut Higher Education Supplemental Loan  
8 Authority, the Connecticut Student Loan Foundation, the Connecticut  
9 Housing Finance Authority, the Connecticut Housing Authority, the  
10 Materials Innovation and Recycling Authority, the Capital Region  
11 Development Authority, the Connecticut Lottery Corporation, the  
12 Connecticut Airport Authority, the Connecticut Health Insurance  
13 Exchange, the Connecticut Green Bank, the Connecticut Port Authority,

14 the Connecticut Municipal Redevelopment Authority, the State  
15 Education Resource Center and the Paid Family and Medical Leave  
16 Insurance Authority.

17 (2) "Procedure" means each statement, by a quasi-public agency, of  
18 general applicability, without regard to its designation, that  
19 implements, interprets or prescribes law or policy, or describes the  
20 organization or procedure of any such agency. The term includes the  
21 amendment or repeal of a prior regulation, but does not include, unless  
22 otherwise provided by any provision of the general statutes, (A)  
23 statements concerning only the internal management of any agency and  
24 not affecting procedures available to the public, and (B) intra-agency  
25 memoranda.

26 (3) "Proposed procedure" means a proposal by a quasi-public agency  
27 under the provisions of section 1-121 for a new procedure or for a  
28 change in, addition to or repeal of an existing procedure.

29 Sec. 2. (NEW) (*Effective July 1, 2023*) (a) As used in this section,  
30 "project" means the construction, renovation or alteration of buildings  
31 or facilities owned or leased by a quasi-public agency, including all  
32 related planning, feasibility, environmental testing and assessment,  
33 permitting, engineering, technical and other necessary development  
34 activities, such as site acquisition, site preparation and infrastructure  
35 improvements, and "construction manager" means a general contractor  
36 or other construction professional with primary responsibility for the  
37 day-to-day management of all construction or engineering activities for  
38 a project in accordance with a contract or other agreement with a quasi-  
39 public agency.

40 (b) Any project of a quasi-public agency that is overseen by a  
41 construction manager shall be subject to the provisions of this section.

42 (c) The construction manager for a project of a quasi-public agency  
43 shall invite bids and give notice of opportunities to bid on project  
44 elements on the State Contracting Portal. Each bid shall be kept sealed  
45 until opened publicly at the time and place as set forth in the notice

46 soliciting such bid. The construction manager shall, after consultation  
 47 with and approval by the quasi-public agency, award any related  
 48 contracts for project elements to the responsible qualified contractor  
 49 submitting the lowest bid in compliance with the bid requirements,  
 50 provided the construction manager shall not be eligible to submit a bid  
 51 for any project element.

52 (d) Any contract entered into by a quasi-public agency with a  
 53 construction manager related to the construction of a project shall  
 54 require the construction manager to maintain complete accounting  
 55 records relating to all expenditures of state funds, including detailed  
 56 support for all cost allocations, and such records shall be subject to audit  
 57 by the Auditors of Public Accounts.

58 Sec. 3. (NEW) (*Effective July 1, 2023*) (a) As used in this section,  
 59 "success fee" means a commission that is (1) paid by a quasi-public  
 60 agency to a person or business entity for such person's or business  
 61 entity's role in facilitating the finalization of a transaction, (2) not paid if  
 62 such transaction is not finalized, and (3) separate from any payment for  
 63 services performed.

64 (b) For any contract or other agreement entered into, amended or  
 65 extended on or after July 1, 2023, no quasi-public agency may include a  
 66 provision in such contract or other agreement for the payment of a  
 67 success fee to any person or business entity.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2023	1-120
Sec. 2	July 1, 2023	New section
Sec. 3	July 1, 2023	New section

**Statement of Legislative Commissioners:**

In Section 2(c), references to "quasi-public agency" were added for clarity.

**GAE** Joint Favorable Subst. -LCO

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 24 \$	FY 25 \$
Various Quasi-Public Agencies	Various - Cost	See Below	See Below

Note: Various=Various

**Municipal Impact:** None

**Explanation**

The bill would result in a cost to quasi-public state agencies. The bill's primary purpose is to require additional recordkeeping on the part of any general contractor employed by a quasi-public agency, as well as a bidding process. This could potentially create additional labor costs for the general contractor that may be passed onto the quasi-public agency. The potential cost would vary depending on the number of additional hours incurred by the additional process, and the amount of projects required.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and utilization.

**OLR Bill Analysis****sHB 6903*****AN ACT PROHIBITING CONSTRUCTION MANAGERS FROM SELF-PERFORMING PROJECT ELEMENTS OF QUASI-PUBLIC AGENCY CONSTRUCTION CONTRACTS AND SUCCESS FEES IN QUASI-PUBLIC AGENCY CONTRACTS.*****SUMMARY**

This bill requires public bidding for any quasi-public agency project to construct, renovate, or alter buildings or facilities that the quasi-public agency owns or leases that is overseen by a construction manager (e.g., general contractor). A project's construction manager must invite bids for the various project elements and post notice of them on the State Contracting Portal. The bill prohibits the construction manager from bidding on any project element. It requires that (1) bids remain sealed until the public opening (as specified in the notice) and (2) the construction manager must award contracts for project elements to the contractor submitting the lowest responsible qualified bid. The construction manager must consult with, and get the approval of, the quasi-public agency before awarding contracts.

Under the bill, any contract that a quasi-public agency enters into with a construction manager for a project must require the construction manager to keep accounting records for all state funds spent, including detailed support for cost allocations. The bill makes these accounting records subject to audit by the Auditors of Public Accounts.

Lastly, the bill prohibits quasi-public agencies from paying success fees under any contract or agreement entered into, amended, or extended on or after July 1, 2023. A "success fee" is a commission paid by the agency to a person or entity for facilitating a transaction's completion that is paid only if the transaction is completed. It is separate from any payment for services performed.

EFFECTIVE DATE: July 1, 2023

**QUASI-PUBLIC AGENCY PROJECTS**

***Definitions***

Under the bill, a “project” is the construction, renovation, or alteration of buildings or facilities owned or leased by a quasi-public agency. It includes all related planning, feasibility, environmental testing and assessment, permitting, engineering, technical, and other necessary development activities, such as site acquisition, site preparation, and infrastructure improvements.

A “construction manager” is a general contractor or other construction professional with primary responsibility for the day-to-day management of all construction or engineering activities for a project pursuant to a contract or other agreement with a quasi-public agency.

“Quasi-public agency” includes the following entities: Connecticut Innovations, Incorporated; Connecticut Health and Educational Facilities Authority; Connecticut Higher Education Supplemental Loan Authority; Connecticut Student Loan Foundation; Connecticut Housing Finance Authority; Connecticut Housing Authority; Materials Innovation and Recycling Authority; Capital Region Development Authority; Connecticut Lottery Corporation; Connecticut Airport Authority; Connecticut Health Insurance Exchange (i.e., Access Health CT); Connecticut Green Bank, Connecticut Port Authority; Connecticut Municipal Redevelopment Authority; State Education Resource Center; and Paid Family and Medical Leave Insurance Authority.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable

Yea 19    Nay 0    (03/27/2023)