



General Assembly

Amendment

February Session, 2006

LCO No. 5012

HB0569505012HDO

Offered by:

REP. WILLIS, 64th Dist.
SEN. HARTLEY, 15th Dist.
SEN. FREEDMAN, 26th Dist.

REP. SHERER, 147th Dist.
REP. LEWIS, 8th Dist.
REP. HEAGNEY, 16th Dist.

To: Subst. House Bill No. 5695

File No. 542

Cal. No. 363

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2006*) The Board of Trustees for
4 The University of Connecticut shall select and appoint independent
5 auditors, as defined in subdivision (7) of section 4-230 of the general
6 statutes, to annually conduct an audit of any project of UCONN 2000,
7 as defined in subdivision (25) of section 10a-109c of the general
8 statutes, as amended by this act. Such audit shall review all invoices,
9 expenditures, cost allocations and other appropriate documentation in
10 order to reconcile all project costs and verify conformance with project
11 budgets, cost allocation agreements and applicable contracts. The
12 Board of Trustees for The University of Connecticut shall ensure that
13 the auditors have unfettered access to any documentation the auditors
14 need to review any such project. The auditors appointed pursuant to

15 this section may serve in such capacity for five consecutive years and
16 shall not be reappointed at the expiration of such period. Any such
17 auditor appointed pursuant to this section shall not perform any
18 nonaudit services for the university during such period.

19 Sec. 2. (NEW) (*Effective July 1, 2006*) The Board of Trustees for The
20 University of Connecticut shall annually review reports of audits of
21 any project of UCONN 2000, as defined in subdivision (25) of section
22 10a-109c of the general statutes, as amended by this act, pursuant to
23 section 2-90 of the general statutes, and section 1 of this act. Such
24 review shall be initially conducted by the board without the presence
25 of university staff members.

26 Sec. 3. (NEW) (*Effective July 1, 2006*) (a) There is established a
27 construction management oversight committee consisting of (1) four
28 members appointed jointly by the Governor, the speaker of the House
29 of Representatives, the majority leader of the House of
30 Representatives, the minority leader of the House of Representatives,
31 the president pro tempore of the Senate, the majority leader of the
32 Senate and the minority leader of the Senate, and (2) three members
33 appointed by the Board of Trustees for The University of Connecticut,
34 who shall be members of said board. The Board of Trustees shall
35 replace any such committee member appointed by said board, if such
36 committee member's term on the board expires, or otherwise ends. The
37 members appointed pursuant to subdivision (1) of this subsection shall
38 have expertise in the fields of construction management, architectural
39 design or construction project management. The chairperson of the
40 committee shall be designated by the Board of Trustees. All
41 appointments of the initial committee shall be made no later than July
42 20, 2006. Appointments shall be for four consecutive years, except that
43 two of the initial appointments pursuant to subdivision (1) of this
44 subsection shall be for three consecutive years. Upon expiration of the
45 initial members' terms and every four years thereafter, new members
46 shall be appointed in accordance with the procedures for appointment
47 set forth in this section. A majority of the members of the committee
48 shall constitute a quorum for the conduct of business. The committee

49 shall act by a majority vote of the members. The committee shall
50 maintain a record of its proceedings in such form as it determines,
51 provided such record indicates attendance and all votes cast by each
52 member.

53 (b) The construction management oversight committee established
54 pursuant to subsection (a) of this section shall review and approve the
55 policies and procedures developed by The University of Connecticut
56 to undertake any project of UCONN 2000, as defined in subdivision
57 (25) of section 10a-109c of the general statutes, as amended by this act,
58 concerning the selection of design professionals and contractors, as
59 defined in subdivision (27) of said section 10a-109c, contract
60 compliance, building and fire code compliance, deferred maintenance,
61 as defined in subdivision (29) of said section 10a-109c, and an annual
62 budget for such maintenance prepared pursuant to section 9 of this act,
63 project and program budgets and schedules and the authorization and
64 review of contract changes. Such committee shall prepare, biennially, a
65 summary of construction performance of UCONN 2000 based on
66 reports submitted at least quarterly by the construction assurance
67 office established pursuant to section 4 of this act, and shall, upon the
68 completion of each named project pursuant to section 10a-109e of the
69 general statutes, conduct a review of the university's management of
70 such project for its conformance with the applicable policies and
71 procedures governing construction undertaken pursuant to section
72 10a-109n of the general statutes, as amended by this act. Such review
73 of completed projects shall incorporate information, including, but not
74 limited to, that which is derived from reviews of the reports submitted
75 at least quarterly by the construction assurance office, in accordance
76 with section 4 of this act.

77 (c) The construction management oversight committee established
78 pursuant to subsection (a) of this section shall, upon completion of
79 each assessment, summary, and review conducted pursuant to this
80 section, submit such assessments, summaries, and reviews to the
81 Board of Trustees for The University of Connecticut. The board shall
82 initially review each such assessment, summary, and review without

83 the presence of university staff members.

84 Sec. 4. (NEW) (*Effective July 1, 2006*) Not later than August 1, 2006,
85 the Board of Trustees for The University of Connecticut shall establish
86 the construction assurance office. Positions in the office shall be paid
87 positions. The office shall be led by a full-time director who shall be
88 responsible for reviews of construction performance of UCONN 2000,
89 as defined in subdivision (25) of section 10a-109c of the general
90 statutes, as amended by this act, and shall report at least quarterly to
91 the construction management oversight committee in accordance with
92 section 3 of this act and to the president of The University of
93 Connecticut.

94 Sec. 5. Subsection (b) of section 10a-104 of the general statutes is
95 repealed and the following is substituted in lieu thereof (*Effective July*
96 *1, 2006*):

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

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

114 (NEW) (27) "Contractor" means any person, firm, corporation or

115 other legal entity (A) seeking prequalification to bid on a contract or
116 seeking the award of a contract, or (B) prequalified to bid on a contract
117 or that has been awarded a contract, in accordance with subsection (c)
118 of section 10a-109n, as amended by this act.

119 (NEW) (28) "Total cost basis contract" means a construction
120 manager at-risk project delivery contract between The University of
121 Connecticut and a contractor, as defined in subdivision (27) of this
122 section, to accomplish multiple elements of a project, including, but
123 not be limited to, site acquisition, architectural design, preconstruction
124 activities, project management and construction.

125 (NEW) (29) "Deferred maintenance" means repair of an
126 infrastructure or structure, that was not maintained, repaired or
127 replaced in the usual course of maintenance and repair, except for
128 repairs performed solely to correct code violations that were applicable
129 at the time of project completion and were for named projects
130 pursuant to section 10a-109e, (A) which did not meet the threshold
131 limits, as defined in section 29-276b, and (B) were completed prior to
132 July 1, 2006.

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

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

144 Sec. 8. Subsection (c) of section 10a-109n of the general statutes is
145 repealed and the following is substituted in lieu thereof (*Effective July*
146 *1, 2006*):

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

155 (2) [With respect to any construction contract] (A) Except as
156 provided in subparagraph (B) of this subdivision, any total cost basis
157 contract or other contract for the construction of a university project
158 which is estimated to cost more than five hundred thousand dollars,
159 [that is to] shall be publicly let [, the university shall identify a list of
160 potentially responsible qualified bidders for the particular contract.
161 Thereafter, the] by the university. The university shall give notice [to
162 those on the list of the work required and of the invitation to
163 prequalify] to contractors interested in prequalifying to submit a
164 project proposal or bid, by advertising, at least once, in one or more
165 newspapers having general circulation in the state and by posting the
166 advertisement on the university web site. The [invitation] notice to
167 prequalify shall contain [such information as the university shall deem
168 appropriate and] the requirement that contractors be prequalified
169 pursuant to section 4a-100, as amended by this act, a statement of the
170 time and place where the responses shall be received and such
171 additional information as the university deems appropriate. Upon
172 receipt of such responses, the university shall select each [bidder
173 which] contractor who has been prequalified pursuant to section 4a-
174 100, as amended by this act, and has shown itself able to post surety
175 bonds required by such contract and has demonstrated that it
176 possesses the financial, managerial and technical ability and the
177 integrity necessary and without conflict of interest for faithful and
178 efficient performance of the work provided for therein. The university
179 shall evaluate whether [a bidder] each such contractor is responsible
180 and qualified based on its experience with projects similar to that for

181 which the bid or proposal is to be submitted and based on objective
182 written criteria [and] included in the application to request [for]
183 prequalification with respect to such contract. The university shall also
184 consider whether a [bidder] contractor, and any subcontractor on the
185 [bidder's] contractor's previous projects, has been in compliance with
186 the provisions of part III of chapter 557 and chapter 558 during the
187 previous five calendar years.

188 (B) Notwithstanding the provisions of subparagraph (A) of this
189 subdivision, the board of trustees may approve a total cost basis
190 contract or other contract for the construction of a university project
191 which is estimated to cost more than five hundred thousand dollars
192 that has not been publicly let pursuant to the provisions of said
193 subparagraph (A), provided the board deems the contract to address
194 an emergency.

195 (3) The university shall thereafter give notice to those so
196 prequalified by the university pursuant to subdivision (2) of this
197 section of the time and place where the public letting shall occur and
198 shall include in such notice such information of the work required as
199 appropriate. Each bid or proposal shall be kept sealed until opened
200 publicly at the time and place as set forth in the notice soliciting such
201 bid or proposal. The university shall not award any construction
202 contract, including, but not limited to, any total cost basis contract,
203 after public letting, except to the responsible qualified [bidder]
204 contractor, submitting the lowest bid or proposal in compliance with
205 the bid or proposal requirements of the solicitation document. The
206 university may, however, waive any informality in a bid or proposal,
207 and may either reject all bids or proposals and again advertise for bids
208 or proposals or interview at least three responsible qualified [bidders]
209 contractors and negotiate and enter into with any one of such [bidders]
210 contractors that construction contract which is both fair and reasonable
211 to the university.

212 (4) The [invitation to] notice to each contractor prequalified to
213 submit a proposal or bid and the construction contract, including each

214 total cost basis contract, awarded by the university shall contain such
215 other terms and conditions, and such provisions for penalties as the
216 university may deem appropriate.

217 (5) No payments shall be made by the university on account of any
218 contract for the project awarded by or for the university until the bills
219 or estimates presented for such payment shall have been duly certified
220 to be correct by the university. No payments shall be made from any
221 other fund on account of any contract for any project awarded by or
222 for the university until the bills or estimates presented for such
223 payment shall have been duly certified to be correct by the university.

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

228 (7) The university shall require, for the protection of the state and
229 the university, such deposits, bonds and security in connection with
230 the submission of bids or proposals, the award of construction
231 contracts and the performance of work as the university shall
232 determine to be appropriate and in the public interest of the state.

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

235 (9) The university shall not enter into a construction manager at-risk
236 project delivery contract that does not provide for a maximum
237 guaranteed price for the cost of construction which shall be
238 determined not later than the time of the receipt and approval by the
239 university of the trade contractor bids. Each construction manager at-
240 risk shall invite bids and give notice of opportunities to bid on project
241 elements, by advertising, at least once, in one or more newspapers
242 having general circulation in the state. Each bid shall be kept sealed
243 until opened publicly at the time and place as set forth in the notice
244 soliciting such bid. The construction manager at-risk shall, after
245 consultation with and approval by the university, award any related

246 contracts for project elements to the responsible qualified contractor,
247 who shall be prequalified pursuant to section 4a-100, as amended by
248 this act, submitting the lowest bid in compliance with the bid
249 requirements, provided (A) the construction manager at-risk shall not
250 be eligible to submit a bid for any such project element, and (B)
251 construction shall not begin prior to the determination of the
252 maximum guaranteed price, except for the project elements of site
253 preparation and demolition that have been previously put out to bid
254 and awarded.

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

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

264 For the purposes of this part and any other statute related to fire
265 prevention and safety, the Commissioner of Public Safety shall serve as
266 the State Fire Marshal. The commissioner may delegate such powers as
267 the commissioner deems expedient for the proper administration of
268 this part and any other statute related to fire prevention and safety to
269 any employee of (1) the Department of Public Safety, and (2) The
270 University of Connecticut at Storrs Division of Public Safety, provided
271 the commissioner and the president of The University of Connecticut
272 enter into a memorandum of understanding concerning such
273 delegation of powers in accordance with section 12 of this act. [such
274 powers as the commissioner deems expedient for the proper
275 administration of this part and any other statute related to fire
276 prevention and safety.]

277 Sec. 11. Subsection (e) of section 29-252a of the 2006 supplement to

278 the general statutes is repealed and the following is substituted in lieu
279 thereof (*Effective July 1, 2006*):

280 (e) The State Building Inspector or said inspector's designee may
281 inspect or cause to be inspected any construction of buildings or
282 alteration of existing buildings by state agencies, except that said
283 inspector or designee shall inspect or cause an inspection if the
284 building being constructed includes residential occupancies for
285 twenty-five or more persons. The State Building Inspector may order
286 any state agency to comply with the State Building Code. The
287 commissioner may delegate such powers as the commissioner deems
288 expedient for the proper administration of this part and any other
289 statute related to the State Building Code to The University of
290 Connecticut, provided the commissioner and the president of The
291 University of Connecticut enter into a memorandum of understanding
292 concerning such delegation of powers in accordance with section 12 of
293 this act.

294 Sec. 12. (NEW) (*Effective July 1, 2006*) The Commissioner of Public
295 Safety and the president of The University of Connecticut shall enter
296 into and maintain a memorandum of understanding that shall provide
297 for the temporary assignment of personnel from The University of
298 Connecticut at Storrs Division of Public Safety to the Department of
299 Public Safety for the purpose of ensuring compliance with the Fire
300 Safety Code and the State Building Code with respect to buildings or
301 building projects that (1) are part of UCONN 2000, as defined in
302 subdivision (25) of section 10a-109c of the general statutes, as amended
303 by this act, (2) do not meet threshold limits, as defined in section 29-
304 276b of the general statutes, and (3) are initiated during the period of
305 time in which the memorandum is in effect.

306 Sec. 13. (NEW) (*Effective July 1, 2006*) The university, as defined in
307 subdivision (26) of section 10a-109c of the general statutes, as amended
308 by this act, shall provide that all funds allocated to UCONN 2000, as
309 defined in subdivision (25) of section 10a-109c of the general statutes,
310 as amended by this act, for the purpose of deferred maintenance, as

311 defined in subdivision (29) of section 10a-109c of the general statutes,
312 as amended by this act, shall be expended for such purpose.

313 Sec. 14. (*Effective from passage*) The university, as defined in
314 subdivision (26) of section 10a-109c of the general statutes, as amended
315 by this act, shall (1) account for all funds for deferred maintenance, as
316 defined in subdivision (29) of section 10a-109c of the general statutes,
317 as amended by this act, expended for the purposes of UCONN 2000, as
318 defined in subdivision (25) of section 10a-109c of the general statutes,
319 as amended by this act, prior to the effective date of this section, and
320 (2) inspect all structures of the university and create an inventory of all
321 structures requiring deferred maintenance and the approximate costs
322 of such deferred maintenance. Not later than December 1, 2006, the
323 university shall report its findings, in accordance to the provisions of
324 section 11-4a of the general statutes, to the Board of Trustees for The
325 University of Connecticut and to the joint standing committee of the
326 General Assembly having cognizance of matters relating to higher
327 education.

328 Sec. 15. (*Effective from passage*) Not later than December 1, 2006, the
329 university, as defined in subdivision (26) of section 10a-109c of the
330 general statutes, as amended by this act, shall, in accordance with the
331 provisions of section 11-4a of the general statutes, report to the joint
332 standing committee of the General Assembly having cognizance of
333 matters relating to higher education, any findings of violations of the
334 Fire Safety Code or the State Building Code with respect to buildings
335 and building projects described in subdivisions (1) and (2) of section 12
336 of this act that were completed prior to the effective date of this
337 section.

338 Sec. 16. Subsection (a) of section 4a-100 of the general statutes is
339 repealed and the following is substituted in lieu thereof (*Effective*
340 *January 1, 2007*):

341 (a) As used in this section: (1) "Prequalification" means
342 prequalification issued by the Commissioner of Administrative

343 Services to bid on a contract for the construction, reconstruction,
344 alteration, remodeling, repair or demolition of any public building or
345 any other public work for work by the state or a municipality, except a
346 public highway or bridge project; (2) "subcontractor" means a person
347 who performs work with a value in excess of twenty-five thousand
348 dollars for a contractor pursuant to a contract for work for the state or
349 a municipality which is estimated to cost more than five hundred
350 thousand dollars; (3) "principals and key personnel" includes officers,
351 directors, shareholders, members, partners and managerial employees;
352 (4) "aggregate work capacity rating" means the maximum amount of
353 work an applicant is capable of undertaking for any and all projects;
354 and (5) "single project limit" means the highest estimated cost of a
355 single project that an applicant is capable of undertaking.

356 Sec. 17. Subsection (c) of section 4a-101 of the general statutes is
357 repealed and the following is substituted in lieu thereof (*Effective*
358 *January 1, 2007*):

359 (c) As used in this section, "public agency" means a public agency,
360 as defined in section 1-200 [but does not include The University of
361 Connecticut with respect to any project, as defined in subdivision (16)
362 of section 10a-109c, that is undertaken and controlled by the
363 university,] and "subcontractor" means a person who performs work
364 with a value in excess of twenty-five thousand dollars for a contractor
365 pursuant to a contract for work for the state or a municipality which is
366 estimated to cost more than five hundred thousand dollars.

367 Sec. 18. Subsection (a) of section 4b-91 of the 2006 supplement to the
368 general statutes is repealed and the following is substituted in lieu
369 thereof (*Effective January 1, 2007*):

370 (a) Every contract for the construction, reconstruction, alteration,
371 remodeling, repair or demolition of any public building for work by
372 the state, which is estimated to cost more than five hundred thousand
373 dollars, except [(1)] a contract awarded by the Commissioner of Public
374 Works for [(A)] (1) a community court project, as defined in subsection

375 (j) of section 4b-55, as amended, [(B)] (2) the downtown Hartford
376 higher education center project, as defined in subsection (l) of section
377 4b-55, as amended, [(C)] (3) a correctional facility project, as defined in
378 subsection (m) of section 4b-55, as amended, [(D)] (4) a juvenile
379 detention center project, as defined in subsection (n) of section 4b-55,
380 as amended, or [(E)] (5) a student residential facility for the
381 Connecticut State University system that is a priority higher education
382 facility project, as defined in subsection (f) of section 4b-55, as
383 amended, [or (2) a project, as defined in subdivision (16) of section 10a-
384 109c, undertaken and controlled by The University of Connecticut in
385 accordance with section 10a-109n,] shall be awarded to the lowest
386 responsible and qualified general bidder who is prequalified pursuant
387 to section 4a-100 on the basis of competitive bids in accordance with
388 the procedures set forth in this chapter, after the Commissioner of
389 Public Works or, in the case of a contract for the construction of or
390 work on a building under the supervision and control of the Joint
391 Committee on Legislative Management of the General Assembly, the
392 joint committee or, in the case of a contract for the construction of or
393 work on a building under the supervision and control of one of the
394 constituent units of the state system of higher education, the
395 constituent unit, has invited such bids by advertisements inserted at
396 least once in one or more newspapers having a circulation in each
397 county in the state. The Commissioner of Public Works, the joint
398 committee or the constituent unit, as the case may be, shall indicate the
399 prequalification classification required for the contract in such
400 advertisement. As used in this section, "prequalification classification"
401 means the prequalification classifications established by the
402 Commissioner of Administrative Services pursuant to section 4a-100,
403 as amended by this act.

404 Sec. 19. Subsection (c) of section 4b-91 of the 2006 supplement to the
405 general statutes is repealed and the following is substituted in lieu
406 thereof (*Effective January 1, 2007*):

407 (c) On and after October 1, 2004, no person may bid on a contract [,
408 except for a project described in subdivision (2) of subsection (a) of this

409 section,] for the construction, reconstruction, alteration, remodeling,
410 repair or demolition of any public building for work by the state or a
411 municipality, which is estimated to cost more than five hundred
412 thousand dollars and is paid for, in whole or in part, with state funds,
413 unless the person is prequalified in accordance with section 4a-100, as
414 amended by this act.

415 Sec. 20. Subsection (a) of section 10a-109n of the general statutes is
416 repealed and the following is substituted in lieu thereof (*Effective*
417 *January 1, 2007*):

418 (a) [Notwithstanding any provision of chapter 59 or 60, for] For the
419 period from July 1, 2001, to June 30, 2015, the university shall, have
420 charge and supervision of the design, planning, acquisition,
421 remodeling, alteration, repair, enlargement, demolition of any real
422 asset or any other project on its campuses.

423 Sec. 21. (NEW) (*Effective July 1, 2006*) (a) In order to carry out any
424 provision of title 4b of the general statutes for the construction,
425 renovation or alteration of buildings or facilities, the Commissioner of
426 Public Works may enter into a construction manager at-risk project
427 delivery contract.

428 (b) The Commissioner of Public Works shall not enter into a
429 construction manager at-risk project delivery contract that does not
430 provide for a maximum guaranteed price for the cost of construction
431 that shall be determined not later than the time of the receipt and
432 approval by the commissioner of the trade contractor bids. Each
433 construction manager at-risk shall invite bids and give notice of
434 opportunities to bid on project elements, by advertising, at least once,
435 in one or more newspapers having general circulation in the state.
436 Each bid shall be kept sealed until opened publicly at the time and
437 place as set forth in the notice soliciting such bid. The construction
438 manager at-risk shall, after consultation with and approval by the
439 commissioner, award any related contracts for project elements to the
440 responsible qualified contractor submitting the lowest bid in

441 compliance with the bid requirements, provided (1) the construction
442 manager at-risk shall not be eligible to submit a bid for any such
443 project element, and (2) construction shall not begin prior to the
444 determination of the maximum guaranteed price, except for the project
445 elements of site preparation and demolition that have been previously
446 put out to bid and awarded.

447 Sec. 22. Section 4a-100 of the general statutes is repealed and the
448 following is substituted in lieu thereof (*Effective October 1, 2007*):

449 (a) As used in this section: (1) "Prequalification" means
450 prequalification issued by the Commissioner of Administrative
451 Services to bid on a contract for the construction, reconstruction,
452 alteration, remodeling, repair or demolition of any public building for
453 work by the state or a municipality or to perform work under such a
454 contract as a substantial subcontractor; (2) "subcontractor" means a
455 person who performs work with a value in excess of twenty-five
456 thousand dollars for a contractor pursuant to a contract for work for
457 the state or a municipality which is estimated to cost more than five
458 hundred thousand dollars; (3) "principals and key personnel" includes
459 officers, directors, shareholders, members, partners and managerial
460 employees; (4) "aggregate work capacity rating" means the maximum
461 amount of work an applicant is capable of undertaking for any and all
462 projects; [and] (5) "single project limit" means the highest estimated
463 cost of a single project that an applicant is capable of undertaking; and
464 (6) "substantial subcontractor" means a person who performs work
465 with a value in excess of five hundred thousand dollars for a
466 contractor pursuant to a contract for work for the state or a
467 municipality which is estimated to cost more than five hundred
468 thousand dollars.

469 (b) (1) Any person may apply for prequalification to the Department
470 of Administrative Services. Such application shall be made on such
471 form as the Commissioner of Administrative Services prescribes and
472 shall be accompanied by a nonrefundable application fee as set forth in
473 subdivision (2) of this subsection. The application shall be signed

474 under penalty of false statement.

475 (2) The application fee shall be as follows:

T1	Aggregate Work Capacity Rating	Fee
T2	\$5,000,000.00 or less	\$600.00
T3	\$5,000,000.01 - \$8,000,000.00	\$750.00
T4	\$8,000,000.01 - \$10,000,000.00	\$850.00
T5	\$10,000,000.01 - \$15,000,000.00	\$1,000.00
T6	\$15,000,000.01 - \$20,000,000.00	\$1,500.00
T7	\$20,000,000.01 - \$40,000,000.00	\$2,000.00
T8	\$40,000,000.01 or more	\$2,500.00

476 (c) The application form shall, at a minimum, require the applicant
477 to supply information concerning:

478 (1) The applicant's form of organization;

479 (2) The applicant's principals and key personnel and any names
480 under which the applicant, principals or key personnel conducted
481 business during the past five years;

482 [(3) The applicant's experience on public and private construction
483 projects over the past five years, or on the applicant's ten most
484 recently-completed projects and the names of any subcontractors used
485 on the projects;]

486 [(4)] (3) Any legal or administrative proceedings pending or
487 concluded adversely against the applicant or any of the applicant's
488 principals or key personnel within the past five years which relate to
489 the procurement or performance of any public or private construction
490 contract and whether the applicant is aware of any investigation
491 pending against the applicant or any principal or key personnel;

492 [(5)] (4) The nature of any financial, personal or familial relationship
493 between the applicant and any public or private construction project
494 owner listed on the application as constituting construction experience;

495 [(6)] (5) A statement of whether (A) the applicant has been
496 disqualified pursuant to section 4b-95, this section or section 31-57c or
497 31-57d, (B) the applicant is on the list distributed by the Labor
498 Commissioner pursuant to section 31-57a, (C) the applicant is
499 disqualified or prohibited from being awarded a contract pursuant to
500 section 31-57b, (D) the applicant has been disqualified by another state,
501 (E) the applicant has been disqualified by a federal agency or pursuant
502 to federal law, (F) the applicant's registration has been suspended or
503 revoked by the Department of Consumer Protection pursuant to
504 section 20-341gg, (G) the applicant has been disqualified by a
505 municipality, and (H) the matters that gave rise to any such
506 disqualification, suspension or revocation have been eliminated or
507 remedied; and

508 [(7)] (6) Other information as the commissioner deems relevant to
509 the determination of the applicant's qualifications and responsibilities.

510 (d) The applicant shall include a statement of financial condition
511 prepared by a certified public accountant which includes information
512 concerning the applicant's assets and liabilities, plant and equipment,
513 bank and credit references, bonding company and maximum bonding
514 capacity, and other information as the commissioner deems relevant to
515 an evaluation of the applicant's financial capacity and responsibility.

516 (e) Information contained in the application shall be current as of
517 the time of filing except that the statement of financial condition shall
518 pertain to the applicant's most recently-completed fiscal year.

519 (f) The commissioner shall determine whether to prequalify an
520 applicant on the basis of the application and on relevant past
521 performance according to procedures and criteria set forth in
522 regulations which the commissioner shall adopt on or before October
523 1, 2005, in accordance with chapter 54. Such criteria shall include, at a
524 minimum, the record of the applicant's performance, including, but
525 not limited to, written evaluations of the applicant's performance on
526 public or private projects, [within the past five years,] for a period of

527 not less than the past three years, the applicant's past experience on
528 projects of various size and type, the skill, ability and integrity of the
529 applicant and any subcontractors used by the applicant, the experience
530 and qualifications of supervisory personnel employed by the
531 applicant, the maximum amount of work the applicant is capable of
532 undertaking as demonstrated by the applicant's financial condition,
533 bonding capacity, size of past projects and present and anticipated
534 work commitments, and any other relevant criteria that the
535 commissioner prescribes. Such regulations shall also (1) provide that
536 the criteria considered shall be assigned separate designated numerical
537 values and weights and that the applicant shall be assigned an overall
538 numerical rating on the basis of all criteria, and (2) establish
539 prequalification classifications, aggregate work capacity ratings and
540 single project limits. Such prequalification classifications shall be used
541 to establish the types of work a contractor or substantial subcontractor
542 is qualified to perform and the aggregate work capacity ratings shall
543 be used to establish the maximum amount of work a contractor or
544 substantial subcontractor is capable of undertaking.

545 (g) (1) The applicant shall indicate the prequalification
546 classifications, aggregate work capacity ratings and single project
547 limits that are sought. The commissioner may issue a certificate of
548 prequalification to any applicant who meets the requirements of this
549 section. Such certificate shall be effective for one year from the date
550 issued and shall indicate the contractor's or substantial subcontractor's
551 prequalification classifications, aggregate work capacity ratings and
552 single project limits. The commissioner may cause the initial certificate
553 of prequalification to be effective for a period not to exceed two years
554 and may require the applicant to remit payment of the application fee,
555 as set forth in subsection (b) of this section, for the first twelve months
556 of certification as well as a prorated application fee, as described in
557 subdivision (3) of this subsection, for any additional period of
558 certification beyond the first twelve months.

559 (2) A prequalified contractor or substantial subcontractor may apply
560 at any time for additional prequalification classifications, aggregate

561 work capacity ratings or single project limits by submitting the
562 applicable increase in fee, a completed update statement, and other
563 information the commissioner requires.

564 (3) The commissioner may renew a prequalification certificate upon
565 receipt of a completed update statement, any other material the
566 commissioner requires and a nonrefundable fee in an amount [equal
567 to] not less than one-half of the application fee for the applicable
568 aggregate work capacity rating as set forth in subsection (b) of this
569 section. [, except that in no event shall such fee be less than six
570 hundred dollars.]

571 (h) Not later than sixty days after receiving a completed application,
572 the commissioner shall mail or send by electronic mail a notice to the
573 applicant concerning the commissioner's preliminary determination
574 regarding the conditions of the prequalification certification, a denial
575 of certification, a reduction in the level of certification sought or
576 nonrenewal of certification. Any applicant aggrieved by the
577 commissioner's preliminary determination may request copies of the
578 information upon which the commissioner relied in making the
579 preliminary determination, provided such request is made not later
580 than ten days after the date the notice was mailed or sent by electronic
581 mail to the applicant. Not later than twenty days after the date the
582 notice was mailed or sent by electronic mail, the applicant may submit
583 additional information to the commissioner with a request for
584 reconsideration. The commissioner shall issue a final determination
585 regarding the application not later than ninety days after the date the
586 commissioner mailed or sent by electronic mail the notice of the
587 preliminary determination, which ninety-day period may be extended
588 for an additional period not to exceed ninety days if (1) the
589 commissioner gives written notice to the applicant that the
590 commissioner requires additional time, and (2) such notice is mailed or
591 sent by electronic mail during the initial ninety-day period.

592 (i) The commissioner may not issue a prequalification certificate to
593 any contractor or substantial subcontractor (1) who is disqualified

594 pursuant to section 31-57c or 31-57d, (2) who has a principal or key
595 personnel who, within the past five years, has a conviction or has
596 entered a plea of guilty or nolo contendere for or has admitted to
597 commission of an act or omission that reasonably could have resulted
598 in disqualification pursuant to any provision of subdivisions (1) to (3),
599 inclusive, of subsection (d) of section 31-57c or subdivisions (1) to (3),
600 inclusive, of subsection (d) of section 31-57d, as determined by the
601 commissioner.

602 (j) The commissioner may revoke a contractor's or substantial
603 subcontractor's prequalification or reduce the contractor's or
604 substantial subcontractor's prequalification classification or aggregate
605 work capacity ratings, after an opportunity for a hearing, if the
606 commissioner receives additional information that supports such
607 revocation or reduction.

608 (k) (1) Any materially false statement in the application or any
609 update statement may, in the discretion of the awarding authority,
610 result in termination of any contract awarded the applicant by the
611 awarding authority. The awarding authority shall provide written
612 notice to the commissioner of such false statement not later than thirty
613 days after discovering such false statement. The commissioner shall
614 provide written notice of such false statement to the Commissioner of
615 Public Works and the Commissioner of Consumer Protection not later
616 than thirty days after discovering such false statement or receiving
617 such notice.

618 (2) The commissioner shall revoke the prequalification of any
619 person, after an opportunity for hearing, if the commissioner finds that
620 the person has included any materially false statement in such
621 application or update statement, has been convicted of a crime related
622 to the procurement or performance of any public or private
623 construction contract or, within the past five years or has otherwise
624 engaged in fraud in obtaining or maintaining prequalification. Any
625 person whose prequalification has been revoked pursuant to this
626 subsection shall be disqualified for a period of two years after which

627 the person may reapply for prequalification, except that a person
628 whose prequalification has been revoked on the basis of conviction of a
629 crime or engaging in fraud shall be disqualified for a period of five
630 years after which the person may reapply for prequalification. The
631 commissioner shall not prequalify a person whose prequalification has
632 been revoked pursuant to this subdivision until the expiration of said
633 [two or] two-year, five-year, or other applicable disqualification period
634 and the commissioner is satisfied that the matters that gave rise to the
635 revocation have been eliminated or remedied.

636 (l) The commissioner shall provide written notice of any revocation,
637 disqualification, reduction in classification or capacity rating or
638 reinstated prequalification to the Commissioner of Public Works and
639 the Commissioner of Consumer Protection not later than thirty days
640 after any final determination.

641 (m) The provisions of this section and section 4a-101, as amended by
642 this act, shall not apply to subcontractors who are not substantial
643 subcontractors.

644 (n) The commissioner shall establish an update statement for use by
645 bidders and substantial subcontractors for purposes of renewing or
646 upgrading a prequalification certificate and for purposes of submitting
647 a bid pursuant to section 4b-91.

648 (o) Any applicant aggrieved by the commissioner's final
649 determination concerning a preliminary determination, a denial of
650 certification, a reduction in prequalification classification or aggregate
651 work capacity rating or a revocation or nonrenewal of certification
652 may appeal to the Superior Court in accordance with section 4-183.

653 (p) The commissioner shall adopt regulations, in accordance with
654 chapter 54, to establish a schedule of application fees for substantial
655 subcontractors.

656 Sec. 23. Section 4a-101 of the general statutes is repealed and the
657 following is substituted in lieu thereof (*Effective October 1, 2007*):

658 (a) On or before October 1, 2005, the Commissioner of
659 Administrative Services shall adopt regulations, in accordance with
660 chapter 54, to establish a standard contractor evaluation form. Such
661 form shall include, at a minimum, the following evaluation criteria: (1)
662 Timeliness of performance; (2) quality of performance; (3) cost
663 containment, including, but not limited to, the contractor's ability to
664 work within the contract's allotted cost, the accuracy of the contractor's
665 billing, and the number and cause of change orders and the manner in
666 which the contractor determined the price on the change orders; (4)
667 safety; (5) the quality of the contractor's working relationship with the
668 agency and the quality of the contractor's supervision of the work area;
669 (6) communication with the agency; (7) the quality of the contractor's
670 required documentation; (8) the performance of the contractor's
671 subcontractors and substantial subcontractors, to the extent known by
672 the official who completes the evaluation; and (9) the contractor's and
673 any subcontractor's compliance with part III of chapter 557, or chapter
674 558, or the provisions of the federal Davis-Bacon Act, 40 USC, Sections
675 276a to 276a-5, inclusive, as from time to time amended, to the extent
676 known by the official who completes the evaluation.

677 (b) Each public agency shall compile evaluation information during
678 the performance of the contract and complete and submit the
679 evaluation form to the commissioner after completion of a building
680 project under the agency's control if the building project is funded, in
681 whole or in part, by state funds. Such evaluation information shall be
682 available to any public agency for purposes of assessing the
683 responsibility of the contractor during a bid selection and evaluation
684 process. The designated official from such agency shall certify that the
685 information contained in the evaluation form represents, to the best of
686 the certifying official's knowledge, a true and accurate analysis of the
687 contractor's performance record on the contract. The commissioner
688 shall include the evaluation in the contractor's prequalification file. The
689 official shall mail a copy of the completed evaluation form to the
690 contractor. Any contractor who wishes to contest any information
691 contained in the evaluation form may submit a written response to the

692 commissioner not later than thirty days after the date the form was
693 mailed as indicated by the postmark on the envelope. Such response
694 shall set forth any additional information concerning the building
695 project or the oversight of the contract by the public agency that may
696 be relevant in the evaluation of the contractor's performance on the
697 project. The commissioner shall include any such response in the
698 contractor's prequalification file.

699 (c) As used in this section, "public agency" means a public agency,
700 as defined in section 1-200, but does not include The University of
701 Connecticut with respect to any project, as defined in subdivision (16)
702 of section 10a-109c, that is undertaken and controlled by the
703 university, [and] "subcontractor" means a person who performs work
704 with a value in excess of twenty-five thousand dollars for a contractor
705 pursuant to a contract for work for the state or a municipality which is
706 estimated to cost more than five hundred thousand dollars and
707 "substantial subcontractor" means a substantial subcontractor, as
708 defined in section 4a-100, as amended by this act.

709 (d) Upon fifty per cent completion of any building project under a
710 public agency's control, the agency shall advise the contractor in
711 writing of the agency's preliminary evaluation of the contractor's
712 performance on the project.

713 (e) No public agency, employee of a public agency or certifying
714 official of a public agency shall be held liable to any contractor for any
715 loss or injury sustained by such contractor as the result of the
716 completion of an evaluation form, as required by this section, unless
717 such agency, employee or official is found by a court of competent
718 jurisdiction to have acted in a wilful, wanton or reckless manner.

719 (f) Any public agency that fails to submit a completed evaluation
720 form, as required by this section, not later than seventy days after the
721 completion of a project, shall be ineligible for the receipt of any public
722 funds disbursed by the state for the purposes of the construction,
723 reconstruction, alteration, remodeling, repair or demolition of any

724 public building or any public works project until such completed
 725 evaluation form is submitted.

726 (g) Notwithstanding the provisions of subsection (a) of this section,
 727 any political subdivision of the state, when evaluating the performance
 728 of a contractor's subcontractors or substantial subcontractors, to the
 729 extent known, may rely on an evaluation of such subcontractors or
 730 substantial subcontractors that is conducted by the contractor.

731 Sec. 24. Section 4b-91 of the 2006 supplement to the general statutes
 732 is amended by adding subsection (j) as follows (*Effective October 1,*
 733 *2007*):

734 (NEW) (j) On and after October 1, 2007, no person whose
 735 subcontract exceeds five hundred thousand dollars in value may
 736 perform work as a subcontractor on a project for the construction,
 737 reconstruction, alteration, remodeling, repair or demolition of any
 738 public building for work by the state or a municipality, which project
 739 is estimated to cost more than five hundred thousand dollars and is
 740 paid for, in whole or in part, with state funds, unless the person is
 741 prequalified in accordance with section 4a-100, as amended by this act.
 742 The provisions of this subsection shall not apply to a project described
 743 in subdivision (2) of subsection (a) of this section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2006	New section
Sec. 2	July 1, 2006	New section
Sec. 3	July 1, 2006	New section
Sec. 4	July 1, 2006	New section
Sec. 5	July 1, 2006	10a-104(b)
Sec. 6	July 1, 2006	10a-109c
Sec. 7	July 1, 2006	10a-109d(a)(11)
Sec. 8	July 1, 2006	10a-109n(c)
Sec. 9	July 1, 2006	New section
Sec. 10	July 1, 2006	29-291
Sec. 11	July 1, 2006	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
Sec. 15	<i>from passage</i>	New section
Sec. 16	<i>January 1, 2007</i>	4a-100(a)
Sec. 17	<i>January 1, 2007</i>	4a-101(c)
Sec. 18	<i>January 1, 2007</i>	4b-91(a)
Sec. 19	<i>January 1, 2007</i>	4b-91(c)
Sec. 20	<i>January 1, 2007</i>	10a-109n(a)
Sec. 21	<i>July 1, 2006</i>	New section
Sec. 22	<i>October 1, 2007</i>	4a-100
Sec. 23	<i>October 1, 2007</i>	4a-101
Sec. 24	<i>October 1, 2007</i>	4b-91