



General Assembly

Substitute Bill No. 5695

February Session, 2006

* HB05695HEDAPP031406 *

**AN ACT CONCERNING CONSTRUCTION OVERSIGHT AT THE
UNIVERSITY OF CONNECTICUT.**

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

1 Section 1. (NEW) (*Effective July 1, 2006*) The Board of Trustees for
2 The University of Connecticut shall select and appoint independent
3 auditors, as defined in subdivision (7) of section 4-230 of the general
4 statutes, to annually conduct a financial audit of any project of
5 UCONN 2000, as defined in subdivision (25) of section 10a-109c of the
6 general statutes, as amended by this act. The Board of Trustees for The
7 University of Connecticut shall ensure that the auditors have
8 unfettered access to any documentation the auditors need to review
9 any such project. The auditors appointed pursuant to this section shall
10 serve in such capacity for three consecutive years and shall not be
11 reappointed at the expiration of such period. Any such auditor
12 appointed pursuant to this section shall not be otherwise employed by
13 the university during such period.

14 Sec. 2. (NEW) (*Effective July 1, 2006*) The Board of Trustees for The
15 University of Connecticut shall annually review reports of a financial
16 audit of any project of UCONN 2000, as defined in subdivision (25) of
17 section 10a-109c of the general statutes, as amended by this act,
18 pursuant to section 2-90 of the general statutes, and section 1 of this
19 act. Such review shall be conducted by the board without the presence

20 of university staff members.

21 Sec. 3. (NEW) (*Effective July 1, 2006*) (a) There is established a
22 construction management oversight committee consisting of (1) four
23 members appointed jointly by the Governor, the speaker of the House
24 of Representatives, the majority leader of the House of
25 Representatives, the minority leader of the House of Representatives,
26 the president pro tempore of the Senate, the majority leader of the
27 Senate and the minority leader of the Senate, and (2) three members
28 appointed by the Board of Trustees for The University of Connecticut.
29 The Board of Trustees shall replace any such committee member
30 appointed by said board, if such committee member's term on the
31 board expires, or otherwise ends. The appointed members shall
32 include members who have expertise in the field of construction
33 management. The chairperson of the committee shall be designated by
34 the Governor. All appointments of the initial committee shall be made
35 no later than July 20, 2006, and shall be in terms that are staggered.
36 Such appointments shall be for four consecutive years and no member
37 may be reappointed to the committee. Not later than July 20, 2010, and
38 every four years thereafter, a new construction management oversight
39 committee shall be appointed in accordance with the procedures for
40 appointment set forth in this section. A majority of the voting members
41 of the committee shall constitute a quorum for the conduct of business.
42 The committee shall act by a majority vote of the appointed members.
43 The committee shall maintain a record of its proceedings in such form
44 as it determines, provided such record indicates attendance and all
45 votes cast by each appointed member.

46 (b) The construction management oversight committee established
47 pursuant to subsection (a) of this section shall review and approve the
48 policies and procedures developed by The University of Connecticut
49 to undertake any project of UCONN 2000, as defined in subdivision
50 (25) of section 10a-109c of the general statutes, as amended by this act.
51 Such committee shall prepare biennially a summary of construction
52 performance of UCONN 2000 based on reports submitted at least

53 quarterly by the construction assurance office established pursuant to
54 section 4 of this act, and shall, upon the completion of each named
55 project pursuant to section 10a-109e of the general statutes, conduct a
56 review of the university's management of such project for its
57 conformance with the applicable policies and procedures governing
58 construction undertaken pursuant to section 10a-109n of the general
59 statutes, as amended by this act. Such review shall incorporate
60 information, including, but not limited to, that which is derived from
61 reviews of the reports submitted at least quarterly by the construction
62 assurance office, in accordance with section 4 of this act.

63 (c) The construction management oversight committee established
64 pursuant to subsection (a) of this section shall approve the policies and
65 procedures of the university, as defined in subdivision (26) of section
66 10a-109c of the general statutes, as amended by this act, governing the
67 selection of design professionals and contractors, as defined in
68 subdivision (27) of said section 10a-109c, award of goods and services
69 contracts, contract compliance, building and fire code compliance,
70 deferred maintenance, as defined in subdivision (29) of said section
71 10a-109c and an annual budget for such maintenance prepared
72 pursuant to section 9 of this act, project and program budgets and
73 schedules and the authorization and review of contract changes.

74 (d) The construction management oversight committee established
75 pursuant to subsection (a) of this section shall, upon completion of
76 each summary, report and review conducted pursuant to this section,
77 submit such summaries, reports and reviews to the Board of Trustees
78 for The University of Connecticut. The board shall review each such
79 summary, report and review without the presence of university staff
80 members.

81 Sec. 4. (NEW) (*Effective July 1, 2006*) Not later than August 1, 2006,
82 the Board of Trustees for The University of Connecticut shall establish
83 the construction assurance office. Positions in the office shall be paid
84 positions. The office shall be led by a full-time director who shall be
85 responsible for reviews of construction performance of UCONN 2000,

86 as defined in subdivision (25) of section 10a-109c of the general
87 statutes, as amended by this act, and shall report at least quarterly to
88 the construction management oversight committee in accordance with
89 section 3 of this act and to the president of The University of
90 Connecticut.

91 Sec. 5. Subsection (b) of section 10a-104 of the general statutes is
92 repealed and the following is substituted in lieu thereof (*Effective July*
93 *1, 2006*):

94 (b) The board of trustees shall: (1) Review and approve institutional
95 budget requests and prepare and submit to the Board of Governors of
96 Higher Education, in accordance with the provisions of section 10a-8,
97 the budget request for the university and all branches thereof; (2)
98 propose facility planning and capital expenditure budget priorities for
99 the institutions under its jurisdiction; [and] (3) fulfill requirements
100 concerning the auditing and review of projects of UCONN 2000 in
101 accordance with sections 1, 2 and 3 of this act; (4) establish the
102 construction assurance office in accordance with section 4 of this act;
103 and (5) exercise the powers delegated to it in section 10a-109d, as
104 amended by this act. The board may request authority from the
105 Treasurer to issue payment for claims against the university, other
106 than a payment for payroll, debt service payable on state bonds to
107 bondholders, paying agents, or trustees, or any payment the source of
108 which includes the proceeds of a state bond issue.

109 Sec. 6. Section 10a-109c of the general statutes is amended by adding
110 subdivisions (27), (28) and (29) as follows (*Effective July 1, 2006*):

111 (NEW) (27) "Contractor" means any person, firm, corporation or
112 other legal entity (A) seeking prequalification to bid on a contract or
113 seeking the award of a contract, or (B) prequalified to bid on a contract
114 or that has been awarded a contract, in accordance with subsection (c)
115 of section 10a-109n, as amended by this act.

116 (NEW) (28) "Total cost basis contract" means a design-build or

117 construction manager at risk project delivery contract between The
118 University of Connecticut and a contractor, as defined in subdivision
119 (27) of this section, to accomplish multiple elements of a project that
120 may include site acquisition, architectural design, preconstruction
121 activities, project management and construction.

122 (NEW) (29) "Deferred maintenance" means maintenance of an
123 infrastructure or structure, other than maintenance performed solely
124 for code compliance, that was not maintained, repaired or replaced in
125 the usual course of maintenance and repair.

126 Sec. 7. Subdivision (11) of subsection (a) of section 10a-109d of the
127 general statutes is repealed and the following is substituted in lieu
128 thereof (*Effective July 1, 2006*):

129 (11) To make, enter into, execute, deliver and amend any and all
130 contracts, including, but not limited to, total cost basis contracts,
131 agreements, leases, instruments and documents and perform all acts
132 and do all things necessary or convenient to plan, design, acquire,
133 construct, build, enlarge, alter, reconstruct, renovate, improve, equip,
134 finance, maintain and operate projects and to carry out the powers
135 granted by sections 10a-109a to 10a-109y, inclusive, or reasonably
136 implied from those powers.

137 Sec. 8. Subsection (c) of section 10a-109n of the general statutes is
138 repealed and the following is substituted in lieu thereof (*Effective July*
139 *1, 2006*):

140 (c) (1) Any construction contract to which the university is a party
141 may include a provision that the design professional who designed the
142 project, or an architect or professional engineer or construction
143 manager retained or employed specifically for the purpose of
144 supervision, may supervise the work to be performed through to
145 completion and ensure that the materials furnished and the work
146 performed are in accordance with the drawings, plans, specifications
147 and contracts therefor.

148 (2) [With respect to any construction contract] (A) Except as
149 provided in subparagraph (B) of this subdivision, any total cost basis
150 contract or other contract for the construction of a university project
151 which is estimated to cost more than five hundred thousand dollars,
152 [that is to] shall be publicly let [, the university shall identify a list of
153 potentially responsible qualified bidders for the particular contract.
154 Thereafter, the] by the university. The university shall give notice [to
155 those on the list of the work required and of the invitation to
156 prequalify] to contractors interested in prequalifying and contractors
157 prequalified pursuant to section 4a-100, to submit a project proposal or
158 bid, by advertising, at least once, in one or more newspapers having
159 general circulation in the state and by posting the advertisement on the
160 university web site. The [invitation] notice to prequalify shall contain
161 such information as the university [shall deem] deems appropriate,
162 including how to obtain an application to request prequalification, and
163 a statement of the time and place where the responses shall be
164 received. Upon receipt of such responses, the university shall select
165 each [bidder] contractor which has shown itself able to post surety
166 bonds required by such contract and has demonstrated that it
167 possesses the financial, managerial and technical ability and the
168 integrity necessary and without conflict of interest for faithful and
169 efficient performance of the work provided for therein. The university
170 shall evaluate whether a [bidder] contractor is responsible and
171 qualified based on its experience with projects similar to that for which
172 the bid or proposal is to be submitted and based on objective written
173 criteria [and] included in the application to request [for]
174 prequalification with respect to such contract. The university shall also
175 consider whether a [bidder] contractor, and any subcontractor on the
176 [bidder's] contractor's previous projects, has been in compliance with
177 the provisions of part III of chapter 557 and chapter 558 during the
178 previous five calendar years.

179 (B) Notwithstanding the provisions of subparagraph (A) of this
180 subdivision, the board of trustees may approve a total cost basis
181 contract or other contract for the construction of a university project

182 which is estimated to cost more than five hundred thousand dollars
183 that has not been publicly let pursuant to the provisions of said
184 subparagraph (A), provided the board deems the contract to address
185 an emergency.

186 (3) The university shall thereafter give notice to those so
187 prequalified of the time and place where the public letting shall occur
188 and shall include in such notice such information of the work required
189 as appropriate. Each bid or proposal shall be kept sealed until opened
190 publicly at the time and place as set forth in the notice soliciting such
191 bid or proposal. The university shall not award any construction
192 contract, including, but not limited to, any total cost basis contract,
193 after public letting, except to the responsible qualified [bidder]
194 contractor, submitting the lowest bid or proposal in compliance with
195 the bid or proposal requirements of the solicitation document. The
196 university may, however, waive any informality in a bid or proposal,
197 and may either reject all bids or proposals and again advertise for bids
198 or proposals or interview at least three responsible qualified [bidders]
199 contractors and negotiate and enter into with any one of such [bidders]
200 contractors that construction contract which is both fair and reasonable
201 to the university.

202 (4) The [invitation to] notice to each contractor prequalified to
203 submit a proposal or bid and the construction contract, including each
204 total cost basis contract, awarded by the university shall contain such
205 other terms and conditions, and such provisions for penalties as the
206 university may deem appropriate.

207 (5) No payments shall be made by the university on account of any
208 contract for the project awarded by or for the university until the bills
209 or estimates presented for such payment shall have been duly certified
210 to be correct by the university. No payments shall be made from any
211 other fund on account of any contract for any project awarded by or
212 for the university until the bills or estimates presented for such
213 payment shall have been duly certified to be correct by the university.

214 (6) Provision shall be made in each contract to the effect that
215 payment is limited to the amount provided therein and that no liability
216 of the university or state shall and may be incurred beyond such
217 amount.

218 (7) The university shall require, for the protection of the state and
219 the university, such deposits, bonds and security in connection with
220 the submission of bids or proposals, the award of construction
221 contracts and the performance of work as the university shall
222 determine to be appropriate and in the public interest of the state.

223 (8) Any contract awarded by the university shall be a contract with
224 the state acting through the university.

225 (9) The university shall not enter into a design-build project delivery
226 contract for any project without the prior approval of the board of
227 trustees.

228 (10) The university shall not enter into a construction manager at
229 risk project delivery contract that does not provide for a maximum
230 guaranteed price for the cost of construction which shall be
231 determined not later than the time of the receipt and approval by the
232 university of the trade contractor bids. Each construction manager at
233 risk shall invite bids and give notice of opportunities to bid on project
234 elements, by advertising, at least once, in one or more newspapers
235 having general circulation in the state. Each bid shall be kept sealed
236 until opened publicly at the time and place as set forth in the notice
237 soliciting such bid. The construction manager at risk shall, after
238 consultation with and approval by the university, award any related
239 contracts for project elements to the responsible qualified contractor
240 submitting the lowest bid in compliance with the bid requirements,
241 provided (A) the construction manager at risk shall not be eligible to
242 submit a bid for any such project element, and (B) construction shall
243 not begin prior to the determination of the maximum guaranteed
244 price.

245 Sec. 9. (NEW) (*Effective July 1, 2006*) The university, as defined in
246 subdivision (26) of section 10a-109c of the general statutes, as amended
247 by this act, shall conduct reviews of deferred maintenance needs at the
248 university and annually submit to the construction management
249 oversight committee established pursuant to section 3 of this act, an
250 annual budget concerning deferred maintenance, as defined in
251 subdivision (29) of said section 10a-109c.

252 Sec. 10. Section 29-291 of the general statutes is repealed and the
253 following is substituted in lieu thereof (*Effective July 1, 2006*):

254 For the purposes of this part and any other statute related to fire
255 prevention and safety, the Commissioner of Public Safety shall serve as
256 the State Fire Marshal. The commissioner may delegate such powers as
257 the commissioner deems expedient for the proper administration of
258 this part and any other statute related to fire prevention and safety to
259 any employee of (1) the Department of Public Safety, and (2) The
260 University of Connecticut at Storrs Division of Public Safety, provided
261 the commissioner and the president of The University of Connecticut
262 enter into a memorandum of understanding concerning such
263 delegation of powers in accordance with section 12 of this act. [such
264 powers as the commissioner deems expedient for the proper
265 administration of this part and any other statute related to fire
266 prevention and safety.]

267 Sec. 11. Subsection (e) of section 29-252a of the 2006 supplement to
268 the general statutes is repealed and the following is substituted in lieu
269 thereof (*Effective July 1, 2006*):

270 (e) The State Building Inspector or said inspector's designee may
271 inspect or cause to be inspected any construction of buildings or
272 alteration of existing buildings by state agencies, except that said
273 inspector or designee shall inspect or cause an inspection if the
274 building being constructed includes residential occupancies for
275 twenty-five or more persons. The State Building Inspector may order
276 any state agency to comply with the State Building Code. The

277 commissioner may delegate such powers as the commissioner deems
278 expedient for the proper administration of this part and any other
279 statute related to the State Building Code to The University of
280 Connecticut, provided the commissioner and the president of The
281 University of Connecticut enter into a memorandum of understanding
282 concerning such delegation of powers in accordance with section 12 of
283 this act.

284 Sec. 12. (NEW) (*Effective July 1, 2006*) The Commissioner of Public
285 Safety and the president of The University of Connecticut shall enter
286 into and maintain a memorandum of understanding that shall provide
287 for the temporary assignment of personnel from The University of
288 Connecticut at Storrs Division of Public Safety to the Department of
289 Public Safety for the purpose of ensuring compliance with the Fire
290 Safety Code and the State Building Code with respect to buildings or
291 building projects that (1) are part of UCONN 2000, as defined in
292 subdivision (25) of section 10a-109c of the general statutes, as amended
293 by this act, (2) do not exceed threshold limits, as defined in section 29-
294 276b of the general statutes, and (3) are initiated during the period of
295 time in which the memorandum is in effect.

296 Sec. 13. (NEW) (*Effective July 1, 2006*) The university, as defined in
297 subdivision (26) of section 10a-109c of the general statutes, as amended
298 by this act, shall provide that all funds allocated to UCONN 2000, as
299 defined in subdivision (25) of section 10a-109c of the general statutes,
300 as amended by this act, for the purpose of deferred maintenance, as
301 defined in subdivision (29) of section 10a-109c of the general statutes,
302 as amended by this act, shall be expended for such purpose.

303 Sec. 14. (*Effective from passage*) The university, as defined in
304 subdivision (26) of section 10a-109c of the general statutes, as amended
305 by this act, shall (1) account for all funds for deferred maintenance, as
306 defined in subdivision (29) of section 10a-109c of the general statutes,
307 as amended by this act, expended for the purposes of UCONN 2000, as
308 defined in subdivision (25) of section 10a-109c of the general statutes,
309 as amended by this act, prior to the effective date of this section, and

310 (2) inspect all structures of the university and create an inventory of all
 311 structures requiring maintenance, the approximate costs of such
 312 maintenance and proposed funding sources for such maintenance. Not
 313 later than October 1, 2006, the university shall report its findings, in
 314 accordance to the provisions of section 11-4a of the general statutes, to
 315 the Board of Trustees for The University of Connecticut and to the joint
 316 standing committee of the General Assembly having cognizance of
 317 matters relating to higher education.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2006</i>	New section
Sec. 2	<i>July 1, 2006</i>	New section
Sec. 3	<i>July 1, 2006</i>	New section
Sec. 4	<i>July 1, 2006</i>	New section
Sec. 5	<i>July 1, 2006</i>	10a-104(b)
Sec. 6	<i>July 1, 2006</i>	10a-109c
Sec. 7	<i>July 1, 2006</i>	10a-109d(a)(11)
Sec. 8	<i>July 1, 2006</i>	10a-109n(c)
Sec. 9	<i>July 1, 2006</i>	New section
Sec. 10	<i>July 1, 2006</i>	29-291
Sec. 11	<i>July 1, 2006</i>	29-252a(e)
Sec. 12	<i>July 1, 2006</i>	New section
Sec. 13	<i>July 1, 2006</i>	New section
Sec. 14	<i>from passage</i>	New section

HED

Joint Favorable Subst. C/R

APP