

March 14, 2023

Esteemed Chairs Kavros Degraw and Rahman,
Members of the Planning and Development Committee:

The Western Connecticut Council of Governments (WestCOG) appreciates the opportunity to comment on Raised Bill 6890, *An Act Concerning Qualifying Transit-Oriented Communities*.

While supporting the concept of directing state funds to support transit-oriented development, **WestCOG opposes the bill in its current form.**

Bill 6890 would direct the Office of Policy and Management (OPM) to prioritize discretionary state funding for the “expansion of transportation systems, the expansion of public sewer and water services, brownfield remediation, revitalization funds or other related investments” to municipalities that modify their zoning to the standards set forth in the bill and to the future determinations of a “coordinator” at OPM.

This goal of supporting transit-oriented development (TOD) is environmentally and economically smart. But it can be achieved without creating a conflict with local control and without forcing municipalities to choose between the standards that work for them and those set forth in this bill. When it comes to the discretionary grants Bill 6890 refers to, this goal **can be achieved without changes to local zoning or state law**. State discretionary funding decisions are largely governed not by statute but by agency guidelines, which the administration can change at any point. **If the state wants to prioritize funding transit-oriented development, it can do so at any point by revising the guidelines for its discretionary funding programs.**

WestCOG would not oppose such a change and stated as much in conversation with the authors of this bill prior to its introduction. Indeed, WestCOG recently supported a bill (HB 6394) before your Committee that would elevate the status of transit-oriented development projects under existing state funding programs. WestCOG appreciates your Committee voting to draft the bill and incorporating a reference to the definition of transit-oriented development under Connecticut state law, which is consistent with national best practices – and which this bill is inconsistent with.

WestCOG does not believe that the bill is workable in its current form or that it will be effective in advancing transit-oriented development. Rather, WestCOG recommends that your Committee, should it decide to advance this bill, amend it to **strike Section 1 in its entirety and, instead, provide for a process to improve alignment between state discretionary funding programs and the State Plan of Conservation and Development, including a focus on prioritizing affordable, transit-oriented development** as defined under state law.

Your Committee may wish to consider how such a strategic refocusing may be best carried out (administratively or via a rulemaking). With transit-oriented development plans locally driven and endorsed by municipalities across the region, Western Connecticut would gladly support and give input to such a process.

WestCOG's concerns with the bill as drafted follow:

1. **Conflict with transit-oriented development.** The bill's standards, which would apply to nearly all (over 160) municipalities in Connecticut, are not consistent with state law ([link](#)) or national planning best practices ([link](#)) regarding TOD. Central to the definition of and to successful TODs are three factors: a) high-quality transit (generally rail or bus rapid transit, with service at a minimum of once every 30 minutes), b) a mixture of housing, offices, and services/retail c) in walking distance (½ mile) of transit stations. These factors are all required for transit to be a viable alternative to driving.

Bill 6890 conflicts with elements a) and b).

Regarding element a), transit, the bill sets the bar nonsensically low: to be a "transit-oriented" community, a municipality need not even have transit service; a bus running at least once per day five times per week in a neighboring municipality is adequate under the bill. The fact that a commuter bus stops at a park and ride lot twice a day in a neighboring town will not change development patterns or enable car-free living: nobody will walk five miles to that bus. The academic literature does not suggest that typical local bus service is adequate to support TOD. In supporting high densities in areas with minimal to no transit, the bill may counterproductively increase dependency on driving by moving concentrated housing farther from concentrations of commercial activity.

Regarding element b), mixed use, the bill does not require, encourage, or mention commercial uses. This is a fatal flaw. Households who live next to transit stations will continue to be dependent on automobiles, regardless of how fast and frequent the transit is, if there are no workplaces or services to walk to at the other end of their trips. Transit service that only connects residential communities is good for little aside from social visits.

2. **Centralization and de-democratization of decision-making authority.** The bill transfers decisions on critical factors from elected officials and local planners to a coordinator at OPM's Office of Responsible Growth. These decisions include determinations of the size and distance of the "transit-oriented district", what the "specific" bonus criteria for additional funding are, and what constitutes "excessive lot size or parking requirements." These would all be solely determined the coordinator. The bill does not provide for or even contemplate public input into these determinations.

The coordinator would also determine which state grant programs would be affected, as well as when a municipality would have to repay funds to the state.

3. **Lack of recourse.** The bill does not provide for appeals of the coordinator's determination. Likewise, bill does not provide for municipal input into the methodology to develop the CHFA opportunity and market typologies (which may or may not be empirically sound), nor a process to contest these designations.

4. **Imputed liability.** The bill does not clarify whether a municipality, which must implement the coordinator’s determinations, would be legally accountable for those determinations (e.g., should other property owners or residents file a lawsuit to contest them). The bill does not waive the sovereign immunity on the part of the state, so the municipality may be the respondent – over decisions it did not take – in such an event. Alternately, the decisions of the coordinator presumably could be appealed in federal court.
5. **Inconsistency with state planning.** The bill does not require that the coordinator’s determinations be consistent with the State Plan of Conservation and Development (which their office, the Office of Responsible Growth, would be responsible for).
6. **Confusion regarding local decision-making.** To receive discretionary funding, a municipal legislative body (e.g., city/town council, selectboard, town meeting) would have to commit to adopting zoning conforming to the standards in the bill. However, under state law such a body cannot predetermine future decisions by a local zoning commission. Unless provided by special act, municipal legislative bodies do not have this authority.

Furthermore, the bill does not state whether and how fast a municipality must update its zoning to remain “opted in” and thus eligible for state funding should CHFA release a new Needs Assessment with updated designations. (If a local housing market picks up, must the municipality raise the percentage of units that must be set-aside as affordable?)

Given these concerns, WestCOG cannot support Bill 6890 and urges your Committee either not to advance it, or to amend it as requested on page 1 of this letter.

Should you have questions or require additional information, please do not hesitate to contact me. Thank you for your consideration.



Francis R. Pickering
Executive Director

Attachments: bill summary re Raised Bill 6890.

Bill summary

Bill 6890 would give priority for funding under state discretionary grants for the expansion of transportation systems, the expansion of public sewer and water services, brownfield remediation, revitalization funds or “other related investments” to municipalities that rezone as below:

- In municipalities with at least one passenger rail or bus rapid transit (BRT) station:
 - If the resident population is at least 60,000, 30 dwelling units per acre
 - If the resident population is less than 60,000, 20 dwelling units per acrein a transit-oriented district of “reasonable size” including (but not necessarily limited to) land within ½ mile of the train or BRT station with no “excessive lot size or parking requirements.”
- In municipalities with ANY bus stop (even one that is only served a couple times a weekday, such as a commuter park-and-ride lot by a highway ramp)
 - If the resident population is at least 25,000, 20 dwelling units per acre
 - If the resident population is under 25,000, 15 dwelling units per acreIn a transit-oriented district of “reasonable size” including (but not necessarily limited to) land within ½ mile of any such station or located within a “reasonable distance” of any other transit service, commercial corridor, or downtown area with no “excessive lot size or parking requirements.”
- In municipalities with NO transit service but where any neighboring municipality has at least one bus stop:
 - 10 dwelling units per acreIn a transit-oriented district with no “excessive lot size or excessive parking requirements.”

Municipalities that implement “specific additional bonus zoning criteria” beyond what is outlined shall be eligible for additional funding.

In addition, such developments would be required to set aside a certain percentage of units as affordable under §8-30g according to “typologies as described in the most recent Connecticut Housing Finance Authority (CHFA) “Needs Assessment”:

- 20% in designated “High Opportunity/Strong Market” municipalities
- 18% in designated “High Opportunity/Weak Market” municipalities
- 12% in designated “Low Opportunity/Strong Market” municipalities
- 5% in designated “Low Opportunity/Weak Market” municipalities
- 0% in designated “Low Development Activity” municipalities

Municipalities that do not opt in would lose priority under discretionary infrastructure programs. To opt in, a municipality would have to adopt a resolution stating that the zoning commission will adopt regulations consistent with the standards set forth above. A municipality that fails to adopt such regulations would have to return “any discretionary infrastructure funding” unless the coordinator grants an extension.