
SUPREME COURT

OF THE

State of Connecticut

—
S.C. 19558

**DATTCO, INC., COLLINS BUS SERVICE, INC., NASON PARTNERS, LLC
d/b/a KELLY TRANSIT COMPANY, LLC, and THE NEW BRITAIN TRANSPORTATION COMPANY**

V.

JAMES REDEKER, COMMISSIONER OF TRANSPORTATION OF THE STATE OF CONNECTICUT

—
REPLY BRIEF OF PLAINTIFFS/APPELLANTS
—

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II. INTRODUCTION.

“The authority to condemn is to be strictly construed in favor of the owner and against the condemnor” *Simmons v. State of Connecticut*, 160 Conn. 492, 500, 280 A. 2d 351 (1971). This principle is so well-rooted in law that the Commissioner does not dispute it. Instead, the Commissioner argues that the Court should ignore this principle because the Commissioner claims to seek to improve the State’s transportation service, and instead should expand the powers of the Commissioner beyond the authority granted by the Legislature.

The Commissioner concedes that there is no statutory language which specifically grants to the Commissioner the power to condemn the Plaintiffs’ Certificates of Public Convenience and Necessity. The Commissioner is left to argue that the power to condemn is granted to the Commissioner by “clear or necessary implication.” In so arguing the Commissioner seeks to destroy not only the principle underlying the law of condemnation but to destroy four family businesses which have been providing quality transportation service for 100 years.

III. ARGUMENT.

A. The Commissioner Offers “Facts” Which Are Not Found in the Record.

The foundation of the Commissioner’s factual basis for desiring to condemn these Certificates is the laudable goal of improving services and lowering “the costs of state subsidies for bus transportation by combining or altering routes, or competitively procuring those services through a free market in order to provide the Connecticut taxpayer with better value for the service.” (Brief, p. 8). The problem with this

statement, of course, is that it is irrelevant to the question of whether the Commissioner has the right to condemn the Plaintiff's Certificates.

Moreover, the "facts" set forth by the Commissioner were neither adduced before the Trial Court nor subject to any findings of fact by the Trial Court. Rather, those facts which the Trial Court relied upon include only the following:

- "Each of the plaintiffs holds a certificate authorizing it to provide bus service over certain intrastate routes." (App. A18);
- "The certificates were issued pursuant to what is now General Statutes Section 13b-80" (App. A19);
- "The department [of transportation] has not moved to suspend or revoke the companies' certificates." (*Id.*);
- "The companies claim that the state plans to use only buses owned by CTTransit, a department-owned bus company, over the busway, and that the busway incorporates many of the routes over which the companies hold the exclusive right to provide bus service, pursuant to their certificates. Thus, the department's plans for the busway infringe on the exclusive rights the companies enjoy under their certificates." (App. A20, A171-172);
- The Commissioner seems to have abandoned that litigation (the litigation before Judge Levine in *Dattco, Inc. v. Department of Transportation*, p. A161, which enjoined the Commissioner from awarding the routes to others), in favor of attempting to condemn the certificates. (App. A23).

No other facts are necessary to resolve the questions before the Court.

The decision to own the bus fleet utilized by the Plaintiffs was made by the Legislature, having made the policy decision to subsidize bus fares to keep them low to encourage ridership. Thus, the cost to a passenger of riding the bus bears no relationship to the actual cost of operating bus service in Connecticut. The Plaintiffs use State-owned buses and charge fares set by the State because that is what the State prefers. The Commissioner argues, without any evidence, and without articulating any form of measurement, that the Plaintiffs' certificated routes are not profitable (Brief, p. 8). However, there is no reason to believe that the Plaintiffs could not operate their services at a profit if they owned their own buses, were free to use the buses for other

purposes when not in service on the routes covered by their Certificates, and were free to charge market rate fares to their passengers. Rather than saddle the taxpayer with subsidizing the cost of bus service, there is no reason why the State could not have a system whereby the person using the system pays for the cost of the service.

The Commissioner has suggested (Brief, p. 8) that the Department wished to promote competitive bidding for the routes covered by the Plaintiff's Certificates. What the Commissioner failed to mention is that the playing field for competing for such routes is not level, because the state-operated and controlled system can bid whatever it wishes without worrying about costs and whether expenses exceed income. The costs of operating the state-run system are actually higher than the operations of the Plaintiffs, given the management fees paid by the State to HNS Management and the higher labor costs incurred by the State.

The Commissioner's articulated reason for seeking to consolidate control and drive the Plaintiffs out of business is proven false by the evidence cited by the Commissioner at page 10 of its Brief. As the Commissioner points out, both Dattco and The New Britain Transportation Company brought suits against the Commissioner to enjoin the operation of the Busway unless it was operated by these companies, inasmuch as routes covered by the Busway are routes covered by the Plaintiff's Certificates. The Commissioner, recognizing the probability of the Court issuing an injunction, entered into agreements with Dattco and NBT. By seeking to condemn the Plaintiff's routes, the Commissioner merely seeks to transfer operation of those routes from a privately held company to a company operated by the State. There was a time when such state-run operation of a business was frowned upon as communism.

B. The Commissioner's Authority is Not As Broad as He Claims it Is.

The Commissioner goes to great lengths to substantiate his claim that the power to condemn is implicit in the powers conferred to his office by the Legislature because the Connecticut General Statutes do not articulate an explicit power to condemn intangible property rights (Brief pp. 11-12; 19-24, 32). Contrary to the Commissioner's arguments, finding such an implicit power would render other provisions of the General Statutes meaningless. A plain reading of Conn. Gen. Stat. §13b-34 (App. A740) makes clear that the Statute governs the Commissioner's ability to enter into contracts on the behalf of the State. It strains reason to argue that the inclusion of the term "acquire" in Conn. Gen. Stat. §13b-34(c) (App. A740) is a reference to the implicit power to condemn. Conn. Gen. Stat. §13b-34 (App. A740) states the Commissioner has the power to contract in section (a), apply for and to receive and accept grants of property, money and services in Section (b), and hire, lease, acquire and dispose of property in Section (c).

Conn. Gen. Stat. §13b-80 (App. A734) clearly states the certificates remain valid unless suspended or revoked by the Department of Transportation. Section 13b-36(a) (App. A742) does provide the Commissioner with limited authority to condemn tangible property. The Legislature clearly was aware of the ability to condemn a Certificate and granted the express power to condemn to the transit districts. See Conn. Gen. Stat. § 7-273e(b) (App. A734).

Contrary to the State's position (Brief, pp. 27-29) that it is incongruent that the Legislature granted the power to condemn the certificates to the transit district and not the Commissioner, such a reading is the only way to harmonize the statutes and give

meaning and purpose to every word and sentence. “It is a basic tenet of statutory construction that the legislature [does] not intend to enact meaningless provisions. . . . [I]n construing statutes, we presume that there is a purpose behind every sentence, clause, or phrase used in an act and that no part of a statute is superfluous.” *Dorry v. Garden*, 313 Conn. 516, 525 (2014). The Legislature did not convey the power to condemn intangible property rights such as the Certificates to the Commissioner. The Legislature could easily have included a reference to the Certificates in Conn. Gen. Stat. §13b-36(a)(App. A732), as it did in Conn. Gen. Stat. § 7-273e(b)(App. A734), yet it chose not to.

Conn. Gen. Stat. § 7-273e(b)(App. A734) defines the limits of the transit district's power to condemn as including “real property and interests and rights in real property by eminent domain . . . all or any part of the franchise and of the holder's transit system, including the holder's real estate or interests therein, personal property, and funds . . .” Conn. Gen. Stat. § 7-273e(c)(App. A734) The Legislature recognized a distinction between real property and intangible property such as the Certificates at issue. The Legislature delegated the explicit power to condemn intangible property after notice and hearing. Conn. Gen. Stat. § 7-273e, Sections (b) and (c)(App. A734). The Legislature did not explicitly or implicitly grant the Commissioner this power anywhere in the statutory scheme to condemn intangible property rights. The Court must give meaning and purpose to the statute's wording, and by including the power to condemn the certificates in Conn. Gen. Stat. § 7-273e(b)(App. A734) and excluding such power elsewhere, the only way to construe that statute and give meaning and purpose to every word is to find the Commissioner lacks the authority to condemn the Certificates.

C. The Certificates Cannot Be Considered To Be “Facilities” Within the Meaning of Conn. Gen. Stat. Section 13b-36(a).

The Commissioner offers six arguments (Brief, pp. 14-19) in support of its claim that the Certificates are facilities within the meaning of Conn. Gen. Stat. Section 13b-36(a)(App. A742).¹ All of these arguments must be rejected.

The Commissioner argues (Brief, p. 14) that because the State already owns the buses and most of the buses and equipment it should be entitled to condemn the Certificates, an argument akin to saying “because the State already owns a fleet of cars it should be entitled to condemn my driver’s license.” There is nothing in the record to indicate that the State owns most of the equipment. While it is true that the State, by choice, owns most, but not all, of the buses used by the Plaintiffs to provide the service, the State does not own their garages, or their maintenance facilities, or their headquarters, or their computers, or any number of other physical assets utilized by the Plaintiffs in operating their businesses.

The Commissioner’s citation to *Black’s Law Dictionary* (Brief, p. 15) is misplaced. The Commissioner has neglected to point to the most important part of the definition. Instead of what the Commissioner stated in his Brief, the quotation actually reads:

As applied to carriers, means everything necessary for the convenience of passengers and the safety and prompt transportation of freight: everything incident to the general, prompt, safe, and impartial performance of the duties to the public at large imposed by the state, in the proper exercise of its police power, upon transportation or transmission companies.

¹ Section 13b-36(a) provides, in pertinent part: “The commissioner may purchase or take, and, in the name of the state, may acquire title in fee simple to, or any lesser estate, interest or right in, any land, buildings, equipment or facilities which the commissioner finds necessary for the operation or improvement of transportation services.”

Black's Law Dictionary, Rev. 4th Ed., p. 705 (1968)(Def. App. A72). Thus, the term "facilities" applies to what is necessary to transport passengers conveniently, safely, and promptly, such as maintenance facilities and equipment, computers, lights and windshield wipers on buses. The possession of the Certificate plays no role in the convenient, safe and prompt transportation of passengers. The Certificate is the necessary authorization to provide the service, but the Certificate does not contribute to the safety, convenience, or prompt delivery of passengers. The Commissioner points out that buses operated by the State do not have Certificates. If, as the Commissioner argues (Brief, p. 16) and the Trial Court found (App. A27), the possession of a Certificate not only made the activities in operating bus service easier but is essential to the ease of operation of the service, then no doubt those operating the service through the State would have a Certificate.

The Commissioner argues (Brief, p. 21, n. 16) that the Court should ignore the Legislature's reaction to the Trial Court's ruling (See our Brief, pp. 15-19) because the Legislature ultimately took no action on either proposed bill. The Commissioner has apparently misunderstood the point we were making. We pointed out that both the Commissioner and the Legislature clearly understood that Section 13b-36(a) (App. A742) did not give the Commissioner the authority to condemn the Certificates. Moreover, why would the Commissioner have sought from the Legislature a grant of the authority of the power to condemn the Certificates if he already had that power?²

² More recently in Raised Bill No. 5411 (Reply Appendix, A1), the Commissioner has sought to avoid the issues of condemning the certificate by changing the language of Conn. Gen. Stat. Section 13b-80. (App. A743) The plain language of the proposed legislation would authorize the Commissioner to revoke a Certificate where a route covered by the certificate is the subject of a contract. However, all routes today are

The Commissioner's reliance (Brief, pp. 16, 22) upon the holding in *Hartford Electric Light Co. v. Federal Power Comm.*, 131 F. 2d 953, 961 (2d Cir. 1942) is also misplaced. That case did not involve a condemnation of property but a consideration of what facilities the Plaintiff owned which could give the Federal Power Commission jurisdiction over the Plaintiff with respect to its sale of energy. The Court concluded that the Plaintiff's "corporate organization, contracts, accounts, memoranda, papers and other records, in so far as they are utilized in connection with such sales", were facilities for the purpose of exercising jurisdiction. *Id.* Unlike the "facilities" in *Hartford Electric Light*, which could actually be used in the process of making sales of energy, the Certificates owned by the Plaintiffs here are not utilized in connection with the transportation of passengers in any way, and certainly do not contribute to the safety, convenience, or prompt travel of passengers.

The Commissioner argues (Brief, p. 17), that the Plaintiffs could not operate the service with only the Certificates. The claim is plainly not true, and completely unsupported by the record evidence. That the State owns the buses is solely due to the desire of the State to keep the passenger fares low, to obtain grants from the Federal

subject to a contract because the Commissioner has exercised his authority to set fares at artificially low levels, thus making the contracts necessary to subsidize the service; "the contract between the parties governs terms of service and has no bearing on the exclusive rights that" the companies have to operate the service. *Nason Partners, LLC v. Northwestern Conn. Transit Dist.*, 2013 Conn. Super. LEXIS 1425 (Conn. Super. Ct. June 28, 2013, Danaher, J) (App. A900). This legislation, then, would authorize the Commissioner to summarily revoke all of the existing certificates and terminate the right of the bus companies to provide service, because without the certificate neither they, nor anyone else, can provide the service. What this legislation proposes, then, is to permit the Commissioner to in effect take the companies' Certificates, which are vested property rights, without due process, and without any justifiable legal authority to do so, and without even the requirement of paying just compensation for the value of the certificate condemned.

Transit Administration (App. A302-A305) and to provide subsidies. There is no reason to believe that the Plaintiffs could not provide the same service, using their own buses, so long as they were permitted to charge a market-rate fare. The Plaintiffs all have lower labor costs in operating their buses than does the State in operating its buses. Given the fiscal crisis facing the State, one can only wonder at the wisdom of continuing this practice.

The Commissioner has misread (Brief, p. 17), or misunderstood, the holding of the Court in *The Enfield Toll Bridge Company v. The Hartford and New-Haven Railroad Company*, 17 Conn. 40 (1845). In that case the “franchise” was determined to be a specific and identifiable interest in land, and the grant of a permit to build another bridge was claimed to interfere with the exclusivity granted to the Enfield Toll Bridge Company. This was not a takings case, but a question as to the limits of the Plaintiff’s claim of geographic exclusivity.

It is clear when articulating the powers conferred on the Commissioner that “facility” means “buildings” and “real property” and “equipment.” There is no plausible construction of the statute that could lead to the conclusion that “facility” means intangible property rights. There is no reference in the entire statutory scheme to a “facility” being an intangible right. Thus, as we pointed out at page 14, n.6 of our earlier Brief, the Legislature has never used the term “facilities” to mean anything other than buildings, structures, or equipment, or anything of a physical nature.

We must keep in mind what the Certificate of Public Convenience is, and what it is not. Section 13b-80 of the General Statutes makes clear the Certificate is the permit, or license, to operate a motor bus issued by the Department of Transportation, after it

has been determined that the public convenience and necessity requires that bus service be operated over a particular route. The Certificate provides the operator with the exclusive right to operate the service over that route. The Certificate does not assist the operator in any way in providing the service; it does not contribute to the safety of passengers, it does not make the buses run on time, it does not make the buses more comfortable for passengers, it does not contribute to air conditioning, or heat, or wi-fi. It is permit constituting a property right with due process protection.

While the Certificate is merely the authority to operate the service, it is the contract that the Plaintiff's enter into with the State which might be considered the "facility". The contract governs the terms of service, such as the management fee, length of term, and other conditions of service. It has no bearing on the exclusive rights to operate that the Certificate permits. *Nason Partners, LLC v. Northwestern Conn. Transit District*, 2013 Conn. Super. LEXIS 1425, ** 11, 12 (Conn. Super. Ct. June 28, 2013)(App. A900).

D. Section 13b-23 Does Not Provide to the Commissioner Any Authority to Condemn.

The Commissioner argues (pp. 19-22) that when reading Sections 13b-36(a) (App. A742) together with Section 13b-23 (Def. App. A18) the Court should conclude that the Commissioner has the power to condemn by clear implication. In reliance upon this statement the Commissioner cites to *Tolland Enterprises v. Commissioner of Transp.*, 36 Conn. App. 49, 647 A. 2d 1045 (1994), and *South Farms Associates Ltd. Partnership v. Burns*, 35 Conn. App. 9, 644 A. 2d 940 (1994). The Commissioner's reliance is misplaced. In both cases the Commissioner's authority for the condemnation of the plaintiffs' land was Conn. Gen. Stat. Section 13a-73(b) (Def. App. A11), which

specifically authorizes the Commissioner to condemn “any land he finds necessary for the . . . improvement of any state highway . . . and the owner of such land shall be paid by the state for all damages” In both cases the plaintiffs appealed from the amount of the damages assessed. There was no reference in either case to Section 13b-23 (Def. App. A18) providing any independent source of authority for the Commissioner to condemn land. The only authority of the Commissioner to condemn was found in the specific language of Section 13a-73(b)(Def. App. A11).

The Commissioner’s reliance upon this Court’s holding in *State v. McCook*, 109 Conn. 621, 147 A. 126 (1929), is similarly misplaced(Brief p. 19-20). In *McCook* the legislature passed a special act appropriating a sum of money “for the purpose of acquiring, by condemnation proceedings or otherwise, for the site of the tuberculosis sanatorium at East Lyme, land located at East Lyme, bounded and described as follows:” 129 Conn. at 625. Thus, the specific authority to condemn and the specific property subject to condemnation and the public purpose for which the property was condemned were identified by the legislation. The petitioner objected to the taking, claiming the legislation was nothing more than an appropriations act, but the Court disagreed, finding that the specifics in the Act of identifying the authority to condemn, the specific property to be condemned, and the purpose for which it was condemned distinguished the Act from an appropriations bill. Importantly, the Court observed:

Under the general practice the legislature determines that there is necessity for the exercise of the power of eminent domain; **but it may, as it has power to do, designate the particular property or rights to be taken. . . .** When the property to be taken, or its location, or source, is designated within reasonable bounds, the legislative designation is final. . . . **Every taking *in vitum* of private property is subject to judicial determination whether the taking falls within the prescribed**

limitation – whether in truth it is founded upon public necessity. . . . ‘The characteristics of such an act of appropriate are known and well understood. **It must appear that the government intended to exercise this high sovereign right, by clear and express terms, or by necessary implication, leaving no doubt or uncertainty respecting such intent.**’

129 Conn. at 628-629 (internal citations omitted)(emphasis added).

In the present case the Legislature specified in Section 13b-36(a)(App. A742) the limits of the Commissioner’s authority to condemn, and it did not include the Certificates. Moreover, it cannot be said that the Legislature exercised, by clear and express terms, or by necessary implication, the authority to take the Certificates. If for no other reason than that the Commissioner and the Legislature proposed the competing legislation in 2015 to deal with the issue, it must be concluded that there is both doubt and uncertainty respecting the intent of the Legislature to include within the Commissioner’s authority the power to condemn the Certificates.

E. A Limitation on the Power to Condemn is Consistent with the Statutory Scheme and Does Not Interfere With the Ability of the Commissioner to Improve Bus Service.

The Commissioner is not condemning the Certificates because there is no need for the services, nor is the Commissioner condemning the Certificates to transform the “property” once condemned – the Commissioner is condemning the certificates merely to provide another entity the ability to use the property in the exact same manner as the Plaintiffs (Brief p. 8). The proper scheme to accomplish this end already exists – the Commissioner can hold public hearings pursuant to §13b-80 (App. A743) and determine whether the bus companies are not meeting the public need and revoke the Certificates.

The Commissioner does have the responsibility of coordinating and developing comprehensive, integrated transportation policy and planning to include a long-range

master plan of transportation for the state; coordinating and assisting in the development and operation of a modern, safe, efficient and energy-conserving system of highway, mass transit, marine and aviation facilities and services; and promoting the coordinated and efficient use of all available and future modes of transportation. See, e.g. Conn. Gen. Stat. §13b-4, Sections (a) through (c) (Def. App. A16). However, the Commissioner cannot perform these duties in a vacuum. There is nothing in the record to establish that taking the bus companies' Certificates contributes to the public benefit or advances the articulated policy of the Department. There is nothing in the record to establish that taking the bus companies' Certificates would lower transportation costs, improve services, or advance the public benefit.

In fact, the record supports the opposite. The Commissioner has consistently entered into contracts with the bus companies for transportation services. There has never been a hearing to establish that cause exists to suspend or revoke their Certificate(s), pursuant to Conn. Gen. Stat. §13b-80, or that the companies are not satisfying the public need for the service. (App. A52, A58, A64, A70).³ The Commissioner has never established in the record that there is a public necessity to condemn the Certificates. See, e.g., *State v. McCook*, 109 Conn. 621, 629 (1929).

The power to contact with the bus companies provides ample opportunity for the Commissioner to improve bus services throughout the State. The Commissioner has the ability to develop a comprehensive, integrated transportation plan, to coordinate and promote the efficient use of all available and future modes of transportation, to study

³ The Certificate, being a property right, "remains such . . . so long as the laws pertaining to its use are obeyed". *Hart Twin Volvo Corporation v. Department of Motor Vehicles*, 165 Conn. 42, 48, n.1 (1973).

commuter and urban travel to formulate and implement plans and programs to improve such travel. See Conn. Gen. Stat. § 13b-4(Def. App. A16). In performing these duties and articulating the Department's plan, he has the power to contract with the bus companies pursuant to Conn. Gen. Stat. §13b-34 (App. 740), as the Department has for decades, and provide transportation services to the citizens of the State of Connecticut. If the companies are unable to meet the needs of the public, the Certificates can be suspended or revoked. Conn. Gen. Stat. §13b-80 (App. 743). This is entirely consistent with a plain reading of the applicable General Statutes, is a system that has worked to the benefit of the citizens of the State of Connecticut for decades, and does not interfere with the Commissioner's duties and responsibilities.

F. The Certificates May Be Suspended or Revoked Only After a Due Process.

The Commissioner misconstrues (Brief, pp. 29-31) the bus companies' position – they have been denied substantive due process of law by the Commissioner because the Commissioner has no statutory authority to condemn the Certificates at issue. The bus companies have argued that Conn. Gen. Stat. § 13b-80 (App. A743) sets forth the statutory authority for the Commissioner to revoke the Certificates, and Conn. Gen. Stat. §13b-80 (App. A743) requires a hearing.

As this Court has recognized, "A license to engage in business or practice a profession is a property right that cannot be taken away without due process of law." *Hart Twin Volvo v. Comm'r of Motor Vehicles*, 165 Conn. 42, 47, n.1 (1973), quoting *State v. Parrish*, 254 N.C. 301, 303, 118 S.E. 2d 786. Irreparable harm exists where, as here, the Commissioner has attempted to take the bus companies' Certificates without following the statutory scheme set forth in §13b-80 (App. A743) and, therefore,

without due process. The Commissioner, in arguing that the Commissioner's actions comport with due process and no hearing is required (Appellee's Brief at pp. 29-31) does not address the bus companies' argument. **The Commissioner's condemnation of the Certificates is beyond the grant of the powers vested in him by the Legislature and deprives the Plaintiff of substantive due process.** "Substantive due process . . . imposes limits upon what the state may do regardless of what procedural protection is provided." *Pittsley v. Warish*, 927 F. 2d 3, 6 (2d Cir. 1991). A plaintiff need only identify a property interest protected by the due process clause which has been violated. *DeLeon v. Little*, 981 F. Supp. 728, 735 (D. Conn. 1997). In the absence of cause it does not matter what procedural protections are afforded to Plaintiffs with respect to their Certificates. *Greater New Haven Prop. Owners Ass'n v. City of New Haven*, 288 Conn. 181, 202 (2008).

The Commissioner has never suggested that the bus companies are not satisfying the public need for the service and, therefore, has never articulated any cause exists to deprive the Plaintiffs of their Certificates, and has never held public hearings to determine that the bus companies are not meeting the public need and sufficient cause exists to revoke the Certificates.

IV. CONCLUSION.

For all the foregoing reasons, this Court should conclude that the Trial Court committed reversible error, reverse the decision and judgment of the Trial Court, and remand the matter to the Trial Court with instructions to enter judgment in favor of the Plaintiffs and permanently enjoin the Commissioner from condemning the Plaintiffs' Certificates of Public Convenience and Necessity.

Respectfully Submitted,

THE PLAINTIFFS/APPELLANTS,

DATTCO, INC., COLLINS BUS SERVICE,
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CERTIFICATION OF COMPLIANCE

The undersigned attorney hereby certifies, pursuant to Connecticut Rule of Appellate procedure § 67-2, that on this 17th day of March, 2016:

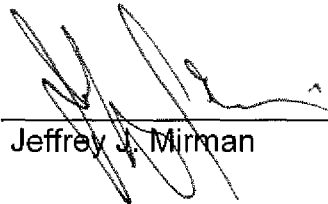
(1) The electronically submitted brief and appendix was delivered electronically to the last known e-mail address of each counsel of record for whom an e-mail address was provided; and

(2) The electronically submitted brief and appendix and the filed paper brief and appendix have been redacted or do not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order, or case law; and

(3) A copy of the brief and appendix was sent to each counsel of record and to any trial judge who rendered a decision that is the subject matter of the appeal, in compliance with Section 62-7; and

(4) The brief and appendix filed with the appellate clerk are true copies of the brief and appendix that were submitted electronically; and

(5) The brief complies with all provisions of this rule.



Jeffrey J. Mirman

CERTIFICATION OF SERVICE

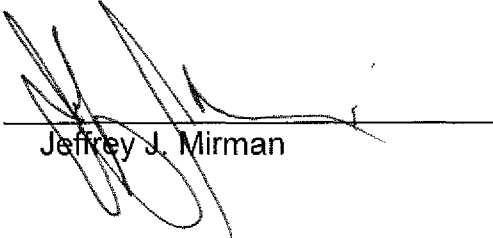
I hereby certify that on 17th day of March, 2016, a copy of the Plaintiffs/Appellants' Reply Brief was mailed postage-prepaid and sent via electronic mail in compliance with Practice Book §62-7 to the following counsel of record:

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and to the Trial Judge:

The Honorable Joseph M. Shortall
Superior Court
20 Franklin Square
New Britain, CT 06051



Jeffrey J. Mirman

SUPREME COURT

OF THE

State of Connecticut

—
S.C. 19558

**DATTCO, INC., COLLINS BUS SERVICE, INC., NASON PARTNERS, LLC
d/b/a KELLY TRANSIT COMPANY, LLC, and THE NEW BRITAIN TRANSPORTATION COMPANY**

V.

JAMES REDEKER, COMMISSIONER OF TRANSPORTATION OF THE STATE OF CONNECTICUT

—
**APPENDIX TO
REPLY BRIEF OF PLAINTIFFS/APPELLANTS**
—

For Plaintiffs/Appellants

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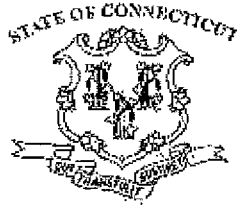
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Filed: March 17, 2016

APPENDIX

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General Assembly

February Session, 2016

Raised Bill No. 5411

LCO No. 1552



Referred to Committee on TRANSPORTATION

Introduced by:

(TRA)

**AN ACT CONCERNING DEPARTMENT OF TRANSPORTATION
RECOMMENDATIONS REGARDING THE LOCAL BRIDGE PROGRAM,
THE ADMINISTRATION OF PUBLIC TRANSIT, WORK ZONE SAFETY
FUNDS, THE TRANSIT-ORIENTED DEVELOPMENT PROJECT,
COMMUTER PARKING AREAS, REVISIONS TO STATUTES RELATED
TO TRANSPORTATION AND OUTDATED REPORTING MANDATES.**

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

1 Section 1. Section 13a-175p of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective July 1, 2016*):

3 The following terms, as used in this section and sections [13a-175p]
4 13a-175q to 13a-175u, inclusive, shall have the following meanings
5 unless the context clearly indicates a different meaning or intent:

6 (1) "Commissioner" means the Commissioner of Transportation.

7 (2) "Eligible bridge" means a bridge located within one or more
8 municipalities in the state, the physical condition of which requires it
9 be removed, replaced, reconstructed, rehabilitated or improved as
10 determined by the commissioner.

11 (3) "Eligible bridge project" means the removal, replacement,
12 reconstruction, rehabilitation or improvement of an eligible bridge by
13 one or more municipalities.

14 (4) "Grant" means any grant made to a municipality pursuant to
15 section 13a-175s.

16 (5) "Grant percentage" means [a percentage established by the
17 commissioner for each municipality by (A) ranking all municipalities
18 in descending order according to each such municipality's adjusted
19 equalized net grand list per capita as defined in section 10-261; and (B)
20 determining a percentage for each such municipality on a scale from
21 not less than fifteen per cent to not more than fifty per cent based upon
22 such ranking. In any case where a municipality does not have an
23 adjusted equalized net grand list per capita such municipality shall be
24 deemed to have the adjusted equalized net grand list per capita of the
25 town in which it is located] fifty per cent.

26 (6) "Local bridge program" means the local bridge program
27 established pursuant to this section and sections [13a-175p] 13a-175q to
28 13a-175u, inclusive.

29 (7) "Local Bridge Revolving Fund" means the Local Bridge
30 Revolving Fund created under section 13a-175r.

31 (8) "Municipality" means any town, city, borough, consolidated
32 town and city, consolidated town and borough, district or other
33 political subdivision of the state, owning or having responsibility for
34 the maintenance of all or a portion of an eligible bridge.

35 (9) "Physical condition" means the physical condition of a bridge
36 based on [its structural deficiencies, sufficiency rating] the condition of
37 its components and elements, functional adequacy, scour susceptibility
38 and load capacity all as determined by the commissioner.

39 (10) "Priority list of eligible bridge projects" means the priority list of

40 eligible bridge projects established by the commissioner in accordance
41 with the provisions of section 13a-175s.

42 (11) "Project costs" means the total costs of a project determined by
43 the commissioner to be necessary and reasonable.

44 (12) "Supplemental project obligation" means bonds or serial notes
45 issued by a municipality for the purpose of financing the portion of the
46 costs of an eligible bridge project not met from the proceeds of a grant.

47 Sec. 2. Section 13b-80 of the general statutes is repealed and the
48 following is substituted in lieu thereof (*Effective July 1, 2016*):

49 No person, association, limited liability company or corporation
50 shall operate a motor bus without having obtained a certificate from
51 the Department of Transportation or from the Federal Highway
52 Administration pursuant to the Bus Regulatory Reform Act of 1982,
53 P.L. 97-261, specifying the route and certifying that public convenience
54 and necessity require the operation of a motor bus or motor buses over
55 such route. Such certificate shall be issued only after written
56 application for the same has been made. Upon receipt of such
57 application, said department shall promptly give written notice of the
58 pendency of such application to the mayor of each city, the warden of
59 each borough or the first selectman of each town in or through which
60 the applicant desires to operate, and to any common carrier operating
61 over any portion of such route or over a route substantially parallel
62 thereto. Any town, city or borough within which, or between which
63 and any other town, city or borough in this state, any such common
64 carrier is furnishing service may bring a written petition to the
65 department in respect to routes, fares, speed, schedules, continuity of
66 service and the convenience and safety of passengers and the public.
67 Thereupon the department may fix a time and place for a hearing
68 upon such petition and mail notice thereof to the parties in interest at
69 least one week prior to such hearing. No such certificate shall be sold
70 or transferred until the department, upon written application to it,

71 setting forth the purpose, terms and conditions thereof and after
72 investigation, approves the same. The application shall be
73 accompanied by a fee of one hundred seventy-six dollars. The
74 department may amend or, for sufficient cause shown, may suspend
75 or revoke any such certificate. Sufficient cause shall include, but be not
76 limited to, the circumstance where a route set forth in a certificate of
77 public convenience and necessity overlaps, in whole or in part, with a
78 route set forth in a contract issued to the holder of such certificate
79 pursuant to section 13b-34, as amended by this act. The department
80 may impose a civil penalty on any person or any officer of any
81 association, limited liability company or corporation who violates any
82 provision of any regulation adopted under section 13b-86 with respect
83 to routes, fares, speed, schedules, continuity of service or the
84 convenience and safety of passengers and the public, in an amount not
85 to exceed one hundred dollars per day for each violation. The owner or
86 operator of every motor bus shall display in a conspicuous place
87 therein a memorandum of such certificate. Notwithstanding any
88 provision of chapter 285, such certificate shall include authority to
89 transport baggage, express, mail and newspapers for hire in the same
90 vehicle with passengers under such regulations as the department may
91 prescribe. Any certificate issued pursuant to this section by the
92 Division of Public Utility Control within the Department of Business
93 Regulation prior to October 1, 1979, shall remain valid unless
94 suspended or revoked by the Department of Transportation.

95 Sec. 3. Subsection (a) of section 14-212g of the general statutes is
96 repealed and the following is substituted in lieu thereof (*Effective from*
97 *passage*):

98 (a) There is established an account to be known as the "work zone
99 safety account" which shall be a separate, nonlapsing account within
100 the Special Transportation Fund. The account shall contain any
101 moneys required by law to be deposited in the account. Moneys in the
102 account shall be expended by the Department of Transportation [for
103 the purposes of] to protect the safety of workers in highway work

104 zones, as defined in section 14-212d; through (1) highway traffic
105 enforcement, including, but not limited to, the expansion of the
106 "Operation Big Orange" program, [to protect the safety of workers in
107 highway work zones, as defined in section 14-212d] (2) the purchase
108 and implementation of technology and equipment, and (3) highway
109 work zone training and education.

110 Sec. 4. Subsection (b) of section 14-283b of the general statutes is
111 repealed and the following is substituted in lieu thereof (*Effective July*
112 *1, 2016*):

113 (b) Any operator of a motor vehicle on a highway when
114 approaching one or more [stationary] emergency vehicles that are
115 stationary or traveling significantly below the posted speed limit and
116 located on the shoulder, lane or breakdown lane of such highway shall
117 (1) immediately reduce speed to a reasonable level below the posted
118 speed limit, and (2) if traveling in the lane adjacent to the shoulder,
119 lane or breakdown lane containing such emergency vehicle, move such
120 motor vehicle over one lane, unless such movement would be
121 unreasonable or unsafe.

122 Sec. 5. (*Effective July 1, 2016*) (a) On or before January 1, 2017, the
123 Commissioner of Transportation shall commence a pilot program that
124 monitors automated speed enforcement in highway work zones in two
125 or more locations.

126 (b) Not later than January 1, 2018, the commissioner shall report the
127 findings, including, but not limited to, rates of speed and accidents
128 occurring in highway work zones, and any recommendations to the
129 joint standing committee of the General Assembly having cognizance
130 of matters relating to transportation in accordance with the provisions
131 of section 11-4a of the general statutes.

132 Sec. 6. Subsection (b) of section 13b-79kk of the general statutes is
133 repealed and the following is substituted in lieu thereof (*Effective from*
134 *passage*):

135 (b) Subject to the availability of funds, the commissioner may, with
136 the approval of the secretary, participate in transit-oriented
137 development projects to the extent that such projects result in the
138 development or improvement of public transportation facilities. When
139 the state solicits transit-oriented development proposals, the
140 commissioner shall select the developer or developers through an
141 open, competitive process. The commissioner may, with the approval
142 of the secretary, waive competitive selection when (1) the developer is
143 an abutting land owner or is the holder of a recorded, exercisable
144 option to purchase an abutting property; (2) such [land owner's]
145 property is essential to the project; and (3) the commissioner makes an
146 express finding that (A) the cost to the state of any property
147 transaction or provision of services does not exceed the fair market
148 value of the property or services, and (B) the waiver is in the best
149 interest of the state.

150 Sec. 7. Section 13b-2 of the general statutes is repealed and the
151 following is substituted in lieu thereof (*Effective July 1, 2016*):

152 The following terms, when used in this chapter shall have the
153 following meanings, unless the context otherwise requires:

154 (1) "Aeronautics", "air navigation facility", "airport" and "restricted
155 landing area" have the meanings provided in section 15-34;

156 (2) "Bureau" means any of the operating bureaus established in the
157 department pursuant to the provisions of section 4-8;

158 (3) "Commissioner" means the Commissioner of Transportation
159 appointed pursuant to this chapter;

160 (4) "Department" means the Department of Transportation
161 established pursuant to this chapter;

162 (5) "Highway", "state highway" and "limited access state highway"
163 have the meanings provided in section 13a-1;

164 (6) "Motor carrier" means any person who operates motor vehicles
165 over the highways of this state, whether over regular or irregular
166 routes, in the transportation of passengers or property, or any class or
167 classes thereof, for hire by the general public or for hire under special
168 and individual contracts;

169 (7) "Person" may include the United States, any state, or any agency,
170 instrumentality, department or officer thereof;

171 (8) "State highway system" has the meaning provided in sections
172 13a-14 and 13a-15;

173 (9) "Transportation" means any form of transportation for persons
174 or goods within, to or from the state, whether by highway, air, water,
175 rail or any other means;

176 (10) "Fare inspector" means an employee of (A) the department
177 designated by the commissioner, or (B) a third-party contractor
178 employed by the department, whose duties are to inspect tickets,
179 passes or other documentation required to show compliance by the
180 passenger with the fare payment requirements of state-owned or
181 controlled bus public transportation service when the fare payment is
182 off board or a combination of off board and on board such bus; [.]

183 (11) "Parking inspector" means an employee of (A) the department,
184 designated by the commissioner, or (B) a third-party contractor
185 employed by the department, whose duties are to monitor compliance
186 with parking regulation and payment requirements in state commuter
187 parking areas supporting public transportation services.

188 Sec. 8. Section 13b-29 of the general statutes is repealed and the
189 following is substituted in lieu thereof (*Effective July 1, 2016*):

190 (a) Notwithstanding the provisions of any other statute, the
191 commissioner may develop plans for, construct and maintain state
192 commuter parking [facilities] areas at locations along automobile

193 routes that will reduce peak traffic demands on highway systems and
194 at locations that will encourage the use of carpools, vanpools and mass
195 transportation facilities such as, but not limited to, bus or railroad
196 lines. Any such parking [facilities which] areas that are not regulated
197 by municipalities on October 1, 1983, may be used only for routine,
198 temporary parking by persons using carpool or vanpool vehicles or
199 mass transportation facilities. With the approval of the Secretary of the
200 Office of Policy and Management, the commissioner may establish and
201 collect reasonable parking fees at state commuter parking areas. The
202 commissioner or any parking inspector may issue citations for any
203 violation of posted rules within state commuter parking areas. The
204 commissioner shall establish a process to hear appeals of fines assessed
205 for such violations. The commissioner shall adopt regulations in
206 accordance with the provisions of chapter 54 governing the use of such
207 parking [facilities] areas. Violation of any provision of any such
208 regulations, or failure to pay assessed penalties for such violations,
209 shall be an infraction. Any fine or assessed penalties imposed pursuant
210 to this section shall be deposited in the Special Transportation Fund.

211 (b) Such parking [facilities] areas may use space on, above or under
212 highway rights-of-way. Funds expended by the Commissioner of
213 Transportation on such parking [facilities] areas shall be divided
214 between the needs of individuals who commute by automobile and
215 individuals who commute by any of the various forms of mass
216 transportation to [insure] ensure that the needs of each commuter for
217 adequate parking [facilities] areas along railroad lines, bus routes,
218 automobile routes or the lines or routes of other forms of
219 transportation are not neglected. The commissioner may enter into
220 agreements with federal, state or local governmental agencies to
221 develop such plans, and to construct and maintain such [facilities]
222 areas. The provisions of such agreements may be carried out by the
223 commissioner or the state or local agency as necessity, convenience or
224 economy requires. If and when the Congress of the United States
225 provides financial aid to states for the planning, construction or

226 maintenance of commuter parking [facilities] areas, the commissioner
227 may do any and all other acts and things necessary or desirable to take
228 advantage of such financial aid on behalf of the state in the same
229 manner as is provided in section 13a-165 for federal aid for highways.
230 Contracts for such construction shall be carried out in the manner
231 provided by statute and regulations pursuant thereto for public works.
232 The commissioner may acquire in the name of the state such real
233 property as is necessary to construct and maintain such commuter
234 parking [facilities] areas in the same manner and with like powers as
235 authorized and exercised by said commissioner in acquiring real
236 property for state highway purposes.

237 Sec. 9. Subsection (b) of section 13b-61 of the 2016 supplement to the
238 general statutes is repealed and the following is substituted in lieu
239 thereof (*Effective July 1, 2016*):

240 (b) Notwithstanding any provision of subsection (a) of this section,
241 there shall be paid promptly to the Treasurer and thereupon, unless
242 required to be applied by the terms of any lien, pledge or obligation
243 created by or pursuant to the 1954 declaration, part III (C) of chapter
244 240, credited to the Special Transportation Fund:

245 (1) On and after July 1, 1984, all moneys received or collected by the
246 state or any officer thereof on account of, or derived from, sections 12-
247 458 and 12-479, provided the State Comptroller is authorized to record
248 as revenue to the General Fund for the fiscal year ending June 30, 1984,
249 the amount of tax levied in accordance with said sections 12-458 and
250 12-479, on all fuel sold or used prior to the end of said fiscal year and
251 which tax is received no later than July 31, 1984;

252 (2) On and after July 1, 1984, all moneys received or collected by the
253 state or any officer thereof on account of, or derived from, motor
254 vehicle receipts;

255 (3) On and after July 1, 1984, all moneys received or collected by the
256 state or any officer thereof on account of, or derived from, (A)

257 subsection (a) of section 14-192, and (B) royalty payments for retail
258 sales of gasoline pursuant to section 13a-80, as amended by this act;

259 (4) On and after July 1, 1985, all moneys received or collected by the
260 state or any officer thereof on account of, or derived from, license,
261 permit and fee revenues as defined in section 13b-59, except as
262 provided under subdivision (3) of this subsection;

263 (5) On or after July 1, 1989, all moneys received or collected by the
264 state or any officer thereof on account of, or derived from, section 13b-
265 70;

266 (6) On and after July 1, 1984, all transportation-related federal
267 revenues of the state;

268 (7) On and after July 1, 1997, all moneys received or collected by the
269 state or any officer thereof on account of, or derived from, fees for the
270 relocation of a gasoline station under section 14-320;

271 (8) On and after July 1, 1997, all moneys received or collected by the
272 state or any officer thereof on account of, or derived from, section 14-
273 319;

274 (9) On and after July 1, 1997, all moneys received or collected by the
275 state or any officer thereof on account of, or derived from, fees
276 collected pursuant to section 14-327b for motor fuel quality registration
277 of distributors;

278 (10) On and after July 1, 1997, all moneys received or collected by
279 the state or any officer thereof on account of, or derived from, annual
280 registration fees for motor fuel dispensers and weighing or measuring
281 devices pursuant to section 43-3;

282 (11) On and after July 1, 1997, all moneys received or collected by
283 the state or any officer thereof on account of, or derived from, fees for
284 the issuance of identity cards pursuant to section 1-1h;

285 (12) On and after July 1, 1997, all moneys received or collected by
286 the state or any officer thereof on account of, or derived from, safety
287 fees pursuant to subsection (w) of section 14-49;

288 (13) On and after July 1, 1997, all moneys received or collected by
289 the state or any officer thereof on account of, or derived from, late fees
290 for the emissions inspection of motor vehicles pursuant to subsection
291 (k) of section 14-164c;

292 (14) On and after July 1, 1997, all moneys received or collected by
293 the state or any officer thereof on account of, or derived from, the sale
294 of information by the Commissioner of Motor Vehicles pursuant to
295 subsection (b) of section 14-50a;

296 (15) On and after October 1, 1998, all moneys received by the state
297 or any officer thereof on account of, or derived from, section 14-212b;

298 (16) On and after July 1, 2009, all moneys received or collected by
299 the state or any officer thereof on account of, or derived from, any
300 direct federal subsidy pursuant to Section 6431 of the Internal Revenue
301 Code of 1986, or any subsequent corresponding internal revenue code
302 of the United States, as amended from time to time, and relating to
303 bonds or bond anticipation notes issued by the state pursuant to
304 sections 13b-74 to 13b-77, inclusive;

305 (17) On and after July 1, 2011, all moneys received or collected by
306 the state or any officer thereof on account of, or derived from, sections
307 13b-61a to 13b-61c, inclusive;

308 (18) On and after July 1, 2011, any other funds, moneys and receipts
309 of the state required by law to be deposited, transferred or paid into
310 the Special Transportation Fund other than proceeds of bonds or other
311 securities of the state or of federal grants under the provisions of
312 federal law; [and]

313 (19) On and after July 1, 2016, all moneys received or collected by

314 the state or any officer thereof on account of, or derived from,
315 subsection (a) of section 13b-29, as amended by this act; and

316 [(19)] (20) On and after July 1, 2015, all moneys received or collected
317 by the state or any officer thereof on account of, or derived from, the
318 use of highways, expressways and ferries, except as necessary for the
319 direct payment of debt service on obligations of the state incurred for
320 transportation purposes.

321 Sec. 10. Subsection (a) of section 13b-34 of the 2016 supplement to
322 the general statutes is repealed and the following is substituted in lieu
323 thereof (*Effective July 1, 2016*):

324 (a) The commissioner shall have power, in order to aid or promote
325 the operation, whether temporary or permanent, of any transportation
326 service operating to, from or in the state, to contract in the name of the
327 state with any person, including but not limited to any common
328 carrier, any transit district formed under chapter 103a or any special
329 act, or any political subdivision or entity, or with the United States or
330 any other state, or any agency, instrumentality, subdivision,
331 department or officer thereof, for purposes of initiating, continuing,
332 developing, providing or improving any such transportation service.
333 Such contracts may include provision for arbitration of disputed
334 issues. The commissioner, in order to aid or promote the operation of
335 any transportation service operating outside the state, may contract in
336 the name of the state with any person, including, but not limited to,
337 any common carrier, or with the United States or any other state, or
338 any agency, instrumentality, subdivision, department or officer
339 thereof, for purposes of providing any transportation service in the
340 event such assistance is required in the case of an emergency or a
341 special event. The state, acting by and through the commissioner, may,
342 by itself or in concert with others, provide all or a portion of any such
343 service, share in the costs of or provide funds for such service, or
344 furnish equipment or facilities for use in such service upon such terms
345 and conditions as the commissioner may deem necessary or advisable,

346 and any such contracts may include, without limitation thereto,
347 arrangements under which the state shall so provide service, share
348 costs, provide funds or furnish equipment or facilities. To these ends,
349 the commissioner may in the name of the state acquire or obtain the
350 use of facilities and equipment employed in providing any such
351 service by gift, purchase, lease or other arrangements and may own
352 and operate any such facilities and equipment and establish, charge
353 and collect such fares and other charges or arrange for such collection
354 for the use or services thereof as [he] the commissioner may deem
355 necessary, convenient or desirable. The commissioner or any fare
356 inspector [, as defined in section 13b-2, shall have the authority to] may
357 issue citations for any violation of section 13b-38i. The commissioner
358 or any parking inspector may issue citations for any violation of
359 section 13b-29, as amended by this act. The commissioner may also
360 acquire title in fee simple to, or any lesser estate, interest or right in,
361 any rights-of-way, properties or facilities, including properties used on
362 or before October 1, 1969, for rail or other forms of transportation
363 services. The commissioner may hold such properties for future use by
364 the state and may enter into agreements for interim use of such
365 properties for other purposes. Any person contracting with the state
366 pursuant to this section for the provision of any transportation service
367 shall not be considered an arm or agent of the state. Any damages
368 caused by the operation of such transportation service by such person
369 may be recovered in a civil action brought against such person in the
370 superior court and such person may not assert the defense of sovereign
371 immunity in such action.

372 Sec. 11. Subsection (c) of section 13a-73 of the 2016 supplement to
373 the general statutes is repealed and the following is substituted in lieu
374 thereof (*Effective from passage*):

375 (c) The commissioner may purchase any land and take a deed
376 thereof in the name of the state when such land is needed in
377 connection with the layout, construction, repair, reconstruction or
378 maintenance of any state highway or bridge, and any land or buildings

379 or both, necessary, in the commissioner's opinion, for the efficient
380 accomplishment of the foregoing purpose, and may further, when the
381 commissioner determines that it is in the best interests of the state,
382 purchase, lease or otherwise arrange for the acquisition or exchange of
383 land or buildings or both, [, provided any purchase of such land or
384 land and buildings in an amount in excess of the sum of one hundred
385 thousand dollars shall be approved by a state referee.] The
386 commissioner, with the advice and consent of the Attorney General,
387 may settle and compromise any claim by any person, firm or
388 corporation claiming to be aggrieved by such layout, construction,
389 reconstruction, repair or maintenance by the payment of money, the
390 transfer of other land acquired for or in connection with highway
391 purposes, or otherwise. The commissioner shall permit the last owner
392 of record of such real property upon which an owner-occupied
393 residence or owner-operated business is situated to remain in such
394 residence or operate such business, rent free, for a period of ninety
395 days from the filing of such deed.

396 Sec. 12. Subsection (b) of section 13a-80 of the general statutes is
397 repealed and the following is substituted in lieu thereof (*Effective from*
398 *passage*):

399 (b) The Department of Transportation shall obtain a full appraisal
400 on excess property prior to its sale and shall hold a public bid or
401 auction for all properties determined to be legal lots of record. If the
402 department does not receive any bids at the initial public bid or
403 auction, the department may continue to market the property and
404 accept offers for sale or hold another bid or auction. Transfers to other
405 state agencies and municipalities for purposes specified by the
406 department shall be exempt from the appraisal requirement. The
407 department shall offer parcels that are legal lots of record to other state
408 agencies [, and to any municipality in which any such parcel is located,
409 before holding] prior to a public bid or auction and shall offer parcels
410 that are not legal lots of record to [all] abutting landowners in
411 accordance with department regulations. If the sale or transfer of

412 property pursuant to this section results in the existing property of an
 413 abutting landowner becoming a nonconforming use, pursuant to local
 414 zoning requirements, the commissioner may sell or transfer the
 415 property to such abutting landowner without public bid or auction.
 416 The department shall obtain a second appraisal if the value of such
 417 property is more than two hundred fifty thousand dollars and is to be
 418 sold to an abutting landowner or in accordance with the provisions of
 419 subsection (c) of this section. Any appraisals shall be obtained prior to
 420 the determination of a sale price of the excess property.

421 Sec. 13. Subsection (a) of section 13b-251 of the general statutes is
 422 repealed and the following is substituted in lieu thereof (*Effective from*
 423 *passage*):

424 (a) The minimum overhead clearance for any structure crossing
 425 over railroad tracks for which construction is begun on or after
 426 October 1, 1986, shall be twenty feet, six inches, except that, (1) if the
 427 construction includes only deck replacement or minor widening of the
 428 structure, and the existing piers or abutments remain in place, the
 429 minimum overhead clearance shall be the structure's existing overhead
 430 clearance; (2) the minimum overhead clearance for any structure
 431 crossing any railroad tracks on which trains are operated that are
 432 attached to or powered by means of overhead electrical wires shall be
 433 twenty-two feet, six inches; (3) the minimum overhead clearance for
 434 the structure that carries (A) Route 372 over railroad tracks in New
 435 Britain, designated state project number 131-156, (B) U.S. Route 1 over
 436 railroad tracks in Fairfield, designated state project number 50-6H05,
 437 (C) Route 729 over railroad tracks in North Haven, designated state
 438 project number 100-149, (D) Grove Street over railroad tracks in
 439 Hartford, designated state project number 63-376, (E) Route 1 over
 440 railroad tracks in Milford, designated state project number 173-117, (F)
 441 Ingham Hill Road over railroad tracks in Old Saybrook, designated
 442 state project number 105-164, (G) Hillis Street over railroad tracks in
 443 New Britain, designated state project number 88-114, (H) Route 100
 444 over the railroad tracks in East Haven, bridge number 01294, and (I)

445 Church Street Extension over certain railroad storage tracks located in
 446 the New Haven Rail Yard, designated state project number 92-526,
 447 shall be eighteen feet; (4) the minimum overhead clearance for those
 448 structures carrying (A) Fair Street, bridge number 03870, (B) Crown
 449 Street, bridge number 03871, and (C) Chapel Street, bridge number
 450 03872, over railroad tracks in New Haven shall be seventeen feet, six
 451 inches; (5) the minimum overhead clearance for the structure carrying
 452 State Street railroad station pedestrian bridge over railroad tracks in
 453 New Haven shall be nineteen feet, ten inches; (6) the overhead
 454 clearance for the structure carrying Woodland Street over the Griffins
 455 Industrial Line in Hartford, designated state project number 63-501,
 456 shall be fifteen feet, nine inches, with new foundations placed at
 457 depths which may accommodate an overhead clearance to a maximum
 458 of seventeen feet, eight inches; (7) the Department of Transportation
 459 may replace the Hales Road Highway Bridge over railroad tracks in
 460 Westport, Bridge Number 03852, with a new bridge that provides a
 461 minimum overhead clearance over the railroad tracks that shall be
 462 eighteen feet, five inches; (8) the Department of Transportation may
 463 replace the Pearl Street Highway Bridge over railroad tracks in
 464 Middletown, Bridge Number 04032, with a new bridge that provides a
 465 minimum overhead clearance over the railroad tracks that shall be
 466 seventeen feet, eleven inches; [and] (9) the Department of
 467 Transportation may construct a new bridge that provides a minimum
 468 overhead clearance of twenty-two feet, two inches for the structure
 469 carrying Metro Center Access Road over the Metro-North Railroad in
 470 Fairfield; and (10) the Department of Transportation may replace the
 471 bridge that carries West Street over the Providence and Worcester
 472 Railroad in Middletown, Bridge Number 03993, with a new bridge that
 473 provides a minimum overhead clearance over the railroad tracks of
 474 eighteen feet, one inch.

475 Sec. 14. Subsection (b) of section 13b-79p of the general statutes is
 476 repealed and the following is substituted in lieu thereof (*Effective July*
 477 *1, 2016*):

478 (b) The commissioner shall evaluate and plan the implementation of
479 the following projects:

480 [(1) Improving Routes 2 and 2A in the towns of Preston, North
481 Stonington and Montville, including conducting the first phase of a
482 study examining construction of a Route 2A bypass alternative that
483 would begin in Preston, proceed in a northerly direction toward
484 downtown Norwich, and end at Route 2 in Preston. The first phase of
485 the study shall include, but need not be limited to, an analysis of the
486 feasibility, local economic impact and cost of constructing that portion
487 of the bypass alternative that would pass through the Hinkley Hill
488 area of Norwich. The first phase of the study shall be conducted by an
489 independent entity pursuant to a contract with the Department of
490 Transportation, the value of which shall not exceed three hundred
491 thousand dollars. The results of the first phase of the study shall be
492 submitted not later than September 30, 2008, to said department and
493 the joint standing committee having cognizance of matters relating to
494 transportation;]

495 [(2)] (1) Upgrading the Pequot Bridge in Montville;

496 [(3)] (2) Evaluating rail links to other ports;

497 [(4)] (3) Supporting and encouraging the dredging of the state's
498 commercial ports;

499 [(5)] (4) Developing a second rail passenger station between New
500 Haven and Milford;

501 [(6)] (5) Expanding Route 9; and

502 [(7)] (6) Completing the Day Hill Corridor environmental
503 assessment study, not to exceed five hundred thousand dollars.

504 Sec. 15. Section 13b-276 of the general statutes is repealed and the
505 following is substituted in lieu thereof (*Effective July 1, 2016*):

506 [(a)] The Commissioner of Transportation, if he finds that a
507 dangerous condition exists at such crossing, except a dangerous
508 condition arising out of improper or inadequate maintenance, shall
509 issue such order to such municipality or to any such public service
510 company directing the removal, change or relocation of such crossing,
511 highway, tracks, pipes, wires, poles or other fixtures or tree or building
512 or other structure, as may be necessary to eliminate such dangerous
513 condition; and shall apportion the cost thereof among such public
514 service company or companies, such municipality and the state, and
515 shall determine the conditions and the time and manner of the
516 payment of such apportionments, provided the portion of the cost to
517 be paid by such public service company in the elimination of any such
518 dangerous conditions on state maintained highways shall not exceed
519 ten per cent. The party or parties ordered by said commissioner to
520 perform the work necessary to remove such dangerous condition shall
521 serve written notice, at least thirty days prior to the approximate date
522 of the commencement of such work, upon all other parties in interest,
523 including any public service company whose plant is involved or
524 affected by such work, and any such public service company shall
525 provide such means as may be necessary for the continued use of such
526 plant in such manner as to best serve the interests and convenience of
527 the public.

528 [(b)] The Commissioner of Transportation shall, not later than
529 October 1, 2009, and every three years thereafter, provide a report, in
530 accordance with the provisions of section 11-4a, to the joint standing
531 committees of the General Assembly having cognizance of matters
532 relating to transportation and finance, revenue and bonding, regarding
533 any railroad crossing at grade. Such report shall (1) list all the at-grade
534 rail crossings in the state, (2) identify such crossings that create a
535 hazardous situation, (3) provide a budget and identify funding
536 sources, including any available federal funding, for upgrading or
537 eliminating such hazardous crossings, (4) prioritize the upgrades or
538 eliminations that are recommended in such report, and (5) for reports

539 submitted pursuant to this subsection after the initial report, describe
540 the progress to date in upgrading or eliminating hazardous at-grade
541 crossings.]

542 Sec. 16. Subsection (a) of section 13a-184 of the general statutes is
543 repealed and the following is substituted in lieu thereof (*Effective July*
544 *1, 2016*):

545 (a) The State Bond Commission shall have power, in accordance
546 with the provisions of this section and sections [13a-184] 13a-185 to
547 13a-197, inclusive, from time to time, to authorize the issuance of
548 temporary notes as hereinafter provided, and from time to time to
549 authorize the issuance of bonds or certificates of indebtedness of the
550 state, hereinafter referred to as securities, in one or more series and in
551 principal amounts not in the aggregate exceeding one hundred thirty-
552 two million one hundred thousand dollars. [From the revenues
553 anticipated to be available to the Commissioner of Transportation in
554 the Highway Fund for the biennium ending June 30, 1963,
555 appropriation of the sum of twenty-five million dollars for said
556 biennium is hereby made, and from the revenues anticipated to be
557 available to the commissioner in the Highway Fund for the biennium
558 ending June 30, 1967, appropriation of the sum of twenty-five million
559 five hundred thousand dollars for said biennium is hereby made, and
560 said aggregate sum of fifty million five hundred thousand dollars is
561 appropriated for highway construction and other purposes as
562 provided in said sections and in subsections (d) and (e) of section 13b-
563 26.]

564 Sec. 17. Section 13b-57m of the general statutes is repealed and the
565 following is substituted in lieu thereof (*Effective July 1, 2016*):

566 The purpose of [sections 13b-57m to 13b-57q, inclusive,] this section
567 and subdivision (16) of subsection (b) of section 13b-61, as amended by
568 this act, is to promote the welfare and prosperity of the people of this
569 state by enabling the state to implement and fund certain

570 transportation related projects, purposes and strategies in order to: (1)
571 improve personal mobility within and through this state; (2) improve
572 the movement of goods and freight within and through this state; (3)
573 integrate transportation with economic, land use, environmental and
574 quality of life issues; (4) develop policies and procedures that will
575 integrate the state economy with regional, national and global
576 economies; and (5) identify policies and sources that provide an
577 adequate and reliable flow of funding necessary for a quality
578 multimodal transportation system.

579 Sec. 18. Section 13b-57s of the general statutes is repealed and the
580 following is substituted in lieu thereof (*Effective July 1, 2016*):

581 During the fiscal years ending June 30, 2006, and June 30, 2007, the
582 sum of five million dollars shall be expended from the Transportation
583 Strategy Board projects account for grants-in-aid and administrative
584 expenses under the program established pursuant to section 13b-38bb.
585 [The funding shall be included in the annual financing plan adopted
586 pursuant to section 13b-57q.] The funds shall remain available until
587 expended.

588 Sec. 19. Section 13b-57t of the general statutes is repealed and the
589 following is substituted in lieu thereof (*Effective July 1, 2016*):

590 (a) During the fiscal year ending June 30, 2005, [the annual financing
591 plan adopted pursuant to section 13b-57q shall include] the sum of five
592 million dollars [to] shall be expended from the Transportation Strategy
593 Board projects account to support the New Haven Line revitalization
594 program undertaken pursuant to subsections (a), (b) and (c) of this
595 section and sections 13b-78k, as amended by this act, 13b-78m and 13b-
596 78n. The funds shall remain available until expended.

597 (b) During the fiscal year ending June 30, 2006, the sum of twenty
598 million dollars shall be expended from the Transportation Strategy
599 Board projects account to support the New Haven Line revitalization
600 program undertaken pursuant to public act 05-4 of the June special

601 session. [The funding shall be included in the annual financing plan
602 adopted pursuant to section 13b-57q.] The funds shall remain available
603 until expended.

604 (c) During the fiscal year ending June 30, 2007, the sum of fifteen
605 million dollars shall be expended from the Transportation Strategy
606 Board projects account to support the New Haven Line revitalization
607 program undertaken pursuant to public act 05-4 of the June special
608 session. [The funding shall be included in the annual financing plan
609 adopted pursuant to section 13b-57q.] The funds shall remain available
610 until expended.

611 (d) From the fiscal year ending June 30, 2008, to the fiscal year
612 ending June 30, 2015, inclusive, the sum of fifteen million dollars shall
613 be expended from the Transportation Strategy Board projects account
614 to support the New Haven Line Revitalization program undertaken
615 pursuant to public act 05-4 of the June special session. [The funding
616 shall be included in the annual financing plan adopted pursuant to
617 section 13b-57q.] The funds shall remain available until expended.

618 Sec. 20. Subsection (a) of section 13b-69 of the 2016 supplement to
619 the general statutes is repealed and the following is substituted in lieu
620 thereof (*Effective July 1, 2016*):

621 (a) Except as provided in subsection (b) of section 14-212g, the
622 Treasurer shall apply the resources in the Special Transportation Fund,
623 upon their receipt, first, to pay or provide for the payment of debt
624 service requirements, as defined in section 13b-75, at such time or
625 times, in such amount or amounts and in such manner, as provided by
626 the proceedings authorizing the issuance of special tax obligation
627 bonds pursuant to sections 13b-74 to 13b-77, inclusive, and then to pay
628 from the Transportation Strategy Board projects account of the Special
629 Transportation Fund, established under section 13b-57r, the
630 incremental revenues identified in approved annual financing plans
631 for cash funding, [in accordance with the provisions of section 13b-

632 57q.]

633 Sec. 21. Section 13b-78k of the general statutes is repealed and the
634 following is substituted in lieu thereof (*Effective July 1, 2016*):

635 As used in this section, sections 13b-57m, as amended by this act,
636 [and 13b-57q to] 13b-57r and 13b-57s, as amended by this act,
637 [inclusive,] subsections (a), (b) and (c) of section 13b-57t, as amended
638 by this act, sections 13b-74 and 13b-78l to [13b-78o] 13b-78n, inclusive,
639 and section 46 of public act 05-4 of the June special session:

640 (1) "New Haven Line" means the rail passenger service operated
641 between New Haven and intermediate points and Grand Central
642 station, including the Danbury, Waterbury and New Canaan branch
643 lines.

644 (2) "New Haven Line revitalization program" means the design,
645 development, construction and acquisition of maintenance facilities,
646 rail cars and related equipment for use on the New Haven Line, as
647 specified in subdivisions (1) and (2) of section 13b-78l.

648 (3) "Transportation Strategy Board projects account" means the
649 account created by subsection (a) of section 13b-57r.

650 (4) "Transportation system improvement" means: (1) Projects
651 included in the state-wide transportation improvement program, (2)
652 funded and unfunded projects included in regional transportation
653 improvement plans, or (3) projects identified in subsection (h) of
654 section 13b-57.

655 Sec. 22. Section 13b-79t of the general statutes is repealed and the
656 following is substituted in lieu thereof (*Effective July 1, 2016*):

657 The Department of Transportation may solicit bids or qualifications
658 for equipment, materials or services for a project funded pursuant to
659 subsection (a) of section 3-20a, subsection (c) of section 4-66c,
660 subdivision (4) of subsection (a) of section 13b-57d, section 13b-61a,

661 subdivision (3) of section 13b-78k, as amended by this act, section 13b-
 662 78n, subsection (a) of section 13b-78p, sections 13b-79o to [13b-79z]
 663 13b-79y, inclusive, or sections 19, 24, 25 or 33 to 35, inclusive, of public
 664 act 06-136 at any time in the fiscal year, notwithstanding the fact that
 665 all required funds may not be available for the expenditure until later
 666 in the same or succeeding fiscal year.

667 Sec. 23. Sections 13b-22, 13b-26, 13b-57q, 13b-77a, 13b-78o, 13b-79 to
 668 13b-79b, inclusive, and 13b-79z of the general statutes are repealed.
 669 (Effective July 1, 2016)

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2016	13a-175p
Sec. 2	July 1, 2016	13b-80
Sec. 3	from passage	14-212g(a)
Sec. 4	July 1, 2016	14-283b(b)
Sec. 5	July 1, 2016	New section
Sec. 6	from passage	13b-79kk(b)
Sec. 7	July 1, 2016	13b-2
Sec. 8	July 1, 2016	13b-29
Sec. 9	July 1, 2016	13b-61(b)
Sec. 10	July 1, 2016	13b-34(a)
Sec. 11	from passage	13a-73(c)
Sec. 12	from passage	13a-80(b)
Sec. 13	from passage	13b-251(a)
Sec. 14	July 1, 2016	13b-79p(b)
Sec. 15	July 1, 2016	13b-276
Sec. 16	July 1, 2016	13a-184(a)
Sec. 17	July 1, 2016	13b-57m
Sec. 18	July 1, 2016	13b-57e
Sec. 19	July 1, 2016	13b-57t
Sec. 20	July 1, 2016	13b-69(a)
Sec. 21	July 1, 2016	13b-78k
Sec. 22	July 1, 2016	13b-79t
Sec. 23	July 1, 2016	Repealer section

Statement of Purpose:

To implement the proposals of the Department of Transportation regarding (1) increased participation in the local bridge program, (2) the administration of public transit, (3) work zone safety funds, (4) the right of a holder of an option to purchase to participate in the transit-oriented development project, (5) the commissioner's authority to enforce parking at state commuter parking areas, (6) revisions to statutes related to transportation, and (7) outdated and duplicative reporting mandates.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]