OLR Bill Analysis

HB 6801

Emergency Certification

AN ACT PROMOTING ECONOMIC GROWTH AND JOB CREATION IN THE STATE.

SUMMARY:

This bill establishes new and expands existing business assistance, economic and workforce development, and job training programs. Among other things, it authorizes (1) rapid response financial assistance programs for small businesses, (2) a temporary subsidy for employment and training costs for small businesses that hire eligible new employees, and (3) airport development zones. It expands the First Five and Manufacturing Reinvestment Account programs to more companies and broadens the options for establishing captive insurance companies in Connecticut.

It allows state agencies to contract with private entities for building, financing, operating, or maintaining facilities. It also establishes processes to accelerate state agency decisions on permits, occupational licenses, and economic development assistance applications and remediation of state-owned brownfield properties.

The bill creates new programs for farmland restoration, town-center improvement projects in small towns, and replacing inefficient furnaces and boilers in housing authority and nonprofit organization buildings. It authorizes additional state bonding for (1) the Manufacturing Assistance Act, (2) the Fix-it-First bridge repair program, (3) workforce development programs at community colleges and regional vocational-technical schools, and (4) recapitalizing Connecticut Innovations, Inc.

Finally, the bill (1) replaces three existing job creation tax credit

programs with a new job expansion credit, (2) makes the business entity tax payable every other year starting with payments due in 2014, (3) reduces the minimum investment required for an angel investor income tax credit, and (4) expands the types of productions eligible for film tax credits.

A section-by-section summary appears below.

EFFECTIVE DATE: Upon passage, unless otherwise noted below.

§§ 1-5 — SMALL BUSINESS EXPRESS PROGRAM AND THE STEP UP PROGRAM

The bill authorizes up to $120 million in bonds for the Small Business Express Program and a Subsidized Training and Employment Program (STEP), both of which the bill creates. It specifically authorizes $100 million for the Small Business Express, with $50 authorized in FY 13, and $20 million for STEP, with $10 authorized in FY 13.

The bill creates the Small Business Express Program in the Department of Economic and Community Development (DECD) to provide loans, forgivable loans, or matching grants ranging from $10,000 to $250,000 to Connecticut-based small businesses and small manufacturers. The DECD commissioner must work with eligible businesses applicants to create a package that includes assistance provided under STEP and other programs.

The bill also establishes STEP within the Department of Labor (DOL) to provide grants to eligible small businesses and small manufacturers to pay for a portion of an eligible employee's wages during the first six months of his or her employment. The bill also requires the labor commissioner to report on the program and allows him to adopt regulations to implement it.

Small Business Express Program

Funding. The bill authorizes up to $100 million in bonds for the Small Business Express Program it establishes and specifies that up to $50 million is available upon the act's passage and $50 million as of

July 1, 2012. The bill also specifies the amounts the commissioner may spend from this authorization for each of the program's three components, as shown in Table 1 below.

Table 1: Bonding for Small Business Express Program Components

Component	*FY 12*	*FY 13*
Revolving Loan Fund	$20	$20
Job Incentive	10	10
Job Creation	20	20
Total	50	50

Under the bill, the commissioner must report to the legislature whenever she spends more or less than the amounts the bill specifies for each component. The report must identify the amount and how she divided it amount the components. The report must go to the Commerce; Labor; and Finance, Revenue and Bonding committees.

Application Process. The DECD commissioner must establish and use a streamline application process to expeditiously delivery small business express assistance. The bill allows her to provide a business applicant with financial assistance within 30 days after submitting a completed application. In deciding whether to approve an application, the commissioner must give priority to those businesses that create jobs and materially contribute to the state's economy by:

1. creating or retaining jobs,
2. exporting products and services outside the state,
3. encouraging innovation in products or services or adding value to them, or
4. supporting or enhancing activities important to the state's economy.

Under the bill, these "economic base businesses" specifically include those in the precision manufacturing, business services, green and sustainable technology, bioscience, and information technology sectors. It also requires the commissioner to report on the program.

Business Eligibility Requirements. Under the bill, a business is eligible if it employed no more than 50 people during at least half of its working days during the prior 12 months. The business must also

1. be based and operate in Connecticut,
2. have been registered to do business at least for 12 months, and
3. be current on all state and local taxes, and
4. be in good standing with all state agencies.

In addition, businesses receiving assistance under the program may, at the commissioner's discretion, be subject to the statutory penalties for relocating out of state after receiving state assistance. By law, the penalties apply if a business relocates within 10 years after receiving assistance. Under the bill, they apply if the business relocates within five years after receiving assistance.

Financial Assistance. The bill establishes three types of financial assistance under the program: revolving loans, forgivable loans, and matching grants. For each type of assistance it specifies priority applicants, eligible expenditures, and terms and conditions, as Table 2 shows.

Table 2: Summary of Financial Assistance under the Small Business Express Program

Characteristic	**Financial Assistance**		
	Revolving Loan	***Forgivable Loans (Job Creation Incentive)***	***Matching Grant***
Type of Assistance	Loan	Deferrable or forgivable loans for borrowers that increase and maintain jobs for at least 12 consecutive months	Matching grants for working capital
Purpose	Small business growth	Support hiring goals	Working capital
Application Turnaround	In most cases review and approve applications and deliver aid within 30 days after application's submission	In most cases review and approve applications and deliver aid within 30 days after application's submission	In most cases review and approve applications and deliver aid within 30 days after application's submission
Priority	• Economic-based industries • Businesses creating new jobs that will be maintained for not less than 12 consecutive	Economic-based industries	• Economic-based industries • Businesses likely to maintain job growth with the grants

	months		
Eligible expenditures	• Acquiring machinery and equipment • Construction or leasehold improvements • Relocation costs • Working capital • Other commissioner-approved business expenses	• Ongoing or new training • Marketing • Working capital • Other commissioner-approved expenses that support job creation	• Training • Working capital • Machinery and equipment acquisition • Construction or leasehold improvements • Relocation within the state • Other commissioner-approved business related expenses

Terms or conditions	• $10,000-$100,000
	• Up to 4% interest
	• Maximum 5-year term
	• DECD-determine loan terms, conditions, and collateral requirements prioritizing job growth and retention
		• $10,000 to $250,000 forgivable loans
		• Commissioner may:
		  ○ Defer loan payments and
		  ○ forgive all or part of loan based on business' attainment of job creation goals
		• DECD-determine loan terms, conditions, and collateral requirements prioritizing job creation and retention
			• $10,000 to $100,000 grants
			• Business must match state grant
			• DECD prioritizes on likelihood of applicant maintaining job growth

Reporting Requirements. No later than June 30, 2012, the commissioner must submit biannual job creation reports to the Appropriations; Commerce; Labor; and Finance, Revenue, and Bonding committees. The reports must provide data on (1) the number of businesses that applied for assistance, (2) number and types that received assistance, (3) amount and types of assistance they received, and (4) a business' total workforce when it applied for assistance and the total number of jobs it proposed to create or retain, and (5) the business' most recent employment figures. DECD must also include this data in its comprehensive annual report to the legislature.

The bill also requires DECD to include in the annual report information on the airport development zones it authorizes (§§ 39-45). The report must summarize the costs and benefits for each zone and recommend any statutory changes. DECD must develop the latter in consultation with the Connecticut Airport Authority.

§§ 4 & 5 — Subsidized Training & Employment Program

The bill establishes a Subsidized Training and Employment Program (STEP) within the Department of Labor (DOL) to subsidize eligible small businesses and small manufacturers for a portion of an eligible employee's cost of employment, including training, during the first six months of his or her employment. It authorizes up to $20 million in bonds for the program, with $10 million in FY 13. It also requires the labor commissioner to report on the program and allows him to adopt regulations to implement it.

No business or manufacturer receiving a STEP grant can receive a second STEP grant for the same new employee or newly-hired person.

The bill creates separate subsidies for small businesses and small manufacturers. For each subsidy it designates $5 million a year for the current fiscal year (2012) and the following year (2013) for a total of $20 million over two years. It allows the DOL to use up to 4% of the funds allocated for STEP to retain outside consultants to administer the program.

Small Business STEP Grants. The bill limits STEP participation to small businesses that:

1. have no more than 50 full-time employees on at least 50% of its working days during the previous 12 months,

2. are Connecticut based with operations in the state,

3. have been registered to conduct business in the state for at least 12 months, and

4. are in good standing with all state and local taxes.

The bill prohibits retailers from participating in the program. As defined in statute, retailers are those who sell goods used primarily for personal, family, or household purposes to a person who is not in the business of reselling such goods (CGS § 42-371).

To qualify for the grant under the bill, an eligible small business must hire a new employee who:

1. is unemployed immediately before being hired, regardless of whether the employee received unemployment benefits;

2. resides in a municipality with (a) an unemployment rate at least

as high as the state unemployment rate as of September 1, 2011 (9.0%) or (b) a population of 80,000 or more; and

3. has a family income less than 250% of the federal poverty level, adjusted for family size (currently $55,875 is the gross annual income for a family of four).

Under the bill, the new employee cannot, within the past 12 months, have been employed in the state by a business entity (individual, corporation, LLC, partnership, association, or trust) in control of, or under the control of, the eligible small business. To determine control, the ownership of stock in a corporation, of a capital or profit interest in a partnership, LLC or association, or of a beneficial interest in a trust is determined in accordance with federal tax law (IRS Code Section 267(c)).

The bill allows an eligible small business to receive a grant subsidizing each eligible new employee's training and compensation (up to $20 an hour). The size of the subsidy phases out over the employee's first six months of employment. Grants end the date the new employee leaves employment with the eligible small business. The bill does not limit how many grants an eligible small business can receive. Table 3 indicates the level of state subsidy for small businesses by month.

Table 3: Percent of Training and Compensation Subsidy by Month

Month of Employment	***State Subsidy % of Eligible Costs per eligible employee***
1	100% (maximum $20 an hour)
2, 3	75%
4, 5	50%
6	25%

Small Manufacturer STEP Grants. To qualify for grants as a small manufacturer, an employer must meet all of the bill's small business eligibility criteria and be one of the businesses described in sectors 31 to 33 of the North American Industry Classification System (NAICS). NAICS is the standard used by federal statistical agencies in classifying business establishments. Sectors 31 -33 include businesses engaged in the mechanical, physical, or chemical transformation of materials and components into new products.

An employee of an eligible small manufacturer must be newly hired to qualify the manufacturer for a STEP grant. There are no additional residency, unemployment, or previous employment requirements.

Under the bill, each grant applies to the costs of one newly hired employee's training and compensation, up to a fixed monthly limit that phases out over the first full six calendar months that the new hire is employed. The bill does not limit how many grants an eligible manufacturer can receive, but no individual grant can exceed the newly hired employee's salary or total more than $12,500. A grant can be cancelled on the date the new employee leaves the manufacturer's employment. Table 4 shows the small manufacturing maximum grant schedule.

Table 4: Small Manufacturing Grant Schedule

Full Calendar Month of New Hire's Employment	***Maximum Monthly Grant Amount***
One	$2,500
Two	$2,400
Three	$2,200
Four	$2,000
Five	$1,800
Six	$1,600

The grant must be used to train and compensate the new employee. The manufacturer must provide the training, and it must occur on the manufacturer's premises. An existing formal training program is not required, although the bill requires the DOL to review and approve a manufacturer's description of the proposed training as part of the application process.

Reporting Requirement. The bill requires the labor commissioner, by June 30, 2012 and every six months thereafter, to report to the Finance, Revenue and Bonding, Appropriations, Commerce, and

Labor committees on the status of the program. The reports must include available data on:

1. the number of small businesses that participated in the program and the general categories of the businesses,
2. the number of small manufacturers that participated in the program and the general categories of the manufacturers,
3. the number of individuals employed under the program, and
4. the most recent estimate of the number of jobs created or maintained.

The bill does not specify how or when a new job is considered to be created (i.e., whether or not the business would have hired regardless of receiving a subsidy and whether or not a subsidized person must remain employed once the subsidy ends).

§ 6 — DEEP PERMIT PROCESSING METHODOLOGY

The bill requires the Department of energy and Environmental Protection (DEEP) to study its state permitting and enforcement processes and the feasibility of developing a methodology for processing permit applications and enforcement actions based on tiered levels of environmental risk. The methodology may include procedures for expedited processing of permit applications and enforcement actions that pose the lowest risk to the environment.

The department must report its findings to the Environment and Commerce committees by February 1, 2012. The report must include:

1. a detailed summary of the study;
2. recommendations for administrative or legislative action required to implement a tiered methodology for processing permit applications and enforcement actions; and
3. any additional recommendations on other methods to improve the speed, transparency, consistency, and predictability of the

department's permit processing and enforcement actions without compromising environmental standards.

§§ 7 & 8 —STATE TRAFFIC COMMISSION AND DOT

Commission Membership

The bill expands the State Traffic Commission's membership to include the DECD commissioner when the commission discusses and votes on any matter related to an economic development project. Currently, commission members include the commissioners of transportation, public safety, and motor vehicles. By law, the State Traffic Commission adopts regulations establishing a uniform system of traffic control signals, devices, signs, and markings for public highways. It also regulates the use of state highways and roads.

Permits for Economic Development Projects

The bill requires the Department of Transportation (DOT) and the State Traffic Commission to make a final determination within 60 days after receiving a completed formal petition, application, or request for a permit in connection with an economic development project. The commissioner or commission must notify the petitioner, applicant, or requestor of the determination. If a final determination is not made within 60 days, the completed petition, application, or request is deemed approved. The bill specifies that these determinations must be made notwithstanding any transportation or motor vehicle laws.

§ 9 — SHOVEL READY PILOT PROGRAM RECOMMENDATIONS

By July 1, 2012, DECD permit ombudsman must develop recommendations for a certification program similar to New York state's "Build Now-NY/ Shovel Ready Certification Program." By January 1, 2013, the permit ombudsman must submit the recommendations to the DECD and DEEP commissioners, the governor, and the Environment and Commerce committees.

§§ 10–11 — OTHER AGENCY EFFICIENCIES

LEAN Practices

The bill requires the Office of Policy and Management, within available appropriations, to enter into an agreement for consultant services to apply LEAN practices and principles to the permitting and enforcement processes of DEEP, DECD, Department of Administrative Services (DAS), and DOT that business entities most frequently use.

Under the bill, the agreement must require the consultant to also apply LEAN practices and principles to the licensure procedures for commercial bus drivers that the departments of Consumer Protection, Emergency Services and Public Protection, and Children and Families currently perform. The consultant must develop recommendations for implementing a pre-permitting system for commercial bus drivers that enables businesses to use commercial bus drivers who await the applicable licensing authority's performance of a criminal background check.

Legislative Recommendations to Improve State Agency Efficiency

No later than February 1, 2012, the bill requires DEEP, DOT, and DECD to each make recommendations to the Environment, Transportation, and Commerce committees respectively to repeal or revise department programs or statutes the agency determined to be obsolete or in need of revision in order to improve efficiency.

§§ 12-15 — AGRICULTURAL RESTORATION

The bill adds "agricultural restoration purposes" to the uses allowed under an existing Department of Agriculture (DoAg) program that encourages using state-owned vacant public land for gardening or agricultural purposes.

Definition

Under the bill, "agricultural restoration purposes" means:

1. reclaiming grown over pastures and meadows;
2. installing fences to keep livestock out of riparian areas;
3. replanting vegetation on erosion-prone land or along streams;
4. restoring water runoff patterns;
5. improving irrigation efficiency;

6. conducting hedgerow management, including removing invasive plants and timber; or

7. renovating farm ponds through farm pond management.

Commissioner Responsibilities

By law, the agriculture commissioner must (1) compile a list of state-owned vacant public land that can be used for gardening or agricultural purposes, (2) establish a permit application process, and (3) adopt regulations for use of the land. Permit applicants must submit a land use plan and agree to (1) maintain the land in a condition consistent with the plan and (2) abide by applicable regulations. Permittees who fail to carry out these conditions forfeit their permits. Permittees must indemnify and hold harmless the state against any liability arising out of the land use.

The bill requires the agriculture commissioner to include on the list state-owned vacant public land that, based on soil type, is suitable for agricultural restoration purposes. It also requires him to expand the permit application process and regulations to account for agricultural restoration purposes.

Reimbursing Farmers

The bill allows the agriculture commissioner to reimburse any farmer for part of the cost of developing a farm resources management plan to restore farmland if (1) the agriculture commissioner approves the plan and (2) the reimbursement is no more than the lesser of $20,000 or 50% of the plan's cost. The plan may require agricultural restoration purposes.

Bond Authorization

The bill authorizes up to $5 million in state general obligation bonds and requires DoAg to use the proceeds for funding agricultural restoration purposes and reimbursing farmers as described above. The bonds are subject to standard statutory bond issuance procedures and repayment requirements.

§ 16 — WINE FESTIVALS

The bill increases, from one to two, the number of wine festivals the consumer protection commissioner can allow in a calendar year. It also increases, from one to two, the number of (1) times in a calendar year an association that promotes the manufacturing and sale of farm wine in Connecticut can organize and sponsor wine festivals and (2) wine festival permits the consumer protection commissioner may issue to farm winery manufacturer permittees in a calendar year (see BACKGROUND).

§ 17 — LAND USE PERMITS ISSUED BEFORE HURRICANE IRENE

Notwithstanding any state law, the bill authorizes municipalities to pass an ordinance allowing reconstruction or repair of certain residences, buildings, structures, or real property improvements under permits or authorizations issued before August 25, 2011 without seeking or obtaining additional approval from a municipal board or commission. This provision specifically includes prior approvals for any uses that meet the exemption standards for the coastal site plan review requirements for constructing single-family residences.

The person, firm, or corporation owning a qualified property may proceed without seeking or obtaining additional approval only if the property:

1. was damaged or destroyed by an act of nature beginning August 25 and ending September 14, 2011 (including, Hurricane Irene) and

2. is made to the same dimensions and specifications under the previously approved permits or authorizations.

Under the bill, the rebuilt or repaired structure must comply with current state building, fire, and health codes. By law, violators of state building, fire, and health codes are subject to fines, imprisonment, or both.

§ 18 — MANUFACTURING REINVESTMENT ACCOUNTS

The bill doubles the limit, from 50 to 100, on the number of small manufacturing companies that DECD may select to participate in the

Manufacturing Reinvestment Account (MRA) program. For income years starting on or after January 1, 2012, it also doubles, from $50,000 to $100,000, the maximum annual amount a company may deposit in an MRA.

The MRA program allows manufacturers with 50 or fewer employees to deposit to 100% of their domestic gross receipts up to a maximum amount each year for five years in an interest-bearing MRA to save for (1) training, developing, or expanding their workforce or (2) purchasing machinery, equipment, or facilities. Under the program, corporation taxes on the MRA funds are deferred until the company withdraws them for an eligible purpose, and the tax rate on the money withdrawn is 3.5% rather than the regular 7.5%.

§§ 19-22 – A JOB EXPANSION CREDIT

Current law authorizes three tax credit programs for businesses that create new jobs – jobs creation, qualified small business job creation, and vocational rehabilitation job creation tax credits. This bill phases out these programs and replaces them with a new job expansion tax credit program, a three-year tax credit against the insurance premium, corporation business, utility company, or personal income tax for businesses that create new jobs and hire certain Connecticut residents to fill them.

The credit is $500 per month per new employee or $900 per month if the employee meets certain criteria. It applies to jobs created from January 1, 2012 to January 1, 2014. Small businesses (those with up to 50 full-time employees in Connecticut) qualify for a credit if they create at least one new job. Businesses that employ between 50 and 100 full-time employees in Connecticut must create at least five new jobs and those that employ more than 100 full-time employees must create at least 10.

The bill makes the job expansion credits subject to the same $20-million-per-year cap that currently applies to the three existing programs. Businesses claiming a job expansion tax credit for a new hire cannot count the employee toward other credits the law allows.

EFFECTIVE DATE: January 1, 2012, and applicable to income or tax years beginning on or after that date, except for the changes to the existing job creation tax credit programs which are effective upon passage.

Credit Amount

The credit is $500 per month for each new employee that resides in Connecticut or $900 per month if, at the time of hiring, the new employee is:

1. receiving unemployment compensation benefits or has not had a full-time job since exhausting his or her unemployment benefits,
2. a current armed forces member or one who was honorably discharged or released from active service, or
3. receiving vocational rehabilitation services from the Bureau of Rehabilitative Services.

Eligible Companies and Jobs

A business qualifies for the credit only for jobs it creates between January 1, 2012 and January 1, 2014. The business and the job it creates must meet specific criteria. To be eligible for the credit, the business must (1) have been in business for 12 consecutive months prior to its credit application and (2) be subject to any of the taxes to which the credit applies.

Businesses with 50 or fewer employees qualify for the credit if they create at least one new job; those with between 50 and 100 employees must create at least five and those with more than 100 employees must create at least 10. The number of full-time employees the business employs in Connecticut on the date it applies for the credit (1) must be used to determine the number of employees it must create to qualify for the credit and (2) applies for the credit certificate's duration.

The job to which the credit applies must have not existed in Connecticut before the application and be filled by an eligible employee. The job must require the new employee to work at least (1)

35 hours of work per week for at least 48 weeks per calendar year or (2) 20 hours per week for at least 48 weeks per calendar year if the employee is receiving vocational rehabilitation services or unemployment compensation or has not had an full-time job since exhausting his or her unemployment benefits. New temporary or seasonal jobs do not count toward the credit.

A business cannot count as a new employee someone who:

1. owns the business or is a member or partner in it,
2. worked in Connecticut for a related business during the previous 12 months, or
3. no longer works for the business at the end of its income year.

An employee worked for a related business if:

1. it controlled the business that subsequently hired him,
2. the business that hired him controlled the business that previously employed him,
3. the business that employed him is part of a larger business entity that also controls the business that hired him, or
4. both businesses belong to the same group of controlled businesses.

A company is considered to be "controlled" by someone if he directly or indirectly owns more than 50% of the combined voting power of all classes of its stock. In the case of a trust, control means owning 50% or more of the beneficial interest of the trust's principal or income. Ownership is defined as in federal income tax law.

Application and Approval Procedure

To claim the credits, businesses must apply to DECD for a certification letter. The business must use a DECD form and provide enough information for DECD to determine its eligibility. The information must describe the business' activities, indicate its North American Industrial Classification System code, specify the number of people employed as of the application date, and, if applicable, identify the new hire's name and job title or classification. The DECD commissioner must consult with the labor or veterans' affairs commissioners or Bureau of Rehabilitative Services director, as she deems necessary, to verify an employee's unemployment compensation, vocational rehabilitation services, or military service. The commissioner may charge an application fee as she deems appropriate.

Claiming Credits

The DECD commissioner must act on each completed application within 30 days of receiving it. If she approves the application, she must issue the certification letter indicating that the business may claim the credit if the business and new employee meets the bill's requirements. The commissioner must annually give the revenue services commissioner a list of the businesses that she approved for credits and the credit amounts.

Businesses can apply the credits against the insurance premium, corporation business, utility company, or personal income tax, but not the withholding tax. The business must claim the credit in the income year in which it created the job and hired a new employee to fill it. It may claim the credit for each of the two subsequent years if the employee held the job for the full year. The credit cannot exceed the total tax due. Unused credits expire and cannot be refunded.

The bill allows shareholders and partners of S corporations and partnerships to claim the credit. With respect to single-member limited liability companies that are disregarded as entities separate from their owners, only the company's owner may claim the credit.

Changes to Existing Job Creation Tax Credit Programs

The bill sunsets the jobs creation and vocational rehabilitation tax credit programs on December 31, 2011 to coincide with the eligibility period for the job expansion credit. Table 5 summarizes the program requirements and proposed changes for each of the existing credit programs and the proposed job expansion credit program.

Table 5: Job Creation Tax Credit Programs

(Proposed changes in **bold *italics***)

Credit Program	***Applicable Taxes***	***Eligibility Criteria***	***Credit Amount***	***Credit Availability***
Jobs Creation Tax Credit (CGS § 12-217ii)	• Insurance Premium • Corporation • Utility Company	Any business creating at least 10 new jobs	Five-year credit of up to 60% of the income tax deducted and withheld from new employee wages	***No eligibility certificates issued after December 31, 2011***
Small Business Jobs Creation Tax Credit (CGS § 12-217nn)	• Insurance Premium • Corporation • Personal Income	Businesses with fewer than 50 employees in Connecticut that create new jobs filled by Connecticut residents	Three-year credit of $200 per month per new employee	Employees hired between May 6, 2010 and January 1, 2013
Vocational Rehabilitation Job Creation Tax Credit (CGS § 12-217oo)	• Insurance Premium • Corporation • Personal Income	Businesses hiring Connecticut residents with disabilities	Three-year credit of $200 per month per new employee	***Employees hired between May 6, 2010 and January 1, 2012***
Job Expansion Tax Credit	• ***Insurance Premium*** • ***Corporation*** • ***Utility Company*** • ***Personal Income***	• ***Any business creating at least 10 new jobs or business with fewer than 50 employees creating at least 1 new job*** • ***Higher credit amount for businesses hiring Connecticut residents that are (1) receiving unemployment compensation, (2) unemployed after exhausting unemployment benefits, (3) current or past U.S. Armed Forces members,*** *or (4) receiving services from the DSS' Bureau of Rehabilitative Services.*	***Three-year credit of $500 per month per new employee or $900 if the employee meets the specified criteria***	***Employees hired between January 1, 2012 and January 1, 2014***

By law, unchanged by the bill, the qualified small business tax credit sunsets on December 31, 2012. Under the bill, any business issued a certification letter before (1) January 1, 2012 for the jobs creation and vocational rehabilitation tax credits and (2) January 1, 2013 for the qualified small business job creation tax credits is subject to the respective program's requirements for the certificate's duration.

Job Creation Tax Credits. The bill prohibits the commissioner from issuing any eligibility certificates for the jobs creation tax credit program on or after January 1, 2012. Under the bill, a business cannot receive additional jobs creation credits more than five years after the date it was first issued an eligibility certificate for the program. By law, the job creation credits apply for five consecutive income years and must be taken in the same income year they are earned.

Vocational Rehabilitation Tax Credits. Under current law, businesses qualify for vocational rehabilitation tax credits for employees hired after May 6, 2010 for the income years beginning on or after January 1, 2010. The bill limits the credits to employees hired before January 1, 2012.

§ 23 — BUSINESS ENTITY TAX

Effective with tax years beginning on or after January 1, 2013, this bill makes the $250 business entity tax payable every other year rather than every year, effectively reducing the current annual tax by 50%.

Under the bill, the tax is payable annually through the 2012 tax year and every other year for subsequent tax years. Since the tax is due the 15th day of the fourth month after the close of the applicable tax year or years, under the bill, a business would be required to pay according to the following schedule:

1. $250 by April 15, 2012 for the 2011 tax year,

2. $250 by April 15, 2013 for the 2012 tax year,

3. $250 by April 15, 2015 for the 2013 and 2014 tax years, and

4. \$250 by April 15th of every other year thereafter for the previous two tax years.

The business entity tax applies to foreign and domestic limited liability corporations (LLCs), limited liability partnerships (LLPs), limited partnerships (LPs), and S corporations that are required to register with the secretary of the state.

§§ 24-27 — BROWNFIELDS

The bill requires DECD to identify, market, and remediate five geographically diverse state-owned contaminated properties (i.e., brownfields) for private development and authorizes \$20 million in bonds for these purposes. DECD must perform these tasks in consultation with DEEP. The bill is silent on how DECD acquires state-owned brownfields (see BACKGROUND).

The bill requires DECD's Office of Brownfield Remediation and Development (OBRD) to market and promote the five brownfields by creating and maintaining a website exclusively for this purpose. It also requires OBRD to market the website.

Marketing and Remediating State-Brownfield Properties

The bill specifies a three-step process for marketing and remediating state-owned brownfields, but is silent on how DECD acquires these properties from other agencies.

Priority List. By January 1, 2012, DECD must develop a list of state-owned brownfields that could be marketed and remediated for private development. Each brownfield must:

1. be economically viable,

2. have a predetermined end use,

3. be developed in a way that is consistent with the State Plan of Conservation and Development,

4. be located in municipalities where the unemployment rate exceeds the state's average rate,

5. have access to transportation and other infrastructure,
6. require immediate environmental remediation, and
7. be transferable to a private party without conflicting with any state law or process.

Soliciting Proposals. After DECD develops the list, it must solicit proposals from companies interested in purchasing a listed brownfield. The commissioner must (1)review the proposals and match up to five brownfields with companies that submitted proposals and (2) clean up the selected properties, obtain all necessary permits, and sell them to the selected businesses without following the statutory procedures for transferring or selling state property. DECD may also clean up one of the properties without identifying a specific commercial purchaser.

Agency Facilities Plans. The bill requires each state agency to identify facilities known to be brownfields in the five-year facilities plans they submit every even-numbered year to the Office of Policy and Management (OPM) secretary. By law, these plans must identify the agency's long- and short-term facility needs, opportunities for substituting state-owned space with leased space, facilities proposed for demolition or abandonment that have other potential uses, and space modifications or relocations that could reduce energy costs. OPM includes each agency's plan in an integrated state facility plan.

§ 28 — DECD PORTAL

This bill authorizes up to $1 million in state general obligation bonds for the DECD. The department must use the funds to:

1. establish an electronic business portal,
2. brand the portal to reflect a statewide branding program developed at the governor's office's direction,
3. help to enhance state and quasi-public agency websites linked to the portal, and

4. align it to the Connecticut Economic Resource Center's online business assistance technology platform.

§ 29 — ANGEL INVESTOR CREDIT

The bill reduces, from $100,000 to $25,000, the minimum cash investment a taxpayer must make to qualify for the angel investor income tax credit.

The angel investor tax credit is available to taxpayers who invest in start-up, technology-based businesses in Connecticut. Each credit equals 25% of the cash investment, up to maximum of $250,000 in total credits for any investor. Aggregate new credits are limited to $6 million per year in FY 11 through FY 13 and $3 million in FY 14. No new credits may be reserved after July 1, 2014.

§§ 30-37 — WORKFORCE DEVELOPMENT

Report by Labor Commissioner (§ 30)

The bill requires the labor commissioner to review (1) the Labor Department's (DOL) current training programs and (2) the use of manufacturing industry volunteers for training in manufacturing skills at the vocational-technical (V-T) schools outside of regular school hours and at the community-technical colleges. In doing so, the commissioner must consult with the DECD commissioner and representatives from (1) minority firms, (2) the community-technical colleges, (3) the V-T system, (4) organized labor, and (5) small manufacturing firms.

By January 1, 2012, the commissioner must report his findings to the governor and the Higher Education and Labor committees, along with recommendations on how state resources can be reallocated to meet the manufacturing industry's current training needs.

Bonding (§§ 31-32)

The bill authorizes up to $20 million in state general obligation bonds, $10 million in FY 12 and $10 million in FY 13, for the Board of Regents for Higher Education (BOR). It authorizes (1) $1.1 million each year ($2.2 million total) for the expansion of Asnuntuck Community College's precision manufacturing program and (2) $8.9 million each year ($17.8 million total) for the establishment or enhancement of manufacturing technology programs in three community-technical colleges. It does not specify which three colleges must be chosen, but requires the chosen colleges to demonstrate a commitment to precision manufacturing and an ability to establish or expand such programs through space and faculty.

Education Offerings (§ 33)

The bill requires local and regional boards of education to inform middle and high school students and parents within their respective jurisdictions of the availability of (1) vocational, technical, and technological education and training at V-T schools and (2) agricultural science and technology (vo-ag) education at vo-ag education centers.

DECD Recommendations for V-T Role in Meeting Workforce Needs (§ 34)

By law, the Education, Higher Education and Employment Advancement, and Labor committees must meet annually, by November 30, with the V-T superintendent, the labor commissioner, and other appropriate people to consider information each official must submit to the committees by November 15 annually. The bill requires the committees to also meet with the DECD commissioner by this date. It requires the DECD commissioner to submit information on:

1. the department's relationship with the V-T system,
2. the department's coordinated efforts with the V-T system to collaborate with the business community,
3. (a) workforce training needs DECD identifies through its contact with businesses and (b) recommendations on how it and the V-T system can coordinate or improve efforts to address these needs,

4. the department's efforts to utilize the V-T system in business assistance and economic development programs, and

5. anything else that the commissioner deems relevant.

The bill expands the list of activities that can be considered unpaid worksite experiences in the Connecticut Career Certificate Program.

Education Offerings (§§ 35-36)

By law, the education commissioner awards Connecticut Career Certificates to high school and postsecondary school students who successfully complete school-to-career programs approved by the education and labor commissioners. The program must consist of school- and work-based instruction and activities that coordinate the two.

By law, certain employment activities may be unpaid if (1) the worksite experience is one that is generally not paid employment, such as community service, and (2) a written request for unpaid employment is approved by the labor and education commissioners. The bill expands the activities that can be considered unpaid employment by (1) adding field trips as an activity that is generally not paid and (2) creating a separate group for internships.

CASE Study (§ 37)

The bill requires the Office of Legislative Management to contract with the Connecticut Academy of Science and Engineering (CASE) to study strategies for evaluating the effectiveness of programs and resources for assuring the state's skilled workforce meets business and industry's current and future needs. CASE must (1) consult with DECD, DOL, and BOR and (2) report its findings, by January 1, 2013, to the Higher Education, Commerce, Education, and Labor committees.

§ 38 — FIRST FIVE PLUS

Expanded Program

This bill expands the "First Five" Program to allow the DECD commissioner to provide state assistance to up to five additional business development projects (for a total of 10) in FY 12. It retains the previous program's limit of five projects for FY 13. It keeps the same project eligibility criteria, but also allows the commissioner, in choosing the remaining projects, to give a preference to out-of-state and international manufacturers and company headquarters relocating to Connecticut.

Under First Five Plus, as under First Five, business development projects qualify for funding if they promise to:

1. create at least 200 new jobs within 24 months after the commissioner approves the assistance or

2. invest at least $25 million and create at least 200 new jobs within five years after the commissioner approves the assistance.

Preferences

In addition to its new authorized preference for projects that attract out-of-state or international manufacturers or company headquarters, the bill retains the existing authorization for the commissioner to give a preference to "redevelopment projects," if she believes they can create at least 200 jobs before the 24-month or, for projects investing at least $25 million before the five-year, deadline.

Reports

The bill requires the commissioner to submit four, rather than three, reports on the First Five Plus program to the Commerce and the Finance, Revenue and Bonding committees. It adds a report due by September 1, 2012 to those already due by January 1, 2012, and January 1 and September 1, 2013. As under prior law, the reports must identify the projects receiving assistance under the program, the number of jobs created, and how the projects affect the economy.

First Five Provisions Retained

The bill's "First Five Plus" Program has the same requirements, assistance options, and deadlines as the First Five Program. Both programs:

1. authorize "substantial financial assistance" under existing economic development programs for business development projects that can create jobs and invest funds within specified timeframes;

2. allow the commissioner to provide the assistance only if she certifies that the project meets program eligibility criteria and the governor consents in writing;

3. exempt the projects from legislative approval, which the law requires for financial assistance and certain tax credits above specified amounts;

4. allow the commissioner in awarding assistance, to work with the Connecticut Development Authority and Connecticut Innovations, Inc., to secure project financing; and

5. allow the commissioner to take any steps she deems necessary to ensure that a business development project meets its job creation and investment goals, including imposing terms and conditions for repaying state assistance.

§§ 39-45 — AIRPORT DEVELOPMENT ZONES

PA 10-98 created a development zone around Bradley International Airport and extended enterprise zone property tax exemptions and corporation business tax credits to manufacturers and other specified businesses that develop or acquire property in the zone. This bill allows the Connecticut Airport Authority (CAA) to establish additional airport development zones, upon the recommendation of the Department of Economic and Community Development (DECD) commissioner. The bill requires the DECD commissioner to recommend the creation of such a zone if its economic development benefits outweigh the costs to the state and affected towns. The bill extends enterprise zone benefits to businesses in these airport zones under current procedures for processing these benefits.

Unlike for facilities in enterprise zones, the bill makes CAA, rather than DECD, the entity that determines whether a facility in an airport development zone, including the Bradley zone, qualifies for the tax benefits.

The bill requires CAA to annually report on the zones to DECD.

Zone Designation (§ 40)

Under the bill, CAA may establish airport development zones surrounding (1) any of the state's general aviation airports (Danielson, Groton/New London, Hartford Brainard, Waterbury-Oxford, and Windham airports) or (2) other airports within CAA's duty, power, and authority, as set forth in PA 11-84, the act creating CAA (see BACKGROUND). The zone must accord with the airport's master plan. A zone cannot include the land on which the airport operates (this includes any land that the state owns or controls). Several of the municipalities that contain these airports are distressed municipalities and thus manufacturing facilities located in them are already eligible for the tax benefits provided to firms located in airport development zones.

Before establishing an additional zone, CAA must receive a proposal from the DECD commissioner recommending a zone's creation.

DECD Commissioner's Proposal

The bill requires the DECD commissioner to submit a proposal recommending an airport development zone to CAA if she determines that the economic development benefits of establishing a zone outweigh the expected costs to the state and affected municipalities. The proposal must be consistent with the State Plan of Conservation and Development.

At a minimum, a proposal for a new zone must identify:

1. the proposed zone's geographical scope, including all census blocks that the commissioner proposes be included in the zone;

2. the anticipated economic development benefits of establishing the zone, including the type of business and industry that will be developed and anticipated number of new jobs; and

3. the anticipated costs of establishing the zone.

CAA Response to Proposal

After receiving the DECD commissioner's proposal for creating a zone, CAA may modify the proposed zone's geographic scope. CAA may do so only if, in its discretion, doing so would improve the balance between the anticipated economic benefits and costs to the state and affected municipalities.

Under the bill, approval of a new zone designation requires the majority vote of a quorum of CAA's members. CAA cannot approve a zone that extends for more than two mile radius around the airport without the legislature's approval. The zone is deemed established upon CAA's approval through the vote of its members. Within five days of taking such a vote approving the zone, CAA must report to the DECD commissioner, identifying all census blocks in the zone.

Airport Development Zone Property Tax Exemptions And Corporation Business Tax Credits (§§ 41-45)

The bill extends the existing enterprise zone property tax exemptions and corporation business tax credits that apply to the Bradley Airport development zone to the airport development zones established as outlined above.

Eligible Business Facilities

For businesses located in airport development zones, including the Bradley zone, the bill makes CAA, rather than DECD, the entity that determines whether the business qualifies as eligible for benefits, by transferring from DECD to CAA the authority to grant eligibility certificates. The bill requires DECD to immediately forward to CAA any applications it receives concerning the eligibility of a facility located in an airport development zone, including an economic impact statement.

The bill adds to the current requirements for businesses in an airport development zone to qualify for benefits. Under current law, among other criteria, DECD cannot issue an eligibility certificate to an applicant in the Bradley zone unless DECD determines that the applicant demonstrates an economic need and there is an economic benefit to the state. The bill requires CAA to make this same determination, as well as determining that there would be no economic detriment to or conflict with an existing zone. CAA must also determine that the applicant (1) serves an airport-related function or (2) relies substantially on airport services. It appears that these provisions do not apply to the other airport development zones authorized by the bill.

Under current law, DECD must determine a facility's eligibility for a certificate in a reasonable period but may postpone its decision to verify that the facility will actually be built, expanded, substantially renovated, or acquired as the law requires. Once it makes a favorable finding, DECD must issue the applicant the certificate. The bill does not appear to extend these provisions to facilities in airport development zones, where CAA reviews the certificate application.

For applicants that are denied eligibility, the bill applies the same procedures for a reconsideration hearing before CAA that already apply for other applicants before DECD. The bill also specifies that, as is the case under current law for DECD, CAA's decision to issue or deny an eligibility certificate is final, and that the administrative procedure act does not apply (i.e., the applicant cannot appeal the decision .

As under the enterprise zone program, a business qualifies for these tax incentives based on the facility's condition and use. The business must have (1) constructed, substantially renovated, or expanded the facility or (2) acquired it from an unrelated seller after it was idle for at least a year, although the CAA may waive the idleness requirement in specified circumstances. (Under the enterprise zone program, DECD has the authority to waive the idleness requirement.)

The business qualifies for the exemption if it uses the facility for manufacturing and certain business services. As under the enterprise zone program, manufacturing includes:

1. manufacturing, processing, or assembling raw materials, parts, and manufactured products;

2. performing manufacturing-related research and development; and

3. significantly servicing, overhauling, or rebuilding machinery and equipment for industrial uses.

Under current law, in the Bradley zone, warehousing and motor freight distribution facilities qualify for the exemption, but only if they handle goods shipped by air. (Those facilities located in an enterprise zone qualify for the exemption without qualification.) Under the bill, this provision continues to apply to the Bradley zone, but does not apply to the new zones.

Under current law, facilities housing business services, including information technology, also qualify for the incentives in the Bradley zone if the DECD commissioner determines they depend on or are directly related to the airport. Certain facilities are excluded, such as those housing car dealerships and retailers. Under the bill, for the Bradley zone , CAA in consultation with the DECD commissioner, rather than the DECD commissioner, determines whether business services qualify as depending on or being directly related to the airport. Under the bill, businesses qualify if, among the other requirements, they "may" depend upon or directly relate to the airport.

By law, facilities in the enterprise zones that house a wide range of services qualify for the incentives. PA 11-140, §§ 13-18, expanded the enterprise zone benefits to more types of businesses and replaced references to an obsolete business classification code DECD uses to determine if a business qualifies for these tax and financial incentives under different programs.

Property Tax Exemptions

The bill extends the enterprise zone tax exemptions for real and personal property to eligible businesses in airport development zones that are established by the bill. The same exemptions already apply in the Bradley zone.

Businesses that construct, renovate, or expand a facility qualify for an exemption based on the facility's value. The exemption equals 80% of the improvement's assessed value, and it is generally good for five years. Businesses acquiring facilities also qualify for the same five-year exemption, which is based on the assessed value of the acquired facility.

As under the enterprise zone program, non-manufacturing businesses developing or acquiring a facility in an airport development zone also qualify for a five-year, 80% exemption on the assessed value of machinery and equipment they install in the facility as part of its development or acquisition. (The law exempts all manufacturers from paying property taxes on new and existing machinery and equipment.)

The exemptions represent property tax revenues the municipalities forgo. As under the enterprise zone law, the state must reimburse the municipalities for half of the forgone revenue.

The enterprise zone program's administrative processes are used to administer the property tax exemptions and the state reimbursements, except, as explained above, the business must apply to CAA rather than DECD for a certificate certifying that the facility qualifies for the exemption. The business must annually file for the exemption by November 1 with the municipality's tax assessor. It waives its right to do so if it misses this deadline, unless it is granted an extension as the law allows.

To receive reimbursements, a municipality must submit its claims to the Office of Policy and Management secretary by August 1 annually as the law provides. The secretary must certify the claim to the comptroller by December 15. The comptroller has five business days to issue the order directing the treasurer to pay the claim. The treasurer has until December 31 to do so.

Corporation Business Tax Credits

The bill also extends the enterprise zone's corporation business tax credits to newly created airport development zones. The same credits apply in the Bradley zone. Under the enterprise zone program, businesses that qualify for the property tax exemptions also qualify for a 10-year corporation business tax credit equal to the portion of the tax attributable to the facility. (The law specifies how businesses must calculate that amount.) The credit equals 25% of the tax.

Businesses qualify for the credit under similar terms and conditions as businesses in the enterprise zone, except eligibility determinations are made by CAA, not DECD, as explained above.

Reporting and Assessment (§ 39)

Under the bill, CAA must report annually, beginning October 1, 2012, to the DECD commissioner on any airport development zones. The report must include at least the following:

1. information regarding (a) traffic in and around airports that are part of a zone, (b) the zone's impacts on airport usage, and (c) impacts on employment within the airport and businesses located at the airport; and

2. recommendations for (a) any necessary changes to an existing zone and (b) additional zones.

§ 46 — ADDITIONAL FUNDS FOR FIX-IT-FIRST BRIDGE PROGRAM

This bill authorizes up to $50 million in additional special tax obligation (STO) bonds for the Department of Transportation's Fix-It-First Bridge Program for FY 12. PA 11-57 previously authorized up to $66.150 million in STO bonds for FY 12 and $64.129 million for FY 13 for the program.

The authorization is subject to regular STO bond issuance procedures and requirements.

§ 47— MANUFACTURING ASSISTANCE ACT BONDING

This bill increases the GO bond authorization to DECD for the Manufacturing Assistance Act (MAA) by up to $340 million. It increases the FY 12 authorization by up to $100 million and the FY 13 authorization by up to $240 million. PA 11-57 already authorized $40 million for the MAA for each of the two fiscal years.

The bill reserves a total of $60 million of the authorization for small business development, $20 million for FY 12 and $40 million for FY 13. Under the bill, any reserved amount remaining at the end of the respective fiscal years becomes available for general MAA purposes.

The bill defines a "small business" as one that has no more than 50 employees.

§ 48 — URBAN REINVESTMENT ACT TAX CREDITS

This bill reduces the aggregate amount of business tax credits available under the Urban and Industrial Site Reinvestment Program by $100 million from $750 million to $650 million.

The program uses corporate business tax credits to stimulate new development in economically distressed towns and to redevelop environmentally contaminated sites. The tax credits a business can claim depends on the projected amount of state tax revenue (and in some cases local tax revenue) the completed facility will generate, but no business can receive more than $100 million in credits.

§§ 49 & 50 — BOILER REPLACEMENT PROGRAM

The bill authorizes $5 million per year for FY 12 and FY 13 to DEEP for an energy efficiency boiler program for nonprofit organizations and housing authorities that own their own buildings. The housing authorities must us the funds for dwelling units they own. The Fuel Oil Conservation Board administers the program, which must provide funds for replacing boilers and furnaces or upgrading and repairing existing units to meet the same standards as replacements.

It requires the DEEP commissioner and the Fuel Oil Conservation Board to conclude an agreement for the purchase and installation of the replacement units or repair or upgrades of existing equipment. The replacements must have electronically commutated blower motors, an efficiency rating of at least 86%, and either a thermal purge or temperature reset controls. Existing boilers that can achieve an efficiency rating of at least 75% with repairs or upgrades must be repaired or upgraded rather than replaced.

The bill requires the Connecticut Housing Finance Authority (CHFA) to provide a list of housing authorities that use oil furnaces or boilers for heating by December 1, 2011, to the DEEP.

By January 1, 2012, the DEEP commissioner, in conjunction with the Fuel Oil Conservation Board must (1) develop a process for identifying and notifying eligible nonprofit organizations and housing authorities about the program and (2) establish an application process. They must start making preliminary eligibility determinations on eligible applicants by January 1, 2012.

Nonprofit organizations and housing authorities applying for the program must simultaneously sign up for and accept the services of the Connecticut Energy Efficiency Board's (CEEB) weatherization programs.

The bill requires the Fuel Oil Conservation Board in conjunction with CEEB to establish criteria for determining:

(1) the condition of the boilers and furnaces,

(2) whether they are inoperable or unsafe or are less than 65% efficient,

(3) if the unit is inoperable or unsafe and requires replacement, and

(4) whether it is more cost-effective to switch to natural gas heating based on a five-year payback.

If it is not cost-effective to switch or no pipeline is available, the boards can choose to replace the applicant's oil tank. If the boards decide on natural gas, the replacement gas furnace must be at least 95%, and the gas boiler at least a 90%, efficient.

The Fuel Oil Conservation Board must act on applications in the order in which it receives them unless there is an emergency in which the nonprofit or housing authority has no heat or the equipment is unsafe or inoperable. The board must issue an RFP for the units needed for the program.

§ 51 — FUEL OIL CONSERVATION BOARD

The bill reduces the size of Fuel Oil Conservation Board from 13 to 12 members makes the revamped board the successor to the previous board (the board briefly went out of existence before it was reestablished by PA 11-80). It specifies that the DEEP commissioner or his designee serves as its chair must convene its meetings.

The bill modifies the board's membership, as described in Table 1. In most cases it changes who appoints representatives of various stakeholder groups to the board. Under current law, the governor appoints six members of the public representing various interest groups. The bill reduces the number of appointments to five and eliminates the requirement that all of these members have expertise in energy issues. The bill also states that the governor appoints five rather than six members, but continues to name six specific interest groups to be represented.

The bill requires that all appointments be made within 30 days of the bill's effective date. It requires that each appointing authority give the DEEP commissioner the appointee's name and contact information.

Table 6: Fuel Oil Conservation Board Membership

Appointing Authority	*Current law*	*Bill*
Senate President pro tempore	1 member representing fuel oil dealers selling more than 15 million gallons in the state	1 representative of retail oil heat dealers
House speaker	1 member representing fuel oil	1 representative of the

	dealers selling less than 15 million gallons in the state	heating, ventilation and air conditioning trades with experience in implementing energy efficiency systems
Senate majority leader	1 member representing the heating, ventilation and air-conditioning trades	1 representative of wholesale heating distributors
Senate minority leader	1 member representing a statewide environmental advocacy group	An in-state biodiesel distributor
House majority leader	A representative of wholesale heating distributors	1 member representing a statewide environmental advocacy group with expertise in energy efficiency measures
House minority leader	A member of a statewide retail oil dealer trade association	A retail oil heat dealer with experiences in implementing energy conservation services
Governor	Six members representing specific interests	Five members, deleting the member representing biofuel distributors (appointed by the Senate minority leader instead)
Ex-officio	The chair of the Heating, Piping, Cooling and Sheet Metal Work licensing board	The DEEP commissioner or his designee

§ 52 — CONNECTICUT INNOVATIONS, INC. RECAPITALIZATION

This bill authorizes GO bonds totaling $125 million over five years to recapitalize the programs offered by Connecticut Innovations, Inc. (CII). It authorizes $25 million per year for the current and the next four fiscal years (FY 12 through FY 16).

The bill reserves $15 million of the authorization for CII's existing "preseed" financing program, which provides capital and support services to businesses developing new concepts. By law, a business qualifies for up to $150,000 in financing and technical support from the program if (1) it is principally located in Connecticut, (2) at least 75% of its employees work here, and (3) it has received private investments equal to at least half the state funds it seeks.

§§ 53-55 — FILM PRODUCTION TAX CREDIT

This bill expands the types of qualified productions that are eligible for film production tax credits to include "relocated television productions." It defines a relocated television production as an eligible production company's ongoing television program that (1) has filmed all of its prior seasons outside Connecticut, (2) may include certain current events shows, and (3) is created at a qualified production facility that meets specified investment and job creation thresholds on or after January 1, 2012. Productions featuring current events are not currently eligible for film production tax credits.

The bill expands the types of tax credits a taxpayer may use to reduce its insurance premium tax liability by up to 55% in 2011 and 2012 to include film production and infrastructure investment tax credits. Under current law, the premium tax liability offset for such credits is 30% for 2011 and 2012.

The bill also modifies how taxpayers holding film infrastructure tax credits may claim the credits.

Relocated Television Production (§ 53)

The bill defines a relocated television production as an eligible production company's ongoing television program that:

1. has filmed all of its prior seasons outside Connecticut;

2. may include current event shows, other than a general news program, sporting event, or game broadcast; and

3. is created at a qualified production facility in Connecticut at which, on or after January 1, 2012, the eligible production company (a) makes a minimum investment of $25 million and (b) creates at least 200 jobs.

The jobs the production company creates must (1) not have existed in Connecticut before January 1, 2012, (2) require at least 35 hours of work per week and not be temporary or seasonal, and (3) be filled by a new employee. An employee who worked for the production company outside of Connecticut prior to January 1, 2012 qualifies, but not an employee who worked in Connecticut for the production company or a related business during the previous 12 months.

A related business is one that:

1. controlled the production company that subsequently hired the employee;
2. is under the control of the production company that hired the employee,
3. is part of a larger business entity that also controls the production company that hires him, or
4. belongs to the same group of controlled businesses as the production company hiring the employee.

A relocated television production can be eligible for film production tax credits for a maximum of 10 successive income years, after which it is ineligible to reapply for certification.

Insurance Premium Tax Credit Limit (§ 54)

PA 11-61 classified insurance premium tax credits into three types and established three levels of maximum tax liability that an insurer can offset in calendar years 2011 and 2012 by claiming one of more of these credit types. The three credit types and the maximum tax reduction from each type are:

- Type 1: digital animation credits, 55%
- Type 2: insurance reinvestment fund credits, 70%
- Type 3: all other credits, 30%

The bill expands type 1 to include film production and infrastructure investment tax credits, thus allowing an insurer to use these credits to reduce its 2011 and 2012 premium tax liability by up to 55% in 2011 and 2012.

Claiming Film Infrastructure Investment Tax Credits (§ 55)

Current law allows taxpayers claiming film infrastructure tax credits to carry forward excess credits for three income years. The bill allows taxpayers to claim all or part of the tax credits either in the income year in which the infrastructure investments were made or in any of the three immediately succeeding income years

By law, unchanged by the bill, taxpayers to which a film infrastructure tax credit has been assigned (i.e., sold or transferred) may claim the credit only in the year in which the investments were made (CGS § 12-217kk (b) (3)).

§§ 56 - 73 – CAPTIVE INSURANCE COMPANIES

This bill revises and expands PA 08-127, which permits a captive insurance company ("captive") to be licensed and domiciled (have its principal place of business) in Connecticut. A captive is, in its simplest form, an insurance company that is a wholly-owned subsidiary whose primary function is to insure all or a part of the parent company's risks. PA 08-127 enumerates requirements for a captive's formation, capital and surplus, local office presence, payment of certain fees and premium taxes, and annual reporting, among other things. (There are currently no captives domiciled in Connecticut.)

Among other things, this bill:

1. creates three new subgroups of captives that can domicile in Connecticut (sponsored captive, special purpose financial captive, and branch captive) and expands the types of insurance a captive may transact in Connecticut;

2. establishes a reinsurance premium tax requirement (existing law already includes a premium tax on direct-written premiums);

3. requires 11% of all captive premium taxes (direct-written and reinsurance) to be transferred to the captive insurance regulatory and supervision account, which the bill creates;

4. allows 2% of the premium taxes to be transferred to the

Department of Economic and Community Development to promote the captive industry;

5. establishes a $7,500 nonrefundable tax credit for a captive's first taxable year; and

6. authorizes the insurance commissioner to adopt implementing regulations.

Captive Insurers

By law, a captive insurance company may apply to the insurance commissioner for a license to do business in Connecticut. Under current law, a captive domiciled in Connecticut can be set up as a pure captive, an association captive, an industrial insured captive, or a risk retention group (RRG). The bill also allows a captive to be set up as a sponsored captive, special purpose financial captive (SPFC), or branch captive.

Under the bill, a sponsored captive is a captive:

1. for which one or more sponsors provides the minimum required capital and surplus,

2. formed and licensed under the bill,

3. that insures its participants' risks through separate participant contracts, and

4. that funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from those of other protected cells and the captive's general account. (A protected cell is a separate account for each participant.)

The bill specifies that a RRG cannot be a sponsor or a participant of a sponsored captive. Associations, corporations, limited liability companies, partnerships, trusts, and other business entities may be participants in a sponsored captive.

Under the bill, a SPFC is a company that is licensed in accordance with the bill's provisions. It appears that a SPFC can transact reinsurance and insurance securitizations. An insurance securitization is a transaction, including capital market offerings, that are effected through risk transfer instruments and facilitating administrative agreements. The transaction is used to fund a SPFC's obligations under a reinsurance contract.

Under the bill, a branch captive is any alien captive insurance company the commissioner licenses to transact insurance business in Connecticut through a business unit with its principal place of business here. An alien captive is a company formed under the jurisdiction of a foreign country.

Type of Insurance. The bill expands the types of insurance a captive may transact in Connecticut. Under current law, a captive may transact life insurance, annuity, health insurance, and commercial risk insurance business. The bill instead allows a captive to transact any form of insurance that is not disapproved by the insurance commissioner or otherwise prohibited by the bill. The bill also authorizes captives to provide excess workers' compensation insurance to its parent and affiliated companies and to reinsure workers' compensation risks of a qualified self-insured plan of its parent and affiliated companies, unless prohibited by law. By law, captives cannot write auto or homeowners insurance coverage.

Miscellaneous Requirements. By law, a captive domiciled in Connecticut must (1) hold at least one meeting in Connecticut each year, (2) maintain its principal place of business here, and (3) appoint a registered agent to accept service of process and otherwise act on its behalf here. Whenever the registered agent cannot with reasonable diligence be found at the captive's registered office, the insurance commissioner will be the agent upon whom service may be made.

License Application

By law, a captive cannot engage in any insurance business in Connecticut until it obtains a license from the Insurance Department.

To request a license, a captive must send the insurance commissioner (1) organizational documents; (2) a financial condition statement; and (3) a coverage description, including deductibles, limits, and rates. Each applicant captive must maintain capital and surplus in specified amounts and give the commissioner evidence of (1) asset liquidity relative to its assumed risk; (2) adequate management expertise, experience, and character; (3) a sound operation plan; and (4) the adequacy of its insureds' loss prevention program.

Special Purpose Financial Captive. The bill requires a SPFC applicant to file additional information with its license application. For example, a SPFC must include, with its plan of operation, (1) a complete description of all significant transactions (e.g., reinsurance, reinsurance security arrangements, and securitizations) and all parties involved in issuing securities; (2) the source and form of its capital and surplus; (3) its proposed investment policy; (4) a description of its underwriting, reporting, and claims payment methods; (5) balance sheets and income statements illustrating adverse case scenarios; and (6) its proposed rate and method for discounting reserves, if applicable.

A SPFC applicant must also submit an affidavit from its president, vice president, treasurer, or chief financial officer that states that to his or her best knowledge and belief the (1) proposed organization complies with all applicable provisions of Connecticut's captive insurance law and (2) company's investment policy reflects the liquidity of assets and reasonable management of such assets.

A SPFC applicant must also include with its application a qualified legal counsel's opinion that the company's offer and sale of securities complies with federal and state securities laws.

Sponsored Captive. The bill requires a sponsored captive applicant to file additional information with its license application. For example, a sponsored captive applicant must also file with the commissioner (1) a statement acknowledging that all its financial records will be available for the commissioner's examination, (2) all contracts or sample contracts between the company and its participants, and (3) evidence that expenses will be allocated fairly amongst each protected cell (i.e., a separate account that a sponsored captive maintains for each participant).

Under the bill, a sponsored captive may apply to be a SPFC. Such a company must comply with the provisions applicable to both a sponsored captive and SPFC. If there is a conflict between those provisions, then the provisions that apply to a SPFC control.

Confidentiality of License Application

By law, the information a license applicant provides is confidential and can be made public only with the applicant's consent, with two exceptions. The information is discoverable in a civil action in which the company is a party if it is relevant and necessary to the case; unavailable elsewhere; and, for non-RRG captives, is the subject of a subpoena that a judicial or administrative judge issues. The commissioner can also give the information to insurance regulation officials in another state if the other state's (1) officials agree in writing to keep the information confidential and (2) laws require confidentiality.

License Application Fee

By law, a captive applicant must pay the commissioner an $800 captive license application fee. By law, the insurance commissioner may retain legal, financial, and examination services at the captive's expense. The bill specifies that the services are for the licensing and financial oversight of captives.

License Issuance

By law, if the commissioner finds that the application complies with applicable law, he may issue a license to the captive, which must pay a $375 initial license fee. The license expires on the next April 1, and the captive can annually renew it by paying a $375 renewal fee.

Under the bill, the commissioner may only issue a license to a SPFC to do reinsurance if he finds that the (1) proposed plan of operation provides for an a reasonable and expected successful operation and is not hazardous to any ceding insurer, (2) terms of the reinsurance contract comply with the bill's provisions, and (3) the insurance regulator of each ceding insurer's state of domicile has approved the transaction.

The bill prohibits the commissioner from issuing a license to a branch captive unless the related alien (foreign) captive grants him the authority to examine the alien captive in the jurisdiction in which it is formed.

Capital and Surplus

The law specifies the amount of unimpaired capital and surplus a captive must maintain as a condition of licensure. The bill reduces, from $750,000 to $500,000, the minimum amount an association captive must maintain. It requires a sponsored captive to maintain at least $500,000. It requires a SPFC to maintain at least $250,000. But it requires a sponsored captive licensed as a SPFC to maintain at least $500,000.

The bill requires a branch captive to maintain at least $250,000. And, reserves on a branch captive's insurance or reinsurance policies may be issued or assumed through its branch operations (i.e., its business operations in Connecticut).

Table 7 shows the capital and surplus requirements by type of captive.

Table 7: Capital and Surplus Requirements for Captives

Captive Type	***Minimum Capital and Surplus***
Pure captive	$250,000
Association captive	$500,000 ($250,000 under current law)
Industrial insured captive	$500,000
Risk retention group	$1 million
Sponsored captive (new)	$500,000
Special purpose financial captive (new)	$250,000
Sponsored captive licensed as a special purpose financial captive (new)	$500,000
Branch captive (new)	$250,000

By law, the commissioner may adopt regulations to establish additional capital and surplus requirements based on the type, volume, and nature of insurance business transaction.

Dividends or Other Distributions

By law, a captive may not pay dividends from, or other distributions with respect to, capital or surplus without the commissioner's prior approval. His approval of an ongoing distribution plan must be conditioned on the captive keeping capital and surplus levels above those approved.

The bill prohibits a SPFC from declaring or paying a dividend or distribution if it would jeopardize the company's ability to fulfill its obligations under its securitization agreements, reinsurance contracts, or related transactions.

Incorporation and Formation

By law, a pure captive can form as a stock insurer, nonprofit corporation, or a manager-managed limited liability company (LLC). An association captive, industrial insured captive, or RRG can be an LLC, a stock or reciprocal insurer, or a mutual corporation.

Under the bill, a sponsored captive must form as a stock insurer, a mutual corporation, a nonprofit corporation, or a manager-managed LLC. One or more sponsors (e.g., an association, corporation, LLC, partnership, or trust) may apply to form a sponsored captive. A RRG cannot be a sponsor or a participant of a sponsored captive.

Under the bill, a SPFC can form as a stock insurer or a manager-managed LLC. A SPFC can reinsure risks of a ceding insurer (i.e., an insurer that transfers its risks to the SPFC) and purchase reinsurance with the commissioner's prior approval. A captive that is, or will be, engaged in an insurance securitization on or after July 1, 2012, is deemed to be a SPFC. The commissioner may require that captive to come into compliance with all applicable SPFC requirements.

The bill permits a branch captive in Connecticut to write only insurance or reinsurance of the employee benefit business of its parent and affiliated companies that are subject to the federal Employee Retirement Income Security Act (ERISA).

By law, a captive must have at least three incorporators or organizers, at least one of whom must be a Connecticut resident.

Certificate of General Good

By law, a captive formed as a corporation, reciprocal insurer, of LLC must ask the insurance commissioner for a certificate finding that the proposed company will promote the state's general good. To make this finding, the commissioner must consider (1) each incorporator's character, reputation, financial standing, and purposes; (2) each officer's and director's character, reputation, financial responsibility, insurance experience, and business qualifications; and (3) other things he deems advisable.

By law, a captive formed as a corporation must give this certificate, along with its article of incorporation and organization fee, to the secretary of the state. The law does not specify what a reciprocal insurer or LLC needs to do with its certificate. But an LLC must request a certificate before filing articles of incorporation with the secretary of the state.

Branch Captive. Under the bill, in the case of a branch captive, the alien captive must petition the insurance commissioner to issue a certificate that finds licensing and maintaining branch operations will promote the general good of the state. The alien captive may register to do business in Connecticut after the commissioner's certificate is issued. In deciding to issue the certificate, the commissioner must consider the character, reputation, financial responsibility, insurance expertise, and business qualifications of the officers and directors of the alien company.

Annual Financial Report

Current law requires a captive to give the insurance commissioner an annual financial report by March 1. For pure captives and industrial insured captives, the bill delays the due date to March 15.

The pure or industrial insured captive may ask in writing for the commissioner's approval to file the report at the end of its fiscal year instead of by March 15. If he agrees, the report is due by 75 days after the fiscal year ends, up from 60 days under current law.

Special Purpose Financial Captive. The bill requires the commissioner to establish a SPFC's annual report form and content. A SPFC must report using statutory accounting principles, unless the commissioner requires or approves the use of generally accepted accounting principles or other comprehensive basis of accounting. A SPFC may ask in writing for the commissioner's approval to file its report at the end of its fiscal year.

Branch Captive. The bill requires a branch captive to give the commissioner, by March 1 annually, a copy of all reports and statements that must be filed under the laws of the alien captive's jurisdiction. Two executive directors must verify the reports and statements by oath. If the commissioner determines that these provide adequate information concerning the alien captive, he may waive the requirement of completing a separate annual financial report. A branch captive may ask in writing for the commissioner's approval to file the reports and statements at the end of its fiscal year. If the commissioner agrees, the reports and statements are due by 60 days after the end of the fiscal year.

Examinations

Under current law, the commissioner or his designee must visit and examine each captive at least once every five years or more often as he deems prudent. The bill accelerates the examination frequency to at least once every three years or more often as he deems prudent. But, the bill also allows the commissioner to reduce the frequency to once every five years if the captive undergoes a comprehensive annual audit by independent auditors approved by the commissioner.

Under the bill, an examination of a branch captive is of the branch business and branch operations located in Connecticut, provided the branch captive annually gives the commissioner a certificate of compliance from the jurisdiction in which it is formed and demonstrates to the commissioner's satisfaction that it is operating in sound financial condition in accordance with all applicable laws and regulations of that jurisdiction.

License Suspension or Revocation

By law, the commissioner may, for cause, (1) suspend, revoke, or refuse to renew a captive's license or (2) in addition to, or instead of, license suspension or revocation and after notice and hearing, fine the captive up to $10,000. Under the bill "for cause" includes:

1. insolvency or impairment of capital or surplus;
2. not maintaining the required amount of capital or surplus;
3. not submitting an annual financial report or other report lawfully required;
4. not complying with its charter, bylaws, or other organizational document;
5. not submitting to or paying for examination;
6. using methods that render its operation detrimental or its condition unsound to the public or its policyholders; or
7. not complying with Connecticut's laws.

Special Purpose Financial Captive. Under the bill, the commissioner must notify a SPFC at least 30 days before suspending, revoking, or refusing to renew its license. The notice must include the basis for the action and the hearing date. But no prior notice or hearing is required if the reason for the action relates primarily to the company's financial condition or soundness or a deficiency in its assets. Further, the commissioner may amend or modify a SPFC's license only (1) with the SPFC's consent or (2) if the commissioner has clear and convincing evidence that the change is necessary to avoid irreparable harm to the SPFC or the ceding insurer.

Premium Taxes and Tax Credit

Under current law, a captive must pay premium taxes on its direct-written premiums to the revenue services commissioner annually in February. The bill specifies that the taxes are due by March 1 annually.

The bill adds a reinsurance premium tax requirement. In addition to paying taxes on its direct-written premiums, a captive must pay the revenue services commissioner, in March annually, a tax on its assumed reinsurance premium. The reinsurance premium tax does not apply to premiums subject to taxation on a direct-written basis. The reinsurance premium tax owed is 0.214% of the first $20 million of assumed reinsurance premium, plus 0.143% of the next $20 million, plus 0.048% of the next $20 million, plus 0.024% of each additional dollar.

Under the bill, the annual minimum aggregate tax paid by a captive (other than a sponsored captive) is $7,500 and the annual maximum aggregate tax is $200,000. For a branch captive, the annual aggregate tax applies only to the branch business of the captive transacted in Connecticut. For a sponsored captive, the annual minimum aggregate tax is $7,500 and applies to the company as a whole, not to each protected cell. A sponsored captive's annual maximum aggregate tax is the aggregate tax liability on the direct-written premiums of each protected cell.

Tax Credit. Under the bill, a captive licensed on or after January 1, 2012 will receive a nonrefundable tax credit of $7,500 for the captive's first taxable year. The revenue services commissioner must prescribe the form and manner in which the credit may be claimed.

Captive Insurance Regulatory and Supervision Account

The bill establishes the captive insurance regulatory and supervision account as a separate, nonlapsing account within the Insurance Fund for the Insurance Department's use to regulate captives.

The department must deposit all fees and assessments relating to captives in this account. The comptroller must annually transfer 11% of total captive premium taxes collected. The comptroller may transfer up to 2% of the total premium taxes collected to the Department of Economic and Community Development, with the Office of Policy and Management secretary's approval, to use in promoting Connecticut's captive industry.

Payments cannot be made from the account "for the maintenance of staff or associated expenses, including contractual services as necessary" until the insurance commissioner receives proper documentation regarding the services rendered and expenses incurred. (It is not clear who is making payment from the account.) The commissioner must establish the form and manner of such documentation.

Any balance remaining in the account at the fiscal year end is carried forward in the account for the next fiscal year.

Other Applicable Laws

By law, other specified insurance statutes apply to captives. The bill adds CGS § 38a-8, regarding duties of the insurance commissioner, to the list of applicable statutes.

Mergers

By law, state laws concerning mergers, consolidations, and conversions that apply to insurers generally also apply to captives.

Under the bill, the commissioner may permit a captive to form for the sole purpose of merging with an existing captive.

Additional Provisions Applicable to Sponsored Captives

Each sponsored captive may:

1. establish and maintain one or more protected cells, subject to specified conditions;

2. combine the assets of two or more protected cells for investment purposes;

3. establish an maintain one or more protected cells as a separate corporation or LLC; and

4. establish and maintain a protected cell as an incorporated protected cell.

If a sponsored captive becomes insolvent and the commissioner determines that one or more protected cells remain solvent, he may separate those cells from the company and, on a sponsor's application, convert the cells into one or more new captives.

In general, a protected cell's assets cannot be used to pay any expenses or claims other than its own. A sponsored captive's capital and surplus must be available at all times to pay any expenses of or claims against it.

Additional Provisions Applicable to SPFCs

The bill specifies numerous additional provisions applicable to SPFCs. For example, a SPFC must give the commissioner a copy of an insurance securitization's complete set of executed documentation within 30 days after the closing on the transaction.

Any change in the SPFC's plan of operation requires the commissioner's prior approval. A SPFC's transactions require the commissioner's prior approval in specified instances. A SPFC must give the commissioner prior notice of any change in the legal ownership of any security it issued.

The bill specifies that a SPFC's security is not regulated as an insurance or reinsurance contract.

Unless previously approved by the commissioner, a SPFC cannot assume or retain exposure to insurance or reinsurance losses for its own account that are not funded by:

1. proceeds from a SPFC securitization, letters of credit, or other allowed assets;

2. premium and other amounts paid by the ceding insurer; and

3. any investment returns.

Under the bill, a SPFC may enter into contracts and conduct other commercial activity related to reinsurance and securitization activities. A SPFC's assets must be preserved and administered to satisfy the SPFC's liabilities and obligations.

A SPFC's security offering memorandum or other document issued to prospective investors must disclose that all or part of the proceeds of the securitization will be sued to fund the SPFC's obligations to the ceding insurer.

A SPFC is not subject to any investment restrictions, except:

1. a SPFC cannot make a loan to anyone other than those permitted under its plan of operation or as otherwise previously approved by the commissioner and

2. the commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the SPFC unless the investment is otherwise approved in the plan of operation.

Unless previously approved by the commissioner, a SPFC must maintain its books and records in Connecticut and keep them available for examination until the commissioner approves their destruction. If the commissioner allows the SPFC to keep the books and records outside of Connecticut, the SPFC must keep a complete and true copy of them here.

Additional Provisions Applicable to Sponsored Captives Licensed as SPFCs

The bill specifies numerous additional provisions applicable to a sponsored captive that is licensed as a SPFC. Among other things, unless previously approved by the commissioner, a participant in the captive must be a ceding insurer. Any change in a participant requires the commissioner's prior approval.

In connection with the conservation, rehabilitation, or liquidation of such a captive, the company must keep the assets and liabilities or a protected cell separate at all times from those of other protected cells.

When issuing a security, contract, or obligation, the captive must designate the related protected cell and include a disclosure that the holder of the security, contract, or obligation has no right or recourse against the captive other than assets properly attributable to the designated cell.

The captive must attribute assets and liabilities to the protected cells and general account according to its approved plan of operation. It must attribute all insurance obligations, assets, and liabilities relating to a reinsurance contract to such protected cell.

Except as otherwise specified in the bill, Chapter 704c of the general statutes, pertaining to administrative supervision and the conservation, rehabilitation, and liquidation of insurers, applies to sponsored captives licensed as SPFCs. The commissioner may petition the Superior Court to authorize him to conserve, rehabilitate, or liquidate such a captive or one of its protected cells on one or more of the following grounds:

1. embezzlement, wrongful sequestration, dissipation, or diversion of the captive's assets;
2. insolvency; or
3. the holders of a majority in outstanding principal amount of each class of securities attributable to each particular protected cell request or consent to conservation, rehabilitation, or liquidation.

In the event of the captive's insolvency, if the commissioner determines that one or more protected cells remain solvent, he must separate those cells from the company and, on a sponsor's application, convert the cells into one or more new captives.

EFFECTIVE DATE: July 1, 2012, and the premium tax provisions apply to calendar years beginning on or after January 1, 2012.

§§ 74-77 — DCP EXAMINING BOARD EFFICIENCY

The bill requires that for any application or renewal for a license to perform (1) electrical work; (2) plumbing and piping work; (3) heating, piping, cooling, and sheet metal work; (4) elevator work; (5) fire protection sprinkler systems work; and (6) automotive glass and flat glass work that requires the applicable Department of Consumer Protection (DCP) examining board to hold a hearing or other action the hearing or action must occur no later than 30 days after the submission date of the application or completed renewal application. By law, there is a DCP board or commission and examining board for each of these occupations and each may conduct hearings on any matter within its statutory jurisdiction.

Under current law, a majority of DCP occupational board or commission members constitutes a quorum. The bill additionally specifies that 40% of an examination board constitutes a quorum.

The bill also makes conforming changes.

§§ 78 & 79 — MAIN STREET INVESTMENT FUND

Bond Authorization and Grant Program

The bill authorizes $5 million per year in GO bonds for FY 12 and FY 13 for a nonlapsing General Fund account it establishes called the Main Street Investment Fund account. The Office of Policy and Management (OPM) secretary must use the account to provide grants to towns with populations of 30,000 or less or that are eligible for the Small Town Economic Assistance Program (STEAP). Towns must use the grants for eligible projects that develop or improve their commercial centers to (1) attract small business, (2) promote commercial viability, and (3) improve aesthetics and pedestrian access. To be eligible, a project must be part of a plan previously approved by the municipality's governing body.

Although municipalities must generally use the grants only for improvements to municipal property, the bill allows them to use a portion of their grants for one-time reimbursements of up to $50,000 to any private owner of commercial property who makes eligible expenditures that directly support or enhance grant-funded projects. Maximum reimbursements are 50% for up to the first $50,000 of eligible private expenditure and 25% for additional expenditures exceeding $50,000 but not more than $150,000.

Municipalities must apply to the OPM secretary for grants in the manner the secretary determines.

Eligible Municipal Projects

In awarding grants, the bill requires the OPM secretary to determine that a project advances a plan previously adopted by the municipality's governing body. Under the bill, improvements or renovations advance a plan if the secretary determines they will contribute to the municipality's economic success, including, as examples:

1. façade or awning improvements;
2. sidewalk construction or improvements;
3. street lighting;
4. building renovation, including mixed commercial and residential uses;
5. landscaping and development of recreation areas and green space; or
6. bicycle paths.

Reimbursable Private Expenditures

Under the bill, municipalities can reimburse private commercial property owners for cosmetic and structural improvements to building exteriors, signs, lighting, and landscaping visible from the street, including:

1. exterior painting or surface treatment,
2. decorative awnings,

3. window and door replacement and modification,
4. storefront enhancements,
5. irrigation,
6. streetscape,
7. outdoor patios and decks,
8. exterior wall or decorative post lighting, or
9. architectural features.

Municipalities may not use grant funds to reimburse private owners for:

1. renovations due solely to ordinary repair and maintenance;
2. improvements required to address health, safety, or housing code violations; or
3. nonpermanent structures, furnishings, or other amenities, or moveable equipment.

§§ 80-88 PUBLIC-PRIVATE PARTNERSHIPS

The bill authorizes state executive branch agencies, including quasi-public agencies, to enter into an agreement with private entities to finance, design, construct, develop, operate, or maintain certain "facilities" (i.e., public-private partnership agreement). The agreement may be to perform a single one of these functions or a combination of them. The agencies must determine that the estimated revenue the facility will generate, together with other previously identified funding sources, will sufficiently fund the cost to develop, maintain, and operate it. State support of a partnership agreement cannot exceed 25% of the project's cost. A "private entity" is an individual, corporation, general partnership, limited partnership, limited liability partnership, joint venture, nonprofit organization, or other business entity. A "facility" is any public works or transportation project that generates revenue as a public infrastructure. The facilities must be designated as projects, meaning they have been submitted to the governor for approval as public-private partnerships.

Any agency subject to the state law on privatization must comply with that law. Additionally, any agency that enters into a partnership agreement for the operation or maintenance of a state facility that meets the definition of a privatization contract must comply with the law regardless of whether the services are currently privatized. By law, a privatization contract is generally an agreement or series of agreements between a state contracting agency and a person or entity for services that are substantially similar to, and in lieu of, services provided by state employees (see BACKGROUND).

Beginning on the date the bill passes and before January 1, 2015, the governor must approve up to five public-private partnership projects.

The bill exempts from municipal property taxes any property developed, operated, or held by a private entity pursuant to a partnership agreement.

Projects Eligible for Public Private Partnerships (§ 80)

The design, construction, operation, or maintenance of the following projects may be considered public private partnerships, if they are approved as a project:

1. educational, health, early childcare, or housing facilities;
2. transportation systems, including ports, transit-oriented development, and related infrastructure; and
3. any other facility the legislature identifies or proposes as a project.

However, any public-private partnership agreement to operate or maintain a facility must also provide for financing and developing it.

Agencies Seeking to Execute Public Private Partnership Agreements (§ 81)

Any executive branch state agency or quasi-public agency may establish a public private partnership in that agency's jurisdiction or jointly with another agency. Each agency, in designating a project, must analyze the project's feasibility, desirability, convenience to the public, and its furtherance of public policy goals. It must specifically consider the following:

1. the facility's essential characteristics;
2. the projected demand for the facility and its economic and social impact on the community and the state;
3. the technical function and feasibility of the project, and its conformity with the state Plan of Conservation and Development;
4. the benefit to the agency's customers and the public;
5. a "value for money review and analysis;"
6. the project's operational or technological risk;
7. the project's cost and its economic and financial feasibility;
8. an analysis of public versus private financing on a present value basis and the project's eligibility for local or federal government funds;
9. the project's impact on state finances; and
10. the advantages or disadvantages of having the state agency or quasi-public agency continue to perform the function.

The bill bars an agency from designating a project based solely on the revenue it generates.

Interested agencies, after consulting with the construction services, economic development, and transportation commissioners; state treasurer; and OPM secretary, must submit their proposed public-private partnership projects for the governor's approval and a copy of it to the Finance, Revenue and Bonding and Appropriations committees. The governor can approve a project only if he finds it will create jobs and economic growth. The committees must hold a public hearing on the submissions.

On and before January 1, 2015, the bill requires the governor to approve up to five projects as public-private partnerships. The governor must notify agencies when their projects are approved. By January 15, 2013, and annually thereafter, the governor must give the legislature a status report on public-private partnerships.

Prequalification of Private Entities (§ 82)

The bill exempts public-private contractors from the prequalification requirements for contractors seeking to perform work on state construction projects, including highway and bridge projects. It instead requires an agency, when it determine appropriate, to provide for a prequalification process for private entities and charge applicants a fee.

If the agency elects to provide for a prequalification process, it must (1) include public notice of the process and prequalification requirements and criteria and (2) allow only a prequalified entity to submit project proposals to it.

To be prequalified, a private entity must meet the requirements in the request for proposal or request for qualifications or competitive sealed bids. In addition, it must:

1. have available lawful sources of funding, capital, securities, or other financial resources that, in the judgment of the agency and Department of Economic and Community Development, is needed to carry out the project;

2. possess, either through its staff, subcontractors, a consortium or joint venture agreement, the managerial, organizational, and technical capacity for the type of project;

3. have experience in the type of the project;

4. be qualified to do business in the state; and

5. certify that no director, officer, partner, owner, alter ego, or other individual with direct and significant control over its policy has been convicted of corruption or fraud in any U.S. jurisdiction.

Procurement Process for Contractors (§ 83)

The bill exempts public-private partnerships from existing state contracting laws that generally allow the construction services and transportation commissioners only to enter into most construction contracts costing more than $500,000. Under the bill, a state agency or quasi-public agency seeking to enter into a public-private partnership must choose a contractor through a competitive procurement process. The agency must use, where appropriate, the competitive bidding or negotiation process. An agency may request information regarding potential public private partnerships before beginning a competitive procurement process.

The agency must ensure that the bid specifications include a detailed description of the project's scope and the material terms and conditions applicable to the procurement and any resulting contract. It must notify the public of the invitation to bid, request for proposal, or request for information, not later than 30 days before the due date, unless the agency determines, in writing, that a shorter time period is appropriate and will preserve the procurement's competitive nature. The agency must make public the evaluation and selection criteria, and determine which proposals best serve the act's public purposes.

The bill permits executive branch agencies and quasi-public agencies to pay a stipend to an unsuccessful proposer if the (1) agency cancels the procurement process less than 30 days before the bid or proposal is due, or (2) proposer submits a proposal that is responsive and meets all the requirements established by the agency for the public-private partnership project. The agency sets the amount, terms, and conditions of the stipend.

The bill permits agencies and quasi-public agencies to require that the proposer grant the agency the right to use any work product (1) contained in any unsuccessful proposal, or (2) developed before "procurement" is cancelled, including designs, processes, technologies, and other information. All conditions for a stipend must be clearly set forth in the request for information, bid solicitation, request for proposal or request for qualifications. Presumably "cancelled procurement" refers to when the public-private partnership is terminated.

The bill allows agencies and quasi-public agencies to contract with a private entity or another state agency to retain financial, legal, and other consultants and experts to assist in the procurement, evaluation, and negotiation of public-private partnerships and for the development of eligible facilities.

Partnership Agreement Terms and Conditions (§§ 84 and 86)

The partnership agreement must terminate within 50 years after it is executed. The partnership agreement must include:

1. a complete description of the facility to be developed and the functions it will perform;

2. the terms of the facility's financing, development, design, improvement, maintenance, operation, and administration;

3. the rights of the state, the contractor, or both, in any revenue from the financing, development, design, improvement, maintenance, operation, and administration;

4. minimum quality standards applicable to the project for facility development, design, improvement, maintenance, operation and administration;

5. the contractor's compensation, including the extent to which, and the terms on which, a contractor may charge fees to individuals and entities for the facility's use, except that these fees cannot include highway tolls unless the legislature

specifically approves;

6. the furnishing of an annual independent audit report to the agency covering all aspects of the partnership agreement;

7. a requirement for a performance and payment bonds or other security deemed suitable by the agency;

8. a requirement that at least one public liability insurance policy in an amount determined by the agency that covers torts and provides for the continued operation of the partnership project;

9. a reversion clause upon conclusion or termination of the partnership agreement;

10. an agency's rights and remedies if the contractor or private entity substantially fails to adhere to or materially defaults on the agreement;

11. the funding sources that will be used to fully fund the capital, operation, maintenance, or other expenses under the agreement; and

12. any other provision the agency deems appropriate.

The bill bars an agreement from waiving the state's sovereign immunity or granting it to a contractor or private entity. It subjects agreements to the state's prevailing wage, permitting and inspection, and set-aside laws and environmental policy. But it does not explicitly subject these agreements to the Connecticut Environmental Policy Act (see BACKGROUND). In lieu of the prevailing wage, the bill permits the agreement to include the rate established in any project labor agreement.

Contractor's Material Default (§ 87)

In addition to other available remedies, the bill authorizes the state to assume the responsibilities and duties of a contractor in the event of a material default by the contractor. In such a case, the state succeeds to all of the rights, title and interest in the partnership, subject to any liens on revenues previously granted by the contractor to anyone providing financing.

If the state elects to take over a project, the agency may develop or operate the project, impose user fees, impose and collect lease payments for its use, and comply with any service contracts as if it were the contractor. Any revenues subject to a lien must be collected for the benefit of and paid to secured parties to the extent needed to satisfy the contractor's obligations to them, including the maintenance of reserves. The liens must be correspondingly reduced and released when paid off.

Before making payments to or for the benefit of secured parties, the agency may use revenues to pay current operating and maintenance costs, including compensating itself for its services in doing so. The right to receive this payment, if any, is considered just compensation for the partnership project. The full faith and credit of the agency cannot be pledged to secure any financing of the contractor by choosing to take over the project. Assuming operation of the project does not obligate the agency to pay any obligation of the contractor from sources other than revenues.

The bill authorizes an agency with condemnation powers to exercise these to acquire the project in the event of a material default. Anyone who has provided financing for the project, and the contractor, to the extent of its capital investment, may take part in the condemnation proceedings with the standing of a property owner.

The agency may terminate, with cause, the partnership agreement and exercise any other rights and remedies available to it, and the state may make or cause to be made any appropriate claims under the maintenance, performance or payment bonds, or lines of credit as provided in the agreement.

Other Provisions (§§ 84, 85)

The bill exempts the contractor from liability for the state's debts or obligations unless the contractor is liable under the terms of the agreement. It allows an agency or the state to apply for and accept federal or local funds to further the act's purposes and to fund public private partnerships.

BACKGROUND

New York "Build Now-NY/Shovel Ready Certification Program" (§§ 6 & 9)

The New York Empire State Development agency certifies sites as "shovel ready" for the "Shovel Ready/Build Now-NY program," which was established in 1998.

A "shovel ready" site is one in which a local developer works proactively with the state to address all major permitting issues before a business expresses interest in the location. This expedites the site's availability for development and reduces the time it takes to construct it.

LEAN (§§ 10 & 11)

LEAN is a process improvement approach used by the public sector to improve efficiency in services and administrative processes. It is a customer-driven waste reduction technique that examines a current process, improves efficiency by decreasing process time, produces a product or service internal and external customers demand, and initiates organizational change.

Wine Festival Permits (§ 16)

By law, a wine festival permit allows a farm winery manufacturer permittee to participate in a wine festival sponsored by an association promoting the manufacture and sale of farm wine in Connecticut or its not-for-profit subsidiary. A permit costs $75 and is effective for no more than three consecutive days in a calendar year.

Surplus State Property (§§ 24-27)

CGS § 4b-21 governs the disposition of surplus state property. Generally, after an agency declares a property to be surplus, the OPM secretary must notify all state agencies about its availability and give them 90 days to submit a plan for using it. But the DECD commissioner has the right of first refusal to use the property for housing. The municipality or municipalities where the property is located are also notified (as are the local legislators) and have an opportunity to purchase the property at its fair market value. When DECD, the other state agencies, and the affected municipalities are not interested in acquiring the property, the Department of Public Works may sell, lease, or otherwise convey it on the open market.

CGS § 4b-47 requires state agencies to notify the Council on Environmental Quality, OPM, and DEEP before selling or transferring state land. It provides for public notice and comment, requires the DEEP commissioner to advise OPM about whether all or part of the land should be preserved, and specifies options for doing so. If DEEP recommends preservation, it must prepare a report explaining the reasons for its recommendation, publish it in the *Environmental Monitor*, and allow for a 30-day public comment period. After the OPM secretary receives DEEP recommendation, he must make a final decision about the land. He must publish that decision in the *Environmental Monitor* for at least 15 days before selling or transferring the land or interest in it.

Businesses Qualifying For Angel Investments (§ 29)

By law, a business qualifies for angel investments if it focuses on bioscience, advanced materials, photonics, information technology, clean technology, or an emerging technology, as determined by the DECD commissioner. The business must also have:

1. its principal place of business in Connecticut;

2. gross revenues under $1 million in its most recent income year;

3. fewer than 25 employees, at least 75% of whom are Connecticut residents;

4. operated in Connecticut for less than seven consecutive years; and

5. received less than $2 million in eligible investments from angel investors.

In addition, its managers and their families must be its primary owners and Connecticut Innovations, Inc. must identify the business as eligible for angel investment.

Connecticut Airport Authority (§§ 39-45)

PA 11-84 established CAA to develop, improve, and operate Bradley International Airport, the state's five other general aviation airports, and any other general aviation airports CAA subsequently owns, operates, and manages. The act authorized the DOT, which previously exercised most airport-related powers, duties, and functions, to transfer them to CAA, but DOT continues to exercise them until the transfer. The act automatically transferred to CAA the powers, duties, and functions previously assigned to other specified agencies. The act established an 11-member board to govern CAA.

Privatization (§ 86)

Before privatizing any state service that is not currently privatized, the law requires a state contracting agency to develop a cost-benefit analysis and a business case. Once the business case is completed, the agency must submit it to the State Contracting Standards Board for review. An agency may publish notice soliciting bids for a privatization contract only after the board approves the business case. Not later than 30 days after the board decides to approve a business case, the collective bargaining agent of any employee adversely affected by the proposed privatization contract may file a motion for an order to show cause in Hartford Superior Court on the grounds that the contract fails to comply with the act's substantive or procedural requirements regarding privatization.

Connecticut Environmental Policy Act (CEPA) (§ 86)

CEPA (CGS § 22a-1b et seq.) identifies and evaluates the impact of proposed state actions that could significantly affect the environment. State departments, institutions, or agencies considering (or funding in whole or part) actions that may significantly affect the environment (including actions that could have a short-term disadvantage to long-term environmental goals) must prepare an Environmental Impact Evaluation (EIE) before deciding whether to undertake or approve such an action. The EIE must be submitted to various agencies and is open to public inspection and comment.