



General Assembly

File No. 917

**January Session,
2009**

Substitute House Bill No. 5215

House of Representatives, May 7, 2009

The Committee on Finance, Revenue and Bonding reported through REP. STAPLES of the 96th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT PROMOTING REUSABLE SHOPPING BAGS.

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

Section 1. (NEW) (*Effective October 1, 2009*) (a) For purposes of this section:

(1) "Retailer" has the same meaning as in subdivision (12) of subsection (a) of section 12-407 of the general statutes, but does not include a restaurant;

(2) "Customer" means an individual who purchases goods from a retailer;

(3) "Restaurant" means a business that has the sole purpose of preparing and selling food and beverages intended for individual portion service and includes the site at which individual portions are sold, regardless of whether the consumption of food or beverage occurs on or off of such site; and

(4) "Disposable bag" means a paper or plastic sack provided at the point of sale for the storage of purchased goods, but excludes (A) reusable bags made of cloth or durable plastic that is at least 2.25 mils thick, (B) bags used to store produce, flowers, baked goods or meat which are provided by a retailer at a location other than the point of sale, (C) bags used to cover dry cleaned items, (D) paper bags provided by a pharmacy for the storage of purchased pharmaceuticals, or (E) plastic bags used to envelop newspapers intended for delivery at a residence.

(b) On and after January 1, 2010, any retailer who provides a disposable bag at the point of sale to a customer shall charge such customer a fee of five cents for each such bag. The retailer shall transfer the proceeds of such fee to the Commissioner of Revenue Services in accordance with the provisions of subsection (c) of this section.

(c) On or before April 30, 2010, each retailer collecting the fee as provided in this section shall submit a return to the Commissioner of Revenue Services that is applicable to the quarter commencing January 1, 2010, on a form prescribed by the commissioner, together with payment of the quarterly proceeds of the fee collected in accordance with the provisions of subsection (b) of this section. Each retailer shall submit such return and payment to the commissioner each calendar quarter thereafter, on or before the last day of the month immediately following the end of each such calendar quarter. The Commissioner of Revenue Services shall deposit any such payment in the recycling initiatives account established in subsection (e) of this section.

(d) Whenever the proceeds of such fee are not paid when due, a penalty of ten per cent of the amount due or fifty dollars, whichever is greater, shall be added to the amount due and such penalty shall immediately accrue, and thereafter such proceeds shall bear interest at the rate of one and one-half per cent per month until the same are paid. The Commissioner of Revenue Services shall cause copies of a form prescribed for submitting returns as required under this section to be distributed throughout the state. Failure to receive such form shall not be construed to relieve anyone subject to the provisions of this section from the obligations of submitting a return, together with payment of such proceeds within the time required.

(e) There is established an account to be known as the "recycling initiatives account" which shall be a separate, nonlapsing account within the General Fund. The account shall contain any moneys required by law to be deposited in the account. Moneys in the account shall be expended by the Department of Environmental Protection for the purposes of the grant programs created pursuant to sections 3 and 4 of this act and of fulfilling the Commissioner of Environmental Protection's duties under titles 7, 22a and 23 of the general statutes.

(f) On and after October 1, 2009, no municipality shall adopt an ordinance restricting the retail use of plastic or paper bags. The provisions of this section shall not be construed to affect any such ordinance adopted prior to said date.

(g) Nothing in this section shall be construed to affect the amount of sales tax charged to the customer under chapter 219 of the general statutes.

(h) The provisions of sections 12-548 to 12-554, inclusive, of the general statutes and section 12-555a of the general statutes shall apply to the provisions of this section in the same manner and with the same force and effect as if the language of sections 12-548 to 12-554, inclusive, of the general statutes and section 12-555a of the general statutes had been incorporated in full into this section and had expressly referred to the fee imposed under this section, except to the extent that any provision is inconsistent with a provision in this section and except that the term "tax" shall be read as "fee".

Sec. 2. Subsection (h) of section 22a-220 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(h) On or before August 31, 1991, and annually thereafter, each municipality, or its designated regional agent, shall provide a report to the Commissioner of Environmental Protection describing the measures taken during the preceding year to meet its obligations under this section. The commissioner shall provide each municipality with a form for such

report by June 1, 1991. Such form may be amended from time to time. Such report shall include, but not be limited to, (1) a description of the efforts made by the municipality to promote recycling, (2) a description of its efforts to ensure compliance with separation requirements, [(3) the amount of each recyclable item contained in its solid waste stream which has been delivered to a recycling facility as reported to the municipality or its designated regional agent by the owner or operator of a recycling facility pursuant to section 22a-208e or by a scrap metal processor pursuant to section 22a-208f, and (4)] and (3) the amount of solid waste generated within its boundaries which has been delivered to a resources recovery facility or solid waste facility for disposal as reported to the municipality or its designated regional agent by the owner or operator of the resources recovery facility or solid waste facility pursuant to section 22a-208e.

Sec. 3. (NEW) (*Effective July 1, 2009*) (a) Not later than January 1, 2011, the Department of Environmental Protection shall establish a municipal recycling matching grant program for the purpose of awarding grants to municipalities to implement recycling programs or improve existing recycling programs. Such grants shall be used by the municipalities for the following purposes, which shall include, but not be limited to, establishing: (1) A system for residents within a municipality to pay for trash removal based upon the volume or weight of solid waste that such residents generate, with no fee for recyclables, (2) other incentives for recycling, such as retail coupons given as awards for meeting volume benchmarks of recycling quantity per household, or (3) single-stream recycling. Each such grant shall not exceed two hundred thousand dollars, and each such grant shall not be for more than fifty per cent of the estimated costs for the implementation or improvement of the municipal recycling program. A municipality shall be eligible for only one such grant. The total amount of grants awarded annually pursuant to this section shall not exceed four million six hundred thousand dollars.

(b) A municipality may apply for a grant for such program by submitting an application to the Department of Environmental Protection on forms prescribed by the commissioner. The commissioner may reject any grant application that the commissioner determines to be incomplete. If the commissioner rejects an application, the commissioner shall promptly notify the applicant of the reasons for the rejection and, not later than fifteen days after the receipt of such notice, such applicant may resubmit the application in the same manner as the original application.

(c) Each municipality selected by the commissioner to receive a grant for such program shall submit a recycling plan for the commissioner's approval. Such plan shall include: (1) An estimate of the operational and capital expenses and income required to implement the plan, (2) goals for recycling, (3) an estimate of savings in tipping fees, if applicable, (4) a method for tracking the actual cost of the program, and (5) any other information required by the commissioner.

(d) Not later than January 1, 2012, and annually thereafter, the Department of Environmental Protection shall submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to the environment and finance, revenue and bonding. Such report shall include, but not be limited to, the amount of revenue received annually from the fee imposed pursuant to section 1 of this act, the number of grants issued pursuant to this section and section 4 of this act, the number of municipalities to receive such grants and the amount of

solid waste generated by any municipality to receive such a grant the year following the receipt of such grant.

(e) The commissioner may retain not more than two hundred thousand dollars annually for administrative expenses associated with the grant programs established under this section and section 4 of this act.

Sec. 4. (NEW) (*Effective October 1, 2009*) (a) Not later than January 1, 2011, the Department of Environmental Protection shall establish a municipal recycling receptacle grant program for the purpose of awarding grants to municipalities to purchase recycling receptacles for public spaces, including, but not limited to, parks, schools and municipal buildings where trash receptacles are located. Each such grant shall not exceed five thousand dollars and a municipality shall be eligible for only one such grant. The total amount of grants awarded annually pursuant to this section shall not exceed two hundred fifty thousand dollars.

(b) A municipality may apply for a grant for such program by submitting an application to the Department of Environmental Protection on forms prescribed by the commissioner. The commissioner may reject any grant application that the commissioner determines to be incomplete. If the commissioner rejects an application, the commissioner shall promptly notify the applicant of the reasons for the rejection and, not later than fifteen days after the receipt of such notice, such applicant may resubmit the application in the same manner as the original application.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	New section
Sec. 2	<i>October 1, 2009</i>	22a-220(h)
Sec. 3	<i>July 1, 2009</i>	New section
Sec. 4	<i>October 1, 2009</i>	New section

FIN *Joint Favorable Subst.*

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

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Department of Environmental Protection	GF - See Below	None	See Below
Department of Revenue Services	GF - Revenue Gain	10 million	20 million
Department of Revenue Services	GF - Cost	131,000	262,000
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	25,652	51,305

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
Various Municipalities	Revenue Gain	None	See Below

Explanation

The bill is estimated to result in a revenue gain to the General Fund from a five cent disposable bag fee of approximately \$10 million in FY 10 and \$20 million in FY 11. The bill requires retailers to collect a five cent fee for each disposable bag they distribute. The retailers must submit the fee proceeds to the Department of Revenue Services (DRS).

The bill is anticipated to result in administrative costs to DRS of approximately \$156,652 (\$100,875 salary, \$25,652 fringe benefits) in FY 10 and \$313,305 (\$201,750 salary, \$51,305 fringe benefits) in FY 11. Three new full time employees (2 audit, 1 operations) would be required to audit and ensure compliance of the five cent fee.

Section 1 establishes the recycling initiatives account as a separate, nonlapsing account within the General Fund. The Department of Environmental Protection (DEP) would use this account for grant programs established in Sections 3 and 4.

Section 3 establishes a **municipal recycling matching grant program** by 1/1/11, to award grants to various municipalities to implement recycling programs or to improve existing recycling programs using the account established under Section 1 of the bill. Each municipal grant would not exceed \$200,000, would not be more than 50% of the estimated cost of the implementation or improvement of each municipal recycling program, and each municipality would receive only one grant. The total amount of grants awarded annually would not exceed \$4.6 million.

Section 4 requires DEP by 1/1/11, to establish a **municipal recycling receptacle grant program** to award grants to various municipalities to purchase recycling receptacles for certain public spaces and municipal buildings where trash receptacles are located. Each grant would not exceed \$5,000 and each municipality would only be eligible for one grant. The total amount of grants awarded annually would not exceed \$250,000.

Section 3 also allows DEP to retain not more than \$200,000 annually for administrative expenses related to the grant programs established in Sections 3 and 4 of the bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of municipalities who apply and are approved for the grant programs. The revenue gain identified above for various municipalities would not continue into the future since each municipality would only receive one grant. Lastly, the revenue gain to the General Fund identified above may significantly decrease in the outyears if alternatives to disposable bags are used.

OLR Bill Analysis

sHB 5215

AN ACT PROMOTING REUSABLE SHOPPING BAGS.

SUMMARY:

This bill requires retailers other than restaurants to charge customers (people who buy goods from retailers) five cents for each disposable paper or plastic bag they distribute, starting January 1, 2010. It requires that a part of the proceeds fund municipal recycling programs, which the bill creates. It prohibits municipalities from regulating the retail use of plastic or paper bags starting October 1, 2009, but does not affect any such ordinance adopted before then.

By law, towns must report annually to the Department of Environmental Protection (DEP) on their recycling obligations. The bill eliminates a requirement that this report include the amount of each recyclable item delivered to a recycling facility or scrap metal dealer, as reported to the municipality by the facility or dealer.

EFFECTIVE DATE: October 1, 2009, except for the provision requiring DEP to (1) create a municipal recycling grant program and (2) report annually on the programs created by the bill, which takes effect July 1, 2009.

DISPOSABLE BAG FEE

Amount and Purpose

The bill requires retailers who provide customers with disposable plastic or paper bags at the point of sale to charge customers five cents per bag, starting January 1, 2010. Retailers must submit the fee proceeds to the Department of Revenue Services (DRS).

The bill requires DEP to use the fee proceeds to fund recycling programs the bill creates, preserve open space, protect the environment, and oversee state parks and forests.

The bill excludes restaurants from this requirement. Under the bill, a restaurant is a business whose sole purpose is preparing and selling food and beverages intended for individual portion service, including the location where the sale takes place, regardless of where the food or beverage is consumed.

Submitting Fee Proceeds to the State

Retailers must submit the disposable bag fee proceeds to DRS for the quarter beginning January 1, 2010, together with a DRS-prescribed return form, by April 30, 2010. Retailers must thereafter submit these forms and fees to DRS each calendar quarter, by the last day of the month immediately following the end of each quarter (i.e., by April 30 for the quarter ending March 31). The DRS commissioner must distribute copies of the return forms throughout the state. But retailers who do not receive a return form still must submit a return, along with the proceeds, by the quarterly deadlines.

Penalty for Late Payment

A retailer who fails to submit the fees on time will be charged a penalty of 10% of the amount due, or \$50, whichever is greater, in addition to the amount owed. The penalty begins accruing immediately. The retailer must thereafter pay 1.5% interest per month on the delinquent amount until it is paid.

Recycling Initiatives Account

The bill creates a "recycling initiatives account" as a separate, non-lapsing account in the General Fund into which DRS must deposit the fee proceeds. The account must hold all the money that must be deposited in it by law. The DEP commissioner must use this money to fund the recycling programs the bill creates; preserve open space, including state parks and forests; and protect the environment.

Other Fee Provisions

The bill requires that the disposable bag fee not affect the amount of state sales tax charged the customer. This appears to mean that the charge for the bags is not subject to the sales tax. Existing laws concerning tax refund claims; willful failure to pay taxes; tax records, hearings, and appeals procedures; allowing the DRS commissioner to examine tax records; tax

collection; and liens against real estate as security for a tax apply to the disposable bag fee, except that all statutory references to "tax" must be read as "fee."

RECYCLING PROGRAM GRANTS

Grant Awards and Purpose

The bill requires DEP to establish, by January 1, 2011, a municipal recycling matching grant program for municipalities to implement, or improve existing, recycling programs. The maximum grant is \$200,000, which cannot be used to fund more than half the estimated cost of implementing or improving a recycling program. DEP cannot award more than \$4.6 million annually. Each municipality can receive only one grant.

Municipalities must use the grants to establish:

1. a pay-as-you-throw program in which residents pay for trash removal based on the volume or weight of the solid waste they generate but nothing for material they recycle;
2. other recycling incentives, such as offering retail coupons to households that meet certain recycling goals; or
3. single stream recycling.

Single stream recycling is a system in which a resident combines all paper fibers and containers (metal, plastic, glass, etc.) in one collection bin, instead of separating them.

Application Process

A municipality may apply for a grant by submitting a DEP-prescribed application form. The commissioner may reject a grant application she finds is incomplete. If she rejects an application, the commissioner must promptly notify the applicant and explain why she did so. The applicant may resubmit its application no later than 15 days after receiving this notice.

Each municipality the commissioner selects to receive a grant must submit a plan for her approval that includes:

1. an estimate of the operating and capital expenses and income required to implement the plan;
2. recycling goals;
3. an estimate of the tipping fee savings, if applicable;
4. a method to track the program's actual cost; and
5. any additional information the commissioner requires.

RECYCLING RECEPTACLE GRANTS

By January 1, 2011, DEP must establish a municipal recycling receptacle grant program for municipalities to buy recycling receptacles for public spaces such as parks, schools, and

municipal buildings that already have trash receptacles. Each municipality is eligible for one grant of up to \$5,000. DEP cannot award more than \$250,000 in grants annually.

The application process is the same as for the recycling program matching grant program, but applicants do not have to submit a plan for the commissioner's approval.

The DEP commissioner may retain up to \$200,000 a year to administer the matching grant and recycling receptacle grant programs.

ANNUAL REPORT

By January 1, 2012 and annually thereafter, DEP must report to the Environment and Finance, Revenue and Bonding committees on (1) the amount of revenue received annually from the disposable bag fee, (2) the number of grants issued, (3) the number of municipalities receiving the grants, and (4) the amount of solid waste generated by each recipient town in the year following receipt of its grant.

DEFINITIONS

Disposable Bag

Under the bill, a "disposable bag" is a plastic or paper sack provided at the point of sale for the storage of purchased goods. The bill excludes (1) reusable bags made of cloth or durable plastic at least 2.25 mils (0.00225 inches) thick; (2) bags used to store produce, flowers, baked goods, or meat that a retailer provides at a location other than the point of sale; (3) bags used to cover dry cleaned items; (4) paper bags a pharmacy provides to store purchased pharmaceuticals; and (5) plastic bags used to wrap newspapers delivered to homes.

Retailer

By law, retailers include people in the business of making sales (1) at retail or in the business of making retail sales at auctions of tangible personal property and (2) for storage, use, or other consumption, or in the business of making sales at auction of tangible personal property for storage, use or other consumption. It includes sellers rendering specific services; people under whom any salesman or representative operates in this state, or from whom such salesman or representative obtains the tangible personal property that is sold. It includes certain people making retail sales from outside the state to a destination within the state and not maintaining a place of business here, and others (CGS § 12-407 (12)).

BACKGROUND

Municipal Plastic Bag Ordinance

A Westport town ordinance banning retailers' use of plastic bags took effect March 19, 2009.

Legislative History

On April 20, the House referred the bill (File 360) to the Finance, Revenue and Bonding Committee, which favorably reported a substitute that requires DEP to (1) annually report to the Finance Committee as well as the Environment Committee and (2) include in the report the amount of revenue received annually from the disposable bag fee the bill creates.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 21 Nay 9 (03/13/2009)

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 28 Nay 22 (04/27/2009)

[TOP](#)

¹The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller on an actual cost basis. The following is provided for estimated costs associated with additional personnel. The estimated non-pension fringe benefit rate as a percentage of payroll is 25.43%. Fringe benefit costs for new positions do not initially include pension costs as the state's pension contribution is based upon the 6/30/08 actuarial valuation for the State Employees Retirement System (SERS) which certifies the contribution for FY 10 and FY 11. Therefore, new positions will not impact the state's pension contribution until FY 12 after the next scheduled certification on 6/30/2010.