



General Assembly

February Session, 2022

Raised Bill No. 5456

LCO No. 3036



Referred to Committee on GOVERNMENT
ADMINISTRATION AND ELECTIONS

Introduced by:
(GAE)

**AN ACT AUTHORIZING THE PURCHASE OF THE CAPITOL DISTRICT
ENERGY CENTER COGENERATION ASSOCIATES ENERGY
PRODUCTION PLANT.**

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

1 Section 1. Section 4b-17 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) (1) The Commissioner of Administrative Services, on behalf of the
4 state, may purchase from TEN Companies, Inc., in accordance with the
5 Asset Purchase Agreement dated November 4, 2008, by and [among]
6 between the state, acting by and through the Commissioner of
7 Administrative Services, and TEN Companies, Inc., which Asset
8 Purchase Agreement is hereby ratified and approved, the district
9 heating and cooling system that provides heating and cooling service to
10 state facilities within the Capitol District and to other nonstate facilities,
11 as listed in the Asset Purchase Agreement dated November 4, 2008, and
12 which is known as the Capitol Area System, including all assets and
13 property necessary for the operation of said system, as described in the

14 Asset Purchase Agreement dated November 4, 2008. The commissioner
15 may assume all vendor contracts, customer contracts, supplier
16 agreements [,] and third-party contracts with regard to said system. The
17 commissioner may undertake any obligation and enter into any
18 agreement to accomplish any transaction that is necessary to carry out
19 the provisions of this section or said Asset Purchase Agreement,
20 including the grant or acceptance of any release set forth in said Asset
21 Purchase Agreement.

22 (2) The Commissioner of Administrative Services, on behalf of the
23 state, may purchase from CDECCA Property Company, LLC, in
24 accordance with the Purchase and Sale Agreement dated _____, 2022, by
25 and between the state, acting by and through the Commissioner of
26 Administrative Services, and CDECCA Property Company, LLC, which
27 Purchase and Sale Agreement is hereby ratified and approved as
28 necessary for the operation of the Capitol Area System, the energy
29 production plant located at 490 Capitol Avenue in the city of Hartford,
30 including the related land, buildings, improvements, equipment and
31 fixtures, that produces and provides steam and heated and chilled water
32 to the Capitol Area System for heating and cooling service to state and
33 nonstate facilities, together with all assets and property described in the
34 Purchase and Sale Agreement dated _____, 2022. The commissioner may
35 assume all vendor contracts, customer contracts, supplier agreements
36 and third-party contracts with regard to said system. The commissioner
37 may undertake any obligation and enter into any agreement to
38 accomplish any transaction that is necessary to carry out the provisions
39 of this section or said Purchase and Sale Agreement.

40 (b) To the extent any provision in an agreement executed or assumed
41 by the [commissioner] Commissioner of Administrative Services
42 pursuant to subsection (a) of this section may be interpreted as waiving
43 the sovereign immunity of the state, including, without limitation,
44 indemnification provisions, such provision is effective and enforceable
45 against the state solely in accordance with its specific terms. Nothing in
46 this subsection shall be construed as a waiver of the sovereign immunity

47 of the state in any other context.

48 (c) In order to operate the Capitol Area System, the [commissioner]
49 Commissioner of Administrative Services may: (1) [Furnish, from]
50 Construct or acquire energy production plants located in the city of
51 Hartford [,] for the purpose of furnishing heat or air conditioning, or
52 both, by means of steam, heated or chilled water or other medium; (2)
53 lay and maintain mains, pipes or other conduits; (3) erect such other
54 fixtures as are, or may be, necessary or convenient in and on the streets,
55 highways and public grounds of said city, for the purpose of carrying
56 steam, heated or chilled water or other medium from such plants to the
57 location to be served and returning the same; and (4) lease to one or
58 more corporations formed or specially chartered for the purpose of
59 furnishing heat or air conditioning, or both, one or more of such plants
60 or distribution systems owned by it and constructed or adapted for
61 either or both such purposes.

62 (d) The Commissioner of Administrative Services may perform all
63 obligations of the state relating to or arising from any agreement
64 between the state and TEN Companies, Inc., or the state and CDECCA
65 Property Company, LLC.

66 (e) The Commissioner of Administrative Services may (1) enter into
67 contracts with third parties for the procurement of energy products and
68 services or for the operation and maintenance of, and repairs and
69 improvements to, the Capitol Area System; (2) provide energy products
70 and services, as produced from said system or distributed by said
71 system, to any buildings owned by, or leased to, the state or any
72 instrumentality of the state; (3) sell energy products and services, as
73 produced from said system or distributed by said system, to the owners
74 or tenants of buildings not owned by the state; (4) occupy and use rights-
75 of-way necessary to own, maintain, repair, improve and operate said
76 system in and on the streets, highways and public grounds of the city of
77 Hartford, on all property owned by the state and on property where
78 [the] said system is located, and to serve public and private end use
79 customers; (5) lay and maintain mains, pipes or other conduits, and erect

80 such other fixtures as are, or may be, necessary or convenient in and on
81 the streets, highways and public grounds of said city, for the purpose of
82 carrying energy products to the location to be served and returning the
83 same; and (6) enter into contracts with third parties for the procurement
84 of other products and services, and provide or sell other products or
85 services to the state or to the owners or tenants of buildings not owned
86 by the state, that are being produced, provided or distributed through
87 said system, or any part thereof, prior to, or as of, April 23, 2009.

88 (f) The Commissioner of Administrative Services may: (1) Grant
89 easements with respect to land owned by the state in connection with
90 the operation of the Capitol Area System, subject to the approval of the
91 agency having supervision of the care and control of such land and the
92 State Properties Review Board; (2) acquire easements with respect to
93 land not owned by the state in connection with said system, subject to
94 the approval of the State Properties Review Board; (3) enter into leases
95 for any type of space or facility necessary to meet the needs of operating
96 said system, subject to the approval of the State Properties Review
97 Board; and (4) when the General Assembly is not in session, the
98 commissioner may, subject to the provisions of section 4b-23, purchase
99 or acquire for the state any land, or interest therein, if such action is
100 necessary for the operation of said system. The commissioner shall
101 provide notice of any easement granted pursuant to subdivision (1) of
102 this subsection to the chief elected official of the municipality and the
103 members of the General Assembly representing the municipality, in
104 which such land is located.

105 (g) The Commissioner of Administrative Services may establish and
106 administer an account to be known as the public works heating and
107 cooling energy revolving account, which shall be used for: (1) The
108 deposit of receipts from the sale of Capitol Area System energy products
109 and services to state agencies or to the owners or tenants of buildings
110 not owned by the state; and (2) for the payment of expenses related to
111 the operation, maintenance, repair and improvement of the Capitol
112 Area System and the energy production plant located at 490 Capitol

113 Avenue in the city of Hartford that provides steam and heated and
114 chilled water for said system. The commissioner may expend funds
115 necessary for all reasonable direct expenses related to said account.

116 (h) For the provision of energy products and services, the
117 Commissioner of Administrative Services shall periodically invoice and
118 collect a pro rata share of the costs described in this subsection from each
119 state agency and owner or tenant of the buildings on the Capitol Area
120 System that are not owned by the state, to the extent not prohibited by
121 contracts in effect as of November 4, 2008. The [Commissioner of
122 Administrative Services] commissioner shall periodically submit
123 proposed rate setting methods and proposed rates to the Secretary of
124 the Office of Policy and Management for the secretary's approval. No
125 such method or rate shall be effective without the secretary's approval.
126 Rates shall be based on: (1) A pro rata share of all costs, including for
127 legal and consultant services, of acquiring [the] said system [, including
128 all costs for legal and consultant services] and the energy production
129 plant located at 490 Capitol Avenue in the city of Hartford, including
130 the related land, buildings, improvements, equipment and fixtures; (2)
131 a pro rata share of the cost of such energy products or services, whether
132 produced by the state or purchased from third parties; (3) a pro rata
133 share of [any and] all costs, including for services provided by vendors
134 and for equipment, of operating, maintaining and repairing said system
135 [, including the cost of services provided by vendors and the cost of
136 equipment] and said energy production plant, including the related
137 land, buildings, improvements, equipment and fixtures; (4) a pro rata
138 share of an amount determined to be necessary for long-term capital
139 improvements or replacement, which amount shall be specifically
140 identified in the public works heating and cooling energy revolving
141 account, and allocated for long-term capital improvements or
142 replacement; (5) a pro rata share of the Department of Administrative
143 Services' personnel costs related to the operation, maintenance, repair
144 and improvement of [the Capitol Area System] said system, provided
145 not more than one full-time employee of the department shall be
146 allocated to [the] said system; and (6) a pro rata share of the cost of other

147 products or services incurred and permitted by this section. Not more
148 than forty-five days after receipt of a proposed rate setting method or a
149 proposed rate from the commissioner, the [Secretary of the Office of
150 Policy and Management] secretary shall approve or disapprove such
151 proposed method or rate. If the secretary fails to act on such proposed
152 method or rate within such period, the commissioner's proposal shall be
153 deemed to have been approved. On a quarterly basis, the
154 [Commissioner of Administrative Services] commissioner shall transmit
155 to the General Fund any portion of the costs that are attributable to the
156 provisions of subdivision (1) of this subsection.

157 (i) Nothing in this section shall be construed to limit the state's use of
158 the Capitol Area System [by the state to its use or functional capacity as
159 of the date of its purchase] or the energy production plant located at 490
160 Capitol Avenue in the city of Hartford to their respective uses or
161 functional capacities as of the date of their respective purchases by the
162 state.

163 (j) Except as expressly required by the provisions of this section, the
164 acquisition of the Capitol Area System by the Commissioner of
165 Administrative Services, and any transaction necessary for such
166 acquisition, shall not be subject to any other review, approval or
167 authorization by any other state agency, board, department or
168 instrumentality and shall not be subject to any otherwise applicable
169 sales or conveyance tax or taxes.

170 (k) Nothing in this section shall be construed to prohibit the state
171 from reselling the Capitol Area System to a third party if it is determined
172 that such resale is in the best interest of the state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4b-17

GAE *Joint Favorable*

