



General Assembly

Amendment

February Session, 2024

LCO No. 5862



Offered by:

SEN. LOPES, 6th Dist.

REP. GRESKO, 121st Dist.

To: Subst. Senate Bill No. 295

File No. 297

Cal. No. 210

**"AN ACT CONCERNING RECOMMENDATIONS OF THE
LEGISLATIVE COMMISSIONERS' OFFICE FOR TECHNICAL
CHANGES TO ENVIRONMENT-RELATED STATUTES."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 7-131d of the 2024 supplement to the general
4 statutes is repealed and the following is substituted in lieu thereof
5 (*Effective July 1, 2024*):

6 (a) There is established the protected open space and watershed land
7 acquisition grant program. The program shall provide grants to
8 municipalities and nonprofit land conservation organizations to acquire
9 land or permanent interests in land for open space and watershed
10 protection and to water companies, as defined in section 25-32a, to
11 acquire and protect land which is eligible to be classified as class I or
12 class II land, as defined in section 25-37c, after acquisition. All lands or
13 interests in land acquired under this program shall be preserved in

14 perpetuity predominantly in their natural scenic and open condition for
15 the protection of natural resources while allowing for recreation
16 consistent with such protection and, for lands acquired by water
17 companies, allowing for the improvements necessary for the protection
18 or provision of potable water.

19 (b) Grants may be made under the protected open space and
20 watershed land acquisition grant program established under subsection
21 (a) of this section or under the Charter Oak open space grant program
22 established under section 7-131t to match funds for the purchase of land
23 or permanent interests in land which purchase meets one of the
24 following criteria: (1) Protects land identified as being especially
25 valuable for recreation, forestry, fishing, conservation of wildlife or
26 natural resources; (2) protects land which includes or contributes to a
27 prime natural feature of the state's landscape, including, but not limited
28 to, a shoreline, a river, its tributaries and watershed, an aquifer,
29 mountainous territory, ridgelines, an inland or coastal wetland, a
30 significant littoral or estuarine or aquatic site or other important
31 geological feature; (3) protects habitat for native plant or animal species
32 listed as threatened or endangered or of special concern, as defined in
33 section 26-304; (4) protects a relatively undisturbed outstanding
34 example of a native ecological community which is now uncommon; (5)
35 enhances and conserves water quality of the state's lakes, rivers and
36 coastal water; (6) preserves local agricultural heritage; or (7) in the case
37 of grants to water companies, protects land which is eligible to be
38 classified as class I land or class II land after acquisition. [The
39 commissioner may make a grant under the protected open space and
40 watershed land acquisition grant program to a distressed municipality
41 or a targeted investment community, as defined in section 32-9p, for
42 restoration or protection of natural features or habitats on open space
43 already owned by the municipality, including, but not limited to,
44 wetland or wildlife or plant habitat restoration or restoration of other
45 sites to a more natural condition, or replacement of vegetation, provided
46 the total amount of grants to such municipalities for such purposes may
47 not exceed twenty per cent of the total amount of grants made in any

48 fiscal year.]

49 (c) Grants may be made under the protected open space and
50 watershed land acquisition grant program established under subsection
51 (a) of this section for restoration or protection of natural features or
52 habitats on open space already owned by a (1) distressed municipality,
53 as defined in section 32-9p, (2) targeted investment community, as
54 defined in section 32-222, (3) municipality, provided such open space is
55 located in an environmental justice community, as defined in section
56 22a-20a, or (4) nonprofit land conservation organization, provided such
57 open space is located in a distressed municipality, targeted investment
58 community or environmental justice community. Such restoration or
59 protection may include, but need not be limited to, wetland, wildlife or
60 plant habitat restoration or restoration of other sites to a more natural
61 condition or replacement of vegetation. The total amount of grants
62 made pursuant to this subsection shall not exceed twenty per cent of the
63 total amount of grants made pursuant to the open space and watershed
64 land acquisition grant program in any fiscal year.

65 [(c) No] (d) (1) Except as provided in subdivision (2) of this
66 subsection, no grant may be made under the protected open space and
67 watershed land acquisition grant program established under subsection
68 (a) of this section or under the Charter Oak open space grant program
69 established under section 7-131t for: [(1)] (A) Land to be used for
70 commercial purposes or for recreational purposes requiring intensive
71 development, including, but not limited to, golf courses, driving ranges,
72 tennis courts, ballfields, swimming pools and uses by motorized
73 vehicles other than vehicles needed by water companies to carry out
74 their purposes, provided trails or pathways for pedestrians, motorized
75 wheelchairs or nonmotorized vehicles shall not be considered intensive
76 development; [(2)] (B) land with environmental contamination over a
77 significant portion of the property provided grants for land requiring
78 remediation of environmental contamination may be made if
79 remediation will be completed before acquisition of the land or any
80 interest in the land and an environmental assessment approved by the
81 Commissioner of Energy and Environmental Protection has been

82 completed and no environmental use restriction applies to the land; [(3)]
83 (C) land which has already been committed for public use, except as
84 provided in subsection (c) of section 7-131g; [(4)] (D) development costs,
85 including, but not limited to, construction of ballfields, tennis courts,
86 parking lots or roadways; [(5)] (E) land to be acquired by eminent
87 domain; or [(6)] (F) reimbursement of in-kind services or incidental
88 expenses associated with the acquisition of land. This subsection shall
89 not prohibit the continuation of agricultural activity, the activities of a
90 water company for public water supply purposes or the selling of timber
91 incidental to management of the land which management is in
92 accordance with approved forest management practices provided any
93 proceeds of such timber sales shall be used for management of the land.
94 In the case of land acquired under this section which is designated as a
95 state park, any fees charged by the state for use of such land shall be
96 used by the state in accordance with the provisions of title 23.

97 (2) Grants in a total amount not exceeding five per cent of the total
98 amount of grants made pursuant to the open space and watershed land
99 acquisition grant program in any fiscal year may be made to distressed
100 municipalities, as defined in section 32-9p, targeted investment
101 communities, as defined in section 32-222, nonprofit land conservation
102 organizations and municipalities, for the purpose of reimbursement for
103 in-kind services or incidental expenses associated with the acquisition
104 of land, including, but not limited to, survey fees, appraisal costs and
105 legal fees, provided such land is located in a distressed municipality,
106 targeted investment community or environmental justice community,
107 as defined in section 22a-20a.

108 [(d)] (e) Any municipality or group of contiguous municipalities may
109 apply to the Commissioner of Energy and Environmental Protection for
110 a grant-in-aid of a program established to preserve or restrict to
111 conservation or recreation purposes the use of open space land. Such
112 grant shall be used for the acquisition of land, or easements, interests or
113 rights therein, or for the development of such land, or easements,
114 interests or rights therein, for purposes set forth in this section, or both,
115 in accordance with a plan of development adopted by the municipal

116 planning commission of the municipality within which the land is
117 located. Any application for a grant-in-aid relating to land located
118 beyond the territorial limits of the applying municipality shall be subject
119 to approval of the legislative body of the municipality within whose
120 territorial limits the land is located. A municipality applying for aid
121 under this section, may designate its conservation commission as its
122 agent to make such application.

123 [(e)] (f) At closing, a permanent conservation easement, as defined in
124 section 47-42, shall be executed for any property purchased with grant
125 funds, which conservation easement shall provide that the property
126 shall remain forever predominantly in its natural and open condition
127 for the specific conservation, open space or water supply purposes for
128 which it was acquired provided any improvements or changes to the
129 property shall be supportive of such condition or purposes. The
130 permanent conservation easement shall be in favor of the state acting
131 through the Commissioner of Energy and Environmental Protection, or
132 his designee, which may be a municipality or a land conservation
133 organization. In the case of land acquired for water supply protection, a
134 water company may hold an easement in conjunction with the state or
135 a nonprofit entity to protect the water supply. Such permanent
136 conservation easement shall also include a requirement that the
137 property be made available to the general public for appropriate
138 recreational purposes, the maintenance of which recreational access
139 shall be the responsibility of the grantee provided such access shall not
140 be required for land which will be classified as class I or class II land by
141 a water company if such access is inconsistent with the provision of pure
142 drinking water to the public. An exception to the provision of public
143 recreational access may be made at the discretion of the Commissioner
144 of Energy and Environmental Protection when provision for public
145 access would be unreasonably detrimental to the wildlife or plant
146 habitat or other natural features of the property or, for land where
147 development rights have been purchased, would be disruptive of
148 agricultural activity occurring on the land. Any instrument conveying
149 an interest in land less than fee which interest is purchased under this

150 section shall provide for the permanent preservation of the land and
151 public access consistent with the land's use or protection and with any
152 restrictions prescribed by the Department of Public Health in order to
153 protect a public drinking water source.

154 Sec. 2. Subsections (b) and (c) of section 7-131e of the general statutes
155 are repealed and the following is substituted in lieu thereof (*Effective July*
156 *1, 2024*):

157 (b) There is established a Natural Heritage, Open Space and
158 Watershed Land Acquisition Review Board to assist and advise the
159 commissioner in carrying out the provisions of sections 7-131d to 7-
160 131g, inclusive, as amended by this act, and sections 23-73 to 23-79,
161 inclusive. Upon establishment of the review board and selection of a
162 chairman under this section, the review board (1) shall provide
163 comments on selection criteria, policies and procedures; (2) shall
164 promote public participation; (3) shall provide guidance and conduct
165 review of strategies for land protection, including strategies under
166 section 23-8; (4) shall review and evaluate grant award policies and
167 procedures; and (5) may provide comments on any application for
168 funds not later than forty-five days after such application is submitted
169 to the chairman. Upon establishment of the board, the commissioner
170 shall take such comments into consideration in making any decisions
171 regarding such grants.

172 (c) The review board shall consist of [twenty-one] twenty-three
173 members as follows: (1) The chairpersons and ranking members of the
174 bonding subcommittee of the joint standing committee of the General
175 Assembly having cognizance of matters relating to finance, revenue and
176 bonding; (2) one member of the joint standing committee of the General
177 Assembly having cognizance of matters relating to the environment,
178 appointed by the speaker of the House of Representatives, and one
179 member of the joint standing committee of the General Assembly
180 having cognizance of matters relating to planning and development,
181 appointed by the president pro tempore of the Senate, each of whom
182 shall be ex-officio members of the board; (3) the Secretary of the Office

183 of Policy and Management, or his designee; (4) a representative of the
184 business community and a person experienced in issues relating to
185 access to public facilities by persons with disabilities, appointed by the
186 Governor; (5) one representative from an investor-owned water utility,
187 appointed by the minority leader of the Senate; (6) one representative
188 from a municipal water utility, appointed by the minority leader of the
189 House of Representatives; (7) one representative from a regional water
190 utility, appointed by the minority leader of the Senate; (8) one
191 representative who is a realtor or attorney with a minimum of five
192 [years] years' experience in real estate transfers, appointed by the
193 speaker of the House of Representatives; one representative with a
194 minimum of five [years] years' experience in the construction industry
195 or land development, appointed by the president pro tempore of the
196 Senate; (9) two representatives of interest groups primarily concerned
197 with the conservation of river watershed regions, appointed one each
198 by the majority leaders of the House of Representatives and the Senate;
199 (10) three representatives from nonprofit organizations primarily
200 concerned with environmental protection or natural resource
201 conservation with a minimum of five [years] years' experience in land
202 conservation and acquisition, appointed one each by the Governor, the
203 speaker of the House of Representatives and the president pro tempore
204 of the Senate; [and] (11) one chief elected official of a town with a
205 population less than twenty thousand and one chief elected official of a
206 town with a population greater than twenty thousand, appointed by the
207 Governor; (12) one member who is a representative of a community of
208 color, low-income community or community-based organization, or
209 professor from a college or university in the state with expertise in
210 environmental justice, appointed by the Commissioner of Energy and
211 Environmental Protection; and (13) one member who resides in a United
212 States census block group, as determined in accordance with the most
213 recent United States decennial census, for which thirty per cent or more
214 of the population consists of low-income persons who are not
215 institutionalized and have an income below two hundred per cent of the
216 federal poverty level, appointed by the Commissioner of Energy and
217 Environmental Protection. The members, other than the members

218 described in subdivisions (1), (2) and (3) of this subsection, shall serve
219 terms of three years provided the terms of the members described in
220 subdivisions (4) to (8), inclusive, of this subsection who are appointed
221 in the year after July 1, 1998, shall expire on October 1, 1999, and further
222 provided the terms of the members described in subdivisions (9) to (11),
223 inclusive, of this subsection shall expire on October 1, 2000. The board
224 shall elect a chairman from among its members and shall make such
225 election on or before October 1, 1998. Members of the board shall serve
226 until reappointed or replaced.

227 Sec. 3. Subsection (a) of section 7-131g of the 2024 supplement to the
228 general statutes is repealed and the following is substituted in lieu
229 thereof (*Effective July 1, 2024*):

230 (a) The Commissioner of Energy and Environmental Protection may
231 make grants under the open space and watershed land acquisition
232 program to: (1) Municipalities for acquisition of land for open space
233 under subdivisions (1) to (6), inclusive, of subsection (b) of section 7-
234 131d, as amended by this act, in an amount not to exceed sixty-five per
235 cent of the fair market value of a parcel of land or interest in land
236 proposed to be acquired; (2) municipalities for acquisition of land for
237 class I and class II water supply protection under subdivision (5) of
238 subsection (b) of said section 7-131d, in an amount not to exceed sixty-
239 five per cent of such value; (3) nonprofit land conservation
240 organizations for acquisition of land for open space or watershed
241 protection under subdivisions (1) to (6), inclusive, of subsection (b) of
242 said section 7-131d, in an amount not to exceed sixty-five per cent of
243 such value; (4) water companies for acquisition of land under
244 subdivision (7) of subsection (b) of said section 7-131d, in an amount not
245 to exceed sixty-five per cent of such value provided if such a company
246 proposes in a grant application that it intends to allow access to such
247 land for recreational uses, such company shall seek approval of the
248 Commissioner of Public Health for such access; and (5) distressed
249 municipalities, as defined in section 32-9p or targeted investment
250 communities, as defined in section [32-9p] 32-222, municipalities
251 containing one or more environmental justice communities, as defined

252 in section 22a-20a, or, with the approval of the chief elected official or
253 governing legislative body of such a municipality or community, to a
254 nonprofit land conservation organization or water company, for
255 acquisition of land within that municipality or community, for open
256 space under subdivisions (1) to (6), inclusive, of subsection (b) of said
257 section 7-131d, in an amount not to exceed seventy-five per cent of such
258 value or for performance of work in the restoration, enhancement or
259 protection of resources in an amount not to exceed fifty per cent of the
260 cost of such work. Applicants for grants under the program shall
261 provide a copy of the application to the chairperson of the review board
262 established under section 7-131e, as amended by this act. The board
263 shall provide comments to the commissioner on pending applications
264 as it deems necessary.

265 Sec. 4. Subsection (a) of section 7-131e of the general statutes is
266 repealed and the following is substituted in lieu thereof (*Effective July 1,*
267 *2024*):

268 (a) Grant award decisions under the protected open space and
269 watershed land acquisition grant program established under section 7-
270 131d, as amended by this act, or under the Charter Oak open space grant
271 program established under section 7-131t shall be made by the
272 Commissioner of Energy and Environmental Protection at least
273 semiannually. All complete and eligible grant applications shall be acted
274 upon by the commissioner as soon as practicable. A single project may
275 receive a grant in more than one grant cycle, subject to future availability
276 of funds and subject to the limitations set forth in this section and
277 sections 23-78, 12-498 and 7-131d, as amended by this act. Up to five per
278 cent of the grant funds may be used for administrative expenses
279 including, but not limited to: (1) Contractors to assist the Department of
280 Energy and Environmental Protection in the review and evaluation of
281 grant proposals and baseline data collection for conservation easements;
282 (2) appraisals or appraisal reviews; and (3) preparation of legal and
283 other documents. Administrative expenses may not be used for staff
284 salaries. Not later than September 1, 1998, for the protected open space
285 and watershed land acquisition grant program established under

286 section 7-131d, as amended by this act, and not later than September 1,
287 2000, for the Charter Oak open space grant program account established
288 under section 7-131t, the commissioner shall develop written guidelines
289 and a ranking system for consistency and equity in the distribution of
290 grant awards under the protected open space and watershed land
291 acquisition grant program established under section 7-131d, as
292 amended by this act, or under the Charter Oak open space grant
293 program account established under section 7-131t based on the criteria
294 listed in subsections (b), [and] (c) and (d) of section 7-131d, as amended
295 by this act. Consistent with such criteria, additional consideration shall
296 be given to: (A) Protection of lands adjacent to and complementary to
297 adjacent protected open space land or class I or class II water company
298 lands; (B) equitable geographic distribution of the grants; (C) proximity
299 of a property to urban areas with growth and development pressures or
300 to areas with open space deficiencies and underserved populations; (D)
301 protection of land particularly vulnerable to development incompatible
302 with its natural resource values including the protection of a public
303 water supply source; (E) consistency with the state plan of conservation
304 and development; (F) multiple protection elements, such as water
305 quality and supply protection, scenic preservation and farmland
306 preservation; (G) the extent to which the presence of already constructed
307 buildings or other man-made improvements diminish or overshadow
308 the natural resource value of a proposed acquisition, or its value relative
309 to its cost; and (H) preservation of forest lands and bodies of water
310 which naturally absorb significant amounts of carbon dioxide.

311 Sec. 5. Subsection (a) of section 23-8b of the general statutes is
312 repealed and the following is substituted in lieu thereof (*Effective July 1,*
313 *2024*):

314 (a) Any contract for the protection of open space entered into by the
315 Commissioner of Energy and Environmental Protection with BHC
316 Company, Aquarion or Kelda Group, jointly or individually, and The
317 Nature Conservancy, for purchase of land or interests in land from said
318 companies shall be on such terms and conditions as are approved by the
319 commissioner. Such terms and conditions shall provide for the filing on

320 the land records in the town in which the land is located, restrictions or
321 easements that provide that all land or interest in land subject to such
322 purchase is preserved in perpetuity in its natural and open condition for
323 the protection of natural resources and public water supplies. Such
324 restrictions or easements may allow only those recreational activities
325 which are not prohibited in subsection [(c)] (d) of section 7-131d, as
326 amended by this act, and shall allow for improvements and activities
327 necessary only for land and natural resource management and safe and
328 adequate potable water. Such permanent restrictions or easements shall
329 be in favor of the State of Connecticut acting through the Commissioner
330 of Energy and Environmental Protection. Such permanent restrictions
331 or easements shall also include a requirement that the property be
332 available to the general public for recreational purposes as permitted
333 under subsection [(c)] (d) of section 7-131d, as amended by this act, and
334 shall allow for the installation of such permanent fixtures as may be
335 necessary to provide such permitted recreational activities. The
336 Department of Energy and Environmental Protection and the state are
337 hereby authorized to carry out and fulfill their obligations under any
338 such contract. In addition to such rights as said companies may have
339 pursuant to chapter 53, those rights in and to land or interests in land
340 reserved by said companies in their conveyances to the state in
341 accordance with the provisions of said contract shall be enforceable in
342 equity.

343 Sec. 6. (NEW) (*Effective July 1, 2024*) (a) Notwithstanding any
344 provision of the general statutes, the Commissioner of the Department
345 of Energy and Environmental Protection may acquire, in the name of
346 the state and for flood control and protection and associated public
347 purposes, no more than 25.7 acres of real property, or interests or rights
348 therein, by purchase, gift, devise or exchange, or may take the same by
349 eminent domain in the manner provided in Part IV of chapter 238 of the
350 general statutes, provided: (1) Such acquisition occurs prior to October
351 1, 2034; (2) the owner of any private property taken by eminent domain
352 pursuant to this section shall be entitled to challenge the amount of
353 compensation in accordance with section 13a-76 of the general statutes;

354 and (3) such property or interest therein is located in a municipality that
 355 was incorporated in 1836 and has a population between one hundred
 356 forty thousand and one hundred fifty thousand as reported in the 2010
 357 federal decennial census and is necessary to construct a disaster relief,
 358 long-term recovery or infrastructure restoration project funded in 2016
 359 by the Community Development Block Grant-National Disaster
 360 Resilience program, 81 CFR 36557.

361 (b) Whenever the Commissioner of the Department of Energy and
 362 Environmental Protection determines that the construction, operation,
 363 maintenance, repair or reconstruction of the property described in
 364 subdivision (3) of subsection (a) of this section or the flood control and
 365 protection improvements thereon, would necessitate the readjustment,
 366 relocation or removal of a public service facility, as defined in section
 367 13a-126 of the general statutes, the commissioner may issue a
 368 readjustment, relocation or removal order to the company, corporation
 369 or municipality owning or operating such public service facility and
 370 such company, corporation or municipality shall readjust, relocate or
 371 remove such public service facility promptly, in accordance with such
 372 order, provided an equitable share of the cost of such readjustment,
 373 relocation or removal, including the cost of installing and constructing
 374 a public service facility of equal capacity in a new location, shall be
 375 borne by the state, within available appropriations, and calculated in
 376 accordance with section 13a-126 of the general statutes, as applied to
 377 state highways other than limited access highways."

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2024	7-131d
Sec. 2	July 1, 2024	7-131e(b) and (c)
Sec. 3	July 1, 2024	7-131g(a)
Sec. 4	July 1, 2024	7-131e(a)
Sec. 5	July 1, 2024	23-8b(a)
Sec. 6	July 1, 2024	New section