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## OLR Bill Analysis

### sSB 1010

***AN ACT CONCERNING THE TRANSFER OF FUNCTIONS FROM THE DEPARTMENTS OF PUBLIC WORKS, INFORMATION TECHNOLOGY AND PUBLIC SAFETY AND THE JUDICIAL SELECTION COMMISSION TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND ESTABLISHING THE DEPARTMENT OF CONSTRUCTION SERVICES.***

#### **SUMMARY:**

This bill dissolves the Department of Public Works (DPW) and establishes a Department of Construction Services (DCS) for purposes of construction, construction management, and security management. It makes the DCS commissioner, rather than the DPW commissioner, responsible for constructing and developing state-owned buildings and real estate. It generally shifts all other DPW duties to the Department of Administrative Services (DAS) (see COMMENT). Under the bill, the DAS commissioner is responsible for acquiring, selling, and leasing state-owned property to house state offices and equipment.

The bill also transfers, from the Department of Public Safety (DPS) to DCS, responsibility for enforcing the Fire Safety Code and the State Building Code.

With these changes, the bill transfers to DCS the corresponding personnel powers, duties, obligations, and other government functions of each transferring agency or division, whichever applies.

In addition, it:

1. dissolves the Department of Information Technology (DOIT), establishes it as a division within DAS, and eliminates the chief information officer (CIO) as its designated department head;
2. transfers, from the Commission on Human Rights and

Opportunities (CHRO) to DAS, responsibility for approving and monitoring state agency affirmative action plans, exempts agencies with 25 or fewer employees from filing these plans, and changes the plans' contents; and

3. places the Judicial Selection Commission within DAS, but specifies that it retains independent decision-making authority and that DAS must provide the commission with support staff (§ 1).

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2011; except the provisions concerning affirmative action plans and diversity training, which are effective upon passage.

#### **§§ 2-19, 39-40, 42, 47-56 & 65 — DEPARTMENT OF PUBLIC WORKS DISSOLUTION**

The bill dissolves DPW and transfers its personnel powers, duties, obligations, and other government functions that do not relate to construction or construction management to DAS beginning July 1, 2011. Under the bill, the DAS commissioner generally assumes responsibility for (1) purchasing, selling, leasing, subleasing, and acquiring property for state agencies and (2) disposing surplus state property.

On the same date, the bill establishes DCS as an independent executive branch agency headed by a commissioner with the authority to, among other things, designate a deputy or deputies. DCS becomes the successor department to (1) DPW with respect to the construction and maintenance of state buildings and property, including administering most state capital improvement projects and selecting consultants to assist on them, and (2) the DPS Division of Fire, Emergency, and Building Services with respect to fire safety and building code enforcement.

#### ***Care and Control of State Property***

The bill appears to give DCS care and control of most state property,

including property in Hartford. However, the bill also appears to give DPS control of state police property in Hartford, making it unclear whether DCS has control of that property. Under current law, DPW has care and control of most state property in Hartford, including state police property.

With respect to surplus property disposition, the bill provides for agencies with surplus property to transfer care and control of such property to DAS and not DCS.

### ***Security Standards***

With respect to the Freedom of Information Act, the bill requires DAS to make certain determinations concerning the security risk associated with disclosing certain records, even though the bill transfers DPW's security responsibilities to DCS.

The bill also requires DAS to be familiar with security standards developed by DCS. It prohibits DAS from executing a new lease unless it determines that (1) a security audit was conducted that was comparable to audits conducted by DCS or (2) after consulting with DCS, the building meets DCS's security standards. Under current law, DPW makes these determinations and is responsible for security standards and audits. Under the bill, DAS, like DPW under current law, may alternatively execute a lease if the building's owner has implemented recommendations from the security audit.

### ***State Facilities Plan***

The bill requires state agencies to submit a copy of their long-range facilities plans and related facility project requests to DAS. It requires DAS to (1) give the Office of Policy and Management (OPM) secretary a review of such plans for consistency with certain factors, including the need for maintenance, improvement, and replacement of state facilities and (2) monitor the amount of leased space being requested and the costs of all proposed and approved facility project actions.

The bill requires DCS to (1) assist agencies and departments with such long-range facilities planning and (2) implement the state

facilities plan, including the approval of agencies' implementation actions. But the bill does not authorize DCS to request the attorney general's assistance in contract negotiations concerning the construction of real estate, which DPW can currently do.

DCS is responsible for implementing the state facilities plan, including trying to locate human service agencies in the same buildings as municipal and private agencies that provide human services. If the plan provides for an agency located in Hartford to relocate outside of the city, the bill allows the governor, at the agency's request and with the Finance Advisory Committee's consent, to transfer to the agency appropriations made to DCS for rents and moving cost in order to facilitate the move. Currently, the money is taken from DPW's appropriations. The bill also requires an estimate of the amount DAS needs for leasing additional facilities to be included in DCS's budget request, not DAS's.

#### **§§ 20-24 — AFFIRMATIVE ACTION PLANS AND TRAINING**

The bill transfers, from CHRO to DAS, responsibility for reviewing, approving, and monitoring state agency affirmative action plans. (State agencies include departments, boards, and commissions.) It also decreases how frequently certain agencies must file their affirmative action plans and exempts others. However, CHRO remains responsible for state contractors' and bidders' affirmative action plans.

Under current law, agencies with more than 20 full-time employees file their plans annually if they have already had a plan approved by CHRO and semi-annually if they have not. Agencies with 20 or fewer full-time employees file biennially if they have already had a plan approved and annually if they have not.

Under the bill, only agencies with 100 or more full-time employees file semi-annually or annually, depending on the existence of previously approved plans. Agencies with between 26 and 99 full-time employees file biennially (unless the plan is not approved, in which case DAS may require that it be resubmitted until it is). Those with 25 or fewer full-time employees are exempt from the filing requirement.

The bill also:

1. requires agencies with 100 or more full-time employees to file their semi-annual plans with DAS electronically, while annual plans are filed in a manner prescribed by DAS, and
2. reduces the frequency with which CHRO and the Permanent Commission on the Status of Women must train affirmative action officers, renamed equal employment opportunity (EEO) officers, on state and federal discrimination laws.

Beginning October 1, 2011, the bill reduces training for EEO officers from (1) 10 to five hours during their first year of service and (2) five to three hours every two, rather than one, year thereafter. It also specifies that such officers are responsible for investigating only internal discrimination complaints made against an agency.

### ***Affirmative Action Plan Development***

By law, all state agencies and most state contractors and bidders must develop and implement an affirmative action plan. Under current law, state agencies must develop such plans in cooperation with CHRO and in accordance with its regulations. CHRO must provide training and technical assistance to affirmative action officers in these entities on their plans' development and implementation. The plans must (1) ensure compliance with applicable state and federal laws; (2) provide for equal employment opportunities; and (3) comply with a number of nondiscrimination statutes, including career enhancement training.

The bill alters the plans' contents. Instead of the above, the plans must describe agencies' efforts to (1) provide equal employment opportunities and (2) comply with state and federal nondiscrimination laws. The plans must include race, gender, occupational category, and age data for all full-time employees.

The bill eliminates the requirements for (1) state agencies to cooperate with CHRO and follow its regulations when developing a plan, (2) CHRO to train agencies' affirmative action officers, and (3)

state agencies to demonstrate in their affirmative action plans their compliance with diversity training and education requirements. However, agencies remain responsible for providing the information on diversity training and education in an annual report to CHRO.

***Approval and Monitoring***

The bill transfers, from CHRO to DAS, responsibility for (1) approving and monitoring state agencies' affirmative action plans, (2) issuing certificates of noncompliance to agencies that do not have an approved plan, and (3) submitting an annual report to the governor and General Assembly on the results of the affirmative action plans.

By law, a state agency's affirmative action plan must be approved, conditionally approved, or disapproved within 90 days of its submission. If no action is taken within 90 days, the plan is considered approved. Under current law, CHRO may issue a certificate of noncompliance to agencies with disapproved plans.

With certain exceptions, agencies that receive the noncompliance certificate may not fill a position or position classification by hire or promotion. Under current law, these exceptions are (1) CHRO determines that the agency has achieved compliance, (2) the noncompliant agency requests a hearing during which CHRO is unable to show why the certificate should not be rescinded, or (3) the DAS commissioner and the OPM secretary certify to CHRO that the position must be filled immediately because of an emergency.

The bill (1) makes DAS, not CHRO, responsible for determining that an agency has achieved compliance and for conducting the hearings noncompliant agencies may request and (2) requires the OPM secretary to certify to the DAS commissioner, not CHRO, if a position must be filled immediately. The bill allows but does not require DAS to adopt regulations governing noncompliance. Current law requires CHRO to adopt such regulations.

The bill removes from CHRO any involvement in ensuring that the State Personnel Act and personnel regulations are administered and

collective bargaining conducted consistently with affirmative action requirements. Under current law, the DAS commissioner and OPM secretary have this responsibility but must exercise it in cooperation with CHRO.

### **Complaints**

The bill also eliminates CHRO's authority to issue a complaint if a state agency (1) fails to submit an affirmative action plan or (2) submits one that violates certain state laws. The bill does not transfer this authority to DAS. Thus, there appears to be no consequence if any agency fails to file a plan or files a flawed plan.

### **§§ 25-38 — DOIT**

The bill (1) dissolves DOIT and reestablishes it as a division within DAS, which becomes its successor agency, and (2) eliminates the CIO position. Beginning July 1, 2011, DAS assumes DOIT's personnel powers, duties, obligations, and other government functions. Among other things, the bill makes the DAS commissioner, rather than the CIO, responsible for:

1. developing and updating an annual information and telecommunications (IT) strategic plan;
2. identifying and implementing telecommunication systems to efficiently service state agencies and opportunities for reducing costs associated with these systems;
3. approving or disapproving state agency acquisition of hardware and software;
4. approving or disapproving state agency requests or proposed contracts for IT systems consultants;
5. purchasing, leasing, or contracting for telecommunication system facilities, equipment, and services for Executive Branch agencies other than the constitutional offices; and
6. serving on the Geospatial Information Systems Council.

Under the bill, DAS does not inherit the CIO's responsibility to (1) develop and implement an integrated set of IT policies for state agencies and (2) produce a series of comprehensive standards and planning guidelines pertaining to the development, acquisition, implementation, and management of IT systems.

The bill removes the requirements that the strategic plan include (1) direction for state agencies to collect, store, manage, and use information in an efficient manner; (2) a comprehensive information policy for state agencies; and (3) a policy concerning the infusion of new technology for state agency IT systems. It requires the strategic plan to be developed in accordance with the policies established by OPM, but it is unclear what those policies are. The bill also repeals a requirement for professional development for the state's IT professionals.

**§§ 41, 43-46, & 57-64 — DIVISION OF FIRE AND BUILDING SERVICES**

The bill transfers, from DPS to DCS, most of the Division of Fire, Emergency, and Building Services and its functions and renames it the Division of Fire and Building Services. It removes the Office of State-Wide Emergency Telecommunications from the division, thus keeping that office in DPS.

The bill makes DCS responsible for enforcing the Fire Safety Code and the State Building Code by transferring the division's offices of the State Fire Marshal and the State Building Inspector to DCS. It also transfers, from DPS to DCS, responsibility for adopting regulations concerning building demolition and the licensure of persons engaged in that business.

Under the bill, the heads of the two transferring offices report to the DCS commissioner rather than the head of the division. The bill also eliminates a provision under which the State Building Inspector serves as the administrative head of the Office of the State Building Inspector. The bill allows the DCS commissioner to appoint a deputy commissioner to lead the division but eliminates the requirement that

the deputy commissioner be a civilian.

***State Building Inspector***

The bill transfers the Office of the State Building Inspector from DPS to DCS. The office's responsibilities include the (1) adoption, administration, and interpretation of the State Building Code and (2) licensure of municipal building officials.

The Office of the State Building Inspector also oversees elevators, escalators, and boilers. However, current law, unchanged by the bill, provides for the DPS commissioner to retain his or her responsibilities in these areas. These responsibilities include, among other things, (1) adopting regulations, (2) hearing and adjudicating appeals of the building inspector's decisions, (3) investigating elevator and escalator accidents, and (4) commissioning boiler inspectors. The bill does not address the effect on these functions of moving the building inspector's office to DCS.

***State Fire Marshal***

The bill transfers the State Fire Marshal's Office from DPS to DCS. Under current law, the DPS commissioner is the state fire marshal. The bill instead requires the DCS commissioner to appoint the state fire marshal. It also allows the DCS commissioner to (1) delegate the fire marshal's responsibilities to others (see COMMENT) and (2) appoint a deputy state fire marshal.

The state fire marshal is responsible for, among other things:

1. adopting and administering the State Fire Prevention Code and Fire Safety Code;
2. certifying local fire marshals, deputy fire marshals, fire inspectors, and investigators;
3. hearing and adjudicating complaints against local fire marshals, deputy fire marshals, and fire inspectors;
4. abating fire hazards;

5. investigating fires and explosions; and
6. regulating (a) flammable and combustible liquids, (b) liquefied petroleum gas, (c) hazardous chemicals, (d) explosives and blasting agents, and (e) fireworks, including storage, use, transportation, and transmission, as applicable.

Under the bill, DPS appears to retain responsibility for regulating rockets. The bill also retains a requirement for people who keep and store explosives to report to DPS, instead of DCS.

## **BACKGROUND**

### ***Legislative History***

The Senate referred the bill (File 434) to the Education Committee, which reported a substitute that (1) removed provisions of the bill transferring, from the Department of Education to DCS, responsibility for school construction grants and (2) made other changes to the grant process.

## **COMMENT**

### ***Inconsistencies with Respect to DAS and DCS***

In several instances the bill is inconsistent in terms of the respective public works-related roles and responsibilities of DAS and DCS. In Section 40, it appears that several DPW functions do not transfer to DCS, including (1) maintaining an inventory of all state-owned or -leased properties and premises, (2) supervising the care and control of certain buildings and grounds, and (3) establishing and maintaining security standards for most state facilities. However, in other sections (e.g., § 39), the bill appears to give DCS these responsibilities.

It also appears to allow DCS to publicly disclose State Properties Review Board decisions regarding state facility needs (see § 50). However, it also provides that only the DAS commissioner can authorize the disclosure of an agency's real estate needs or interests (§ 3).

### ***Fire Marshal Duties***

The bill (§ 60) permits the DCS commissioner to delegate to employees outside of the agency, specifically to any DPS employee, any powers associated with fire hazards and enforcement and regulation of the state fire prevention and safety codes.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable

Yea 14 Nay 1 (03/23/2011)

Education Committee

Joint Favorable Substitute

Yea 23 Nay 0 (04/19/2011)