

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-61—HB 6652
Emergency Certification

**AN ACT IMPLEMENTING THE REVENUE ITEMS IN THE BUDGET
AND MAKING BUDGET ADJUSTMENTS, DEFICIENCY
APPROPRIATIONS, CERTAIN REVISIONS TO BILLS OF THE
CURRENT SESSION AND MISCELLANEOUS CHANGES TO THE
GENERAL STATUTES**

SUMMARY: This act revises many provisions of previously adopted 2011 public acts affecting the state budget, taxes, and other laws.

It makes numerous alterations in the budget and tax provisions of PA 11-6, including:

1. adjusting the FY 12 and FY 13 appropriations for state agencies and programs and generating changes in net appropriations for those years in the General Fund, Special Transportation Fund (STF), and Consumer Counsel and Public Utility Control Fund;
2. revamping the property tax exemptions for manufacturing machinery and equipment (MME) and commercial trucks as well as eliminating state payments in lieu of taxes (PILOTs) for the exemptions and altering the distribution of the manufacturing transition grants designed to replace them;
3. altering the distribution of funds in the municipal revenue sharing account and modifying the qualifications for regional performance incentive grants;
4. eliminating the cabaret tax;
5. capping the tobacco products tax on cigars;
6. making the sales tax on remote sellers (“Amazon tax”) apply to sales on or after May 4, 2011, PA 11-6’s effective date;
7. adding exemptions to several taxes imposed by PA 11-6; and
8. reducing the required revenue transfer for FY 12 from the General Fund to the STF by \$42.5 million.

The act also makes many other changes, including:

1. cancelling authorization for the state to issue economic recovery revenue bonds backed by a surcharge on electric bills to provide revenue for the state General Fund for FY 11;
2. delaying scheduled rail fare increases on the New Haven line and its branches;
3. abolishing the Transportation Strategy Board (TSB);
4. allowing Bridgeport to make smaller contributions towards the unfunded liability of a city pension fund for which it previously sold pension deficit funding bonds;
5. requiring the State Board of Education (SBE) to appoint a special master

OLR PUBLIC ACT SUMMARY

- to run the Windham school district and help it improve student achievement;
6. reducing the state reimbursement rate for construction projects for vocational agriculture (vo-ag) centers run by school districts;
 7. modifying retirement eligibility and benefits under the Judges' Retirement System;
 8. revising the Department of Mental Health and Addiction Services (DMHAS) supportive housing initiative for people with mental illness and others;
 9. eliminating staffing at the West Willington visitor welcome center (later restored under PA 11-233); and
 10. establishing a procedure for the General Assembly to approve the May 27, 2011 agreement between the state and the State Employees Bargaining Agent Coalition (SEBAC). (The approval timetable was subsequently extended by PA 11-1, June Special Session (JSS), after state employees failed to ratify the May 27 agreement.)

Finally, the act appropriates \$355 million to cover deficiencies in General Fund appropriations for FY 11. The lion's share of these funds (\$277 million) is appropriated to the Department of Social Services (DSS).

A section-by-section analysis of the act's provisions appears below. Technical sections (§§ 101 and 132) are not listed. Section 101 is effective January 1, 2012 and applicable to primaries and elections held on or after that date.

EFFECTIVE DATE: July 1, 2011 unless otherwise noted.

§§ 1-3, 44, 52, & 189 — MME & TRUCK PROPERTY TAX EXEMPTIONS AND PILOTs

§§ 1-3, 52, & 189 — MME Property Tax Exemption

Beginning with the October 1, 2011 assessment year, the act exempts all eligible manufacturing, biotechnology, and recycling MME from local property taxes regardless of purchase or acquisition date. Under prior law, such property would have been exempted under separate programs for MME purchased and acquired (1) on or before October 1, 2006, (2) between October 2, 2006 and October 1, 2011, and (3) on or after October 1, 2011.

To conform to this change, the act eliminates the requirements that, for the 2006 through 2011 assessment years, (1) MME owners file a supplement to their personal property declaration that includes data on the date of acquisition, acquisition costs, and depreciated value of MME and (2) town assessors determine the depreciated value of such MME using the method they used for the 2005 assessment year.

The act shifts, from the Office of Policy and Management (OPM) to municipal assessors, (1) responsibility for prescribing the documentation to support an application for a five-year MME exemption and (2) authority to request such applicants to submit a copy of applicable federal income tax returns and accompanying schedules or alternative supporting documentation. And it

OLR PUBLIC ACT SUMMARY

repeals provisions that (1) require MME owners applying for a five-year exemption to do so on a form prescribed by OPM and (2) allow the OPM secretary to deny an exemption claim if the owner of new MME is delinquent on his or her corporation tax, after providing notice to the affected taxpayer.

Enterprise Zone MME Property Tax Exemption and PILOT

The act retains an existing state-reimbursed property tax exemption for eligible MME located in designated areas (i.e., the Distressed Municipality Property Tax Reimbursement Program). Certain MME may qualify for a partial exemption under this program, but not the 100% exemption described above.

By law, MME and other types of personal property located in targeted investment communities, enterprise zones, and the Bradley Airport Development Zone (BADZ) may qualify for a five-year, 80% property tax exemption. The exemption applies to property (1) in manufacturing or service facilities and (2) acquired as part of a technological upgrade of a manufacturing process in these designated areas. (By law, these exemptions apply in the BADZ for assessment years beginning on or after October 1, 2012.)

The state makes an annual grant payment to towns to reimburse them for half of the revenue loss from real and personal property tax exemptions in these designated areas.

§ 189 — MME and Commercial Vehicle PILOTS

Prior law required the state to reimburse municipalities for the revenue loss resulting from the property tax exemptions for (1) eligible MME and (2) certain commercial trucks and other vehicles used to transport freight for hire. The act eliminates these PILOTS for assessment years that begin on or after October 1, 2011. The act also repeals related provisions that (1) provide a five-year MME depreciation schedule to determine the tax revenue loss to the town and the PILOT amount and (2) require a state grant payment to replace the MME PILOT beginning in FY 14.

§ 44 — Manufacturing Transition Grants and the Municipal Revenue Sharing Account

To mitigate the loss of these PILOTS, PA 11-6 requires the OPM secretary to distribute “manufacturing transition grants” to municipalities equal to the amount each received in FY 11 as a PILOT for eligible commercial vehicles, MME, and certain real property in enterprise zones. PA 11-6 creates the Municipal Revenue Sharing Account (a separate, nonlapsing General Fund account) and allocates a certain portion of sales, luxury, and state real estate conveyance tax revenue to the account to fund these grants.

This act:

1. eliminates enterprise zone PILOTS from the basis for determining the manufacturing transition grants;
2. lists the grant amount each town receives;
3. requires OPM to make the grant payments in quarterly allotments on the 15th of November, February, May, and August of each fiscal year;

OLR PUBLIC ACT SUMMARY

4. requires the grants to be reduced proportionately if the amount available in the Municipal Revenue Sharing Account is less than the amount required for the grants; and
5. requires any overpayments made prior to June 30, 2011 for truck and MME PILOTs to be deducted from the grants. (PA 11-239 (§ 17) makes a technical change to this provision.)

Under PA 11-6, the OPM secretary must distribute any remaining account funds to municipalities as follows:

1. 50% on a per capita basis, according to the most recent federal 10-year census and
2. 50% according to an existing property tax relief formula that apportions funds based on a municipality's population, adjusted equalized net grand list per capita, and per capita income of town residents.

This act requires that the property tax relief formula be calculated using population information from the most recent federal 10-year census, 2007 equalized net grand list, and 1999 per capita income.

EFFECTIVE DATE: July 1, 2011, except that the repeal of the following provisions is applicable to assessment years starting on or after October 1, 2011: (1) commercial truck and MME PILOT, (2) property tax exemption and PILOT for older MME, (3) five-year MME depreciation schedule, and (4) state grant payment to replace the MME PILOT beginning in FY 14.

§ 4 — WATERCRAFT REGISTRATION REVENUE

PA 11-6 eliminated the separate nonlapsing boating account and instead required the Department of Motor Vehicles (DMV) commissioner to deposit the annual revenue from watercraft registration and numbering fees with the state treasurer for the General Fund. This act requires the commissioner to start making deposits on May 4, 2011 (PA 11-6's effective date) instead of October 1, 2011, although the change is not effective until July 1, 2011. It also eliminates the requirement that the DMV commissioner make annual deposits, thus allowing her to determine the revenue deposit schedule.

§ 5 — REGIONAL PERFORMANCE INCENTIVE GRANT PROGRAM

Eligible Grant Recipients

The law establishes a grant program that provides funds to municipalities for jointly performing a service they have been performing separately. PA 11-6 establishes the Regional Performance Incentive Account, a separate, nonlapsing General Fund account, to fund the grant program and directs a portion of the state hotel tax and rental car surcharge to the account.

Under prior law, municipalities accessed the grants through their respective regional planning organizations, which can be a regional planning agency, regional council of elected officials, or regional council of governments. The act expands the range of eligible entities to include (1) any two or more municipalities and (2) regional economic development districts. (The law already allows regional planning organizations and other entities to form these districts

OLR PUBLIC ACT SUMMARY

and prepare and implement strategies to develop their economies.)

Eligible Proposals and Application Deadlines

By law, eligible applicants submit proposals, by December 31 of each year, to (1) jointly perform a service they have been performing separately or (2) prepare a planning study for delivering an existing or new service on a regional basis. The act gives applicants the additional option of submitting proposals by December 1, 2011 to jointly provide a service they have been performing separately.

Application Selection Priorities

By law, the OPM secretary must review all applications and award grants to those he determines best meet the law's criteria. Under prior law, the secretary gave priority to proposals that (1) involved all of an entity's member municipalities and (2) increased their purchasing power or provided cost savings. The act requires the secretary to also give priority to proposals that economic development districts submit.

Reporting

The law requires the OPM secretary to report annually by March 1 to the Finance, Revenue and Bonding Committee about (1) each grant award, (2) its potential for leveraging public and private investments, and (3) the extent to which the grants helped reduce property taxes. The act requires the secretary to submit the FY 12 report by February 1, 2012 and subsequent reports by March 1 of each year.

§ 6 — WATER COMPANY RATES AND BILLS

The law allows the Department of Public Utility Control (DPUC) to authorize a water company to use a rate adjustment mechanism to cover the costs of eligible infrastructure projects that are completed and in service. DPUC's approval of the adjustment, which can result in a billing surcharge or credit, takes place outside of a water company's rate case. The act requires any such adjustments to be separately identified on any customer bill.

By law, utility companies must have DPUC's approval to change their existing rates. The act requires that, in the case of water companies, the "existing rates" include any adjustment approved by DPUC under the above provision.

EFFECTIVE DATE: Upon passage

§ 7 — SPECIAL TAXING DISTRICTS FOR FERRY SERVICE

The act expands the list of purposes for which a district's residents may vote to establish a special taxing district to include providing ferry service. The law already allows residents to establish districts to provide a wide range of public services and infrastructure, including collecting trash and constructing and maintaining drains and sewers.

OLR PUBLIC ACT SUMMARY

EFFECTIVE DATE: Upon passage

§ 8 — BRIDGEPORT PENSION PLAN FUNDING

The law allows municipalities to issue pension deficit funding bonds to fund unfunded past pension obligations. If a municipality issues such bonds, it must appropriate money for, and contribute to its pension plan, at least the actuarially required amount in each fiscal year that it has outstanding pension deficit funding bonds for the plan.

The act exempts Bridgeport from these requirements for any pension plan previously funded with pension deficit funding bonds the city issued under the law. Instead, it requires the city to make a minimum pension plan contribution of \$7 million for FY 12. Starting in FY 13, the city must contribute an annual amount based on:

1. a calculation by the city's actuary of the pension plan's actuarial accrued unfunded liability (the amount by which the plan's accrued liability exceeds the actuarial value of its assets) at the beginning of each fiscal year, applying (a) standard methods and assumptions used in actuarial practice and (b) a level percentage amortization of the unfunded liability with a 5% growth rate;
2. a 24-year amortization period starting in FY 13 and declining by one year in each subsequent fiscal year; and
3. annually recalculating the contribution to take into account the plan's gains and losses in determining its accrued unfunded liability for the year, and amortizing those gains and losses over the remaining period.

EFFECTIVE DATE: Upon passage

§§ 9 & 23 — NEW HAVEN LINE FARE INCREASES

The act postpones, for two years, scheduled fare increases on the New Haven line and its branches. Under prior law, fares for trips starting or ending in the state were to increase by 1.25% in calendar year 2010 and by 1% in each subsequent year, through 2016. (The 2010 and 2011 increases did not take effect.) The act instead increases, from 1% to 1.25%, the fare increase scheduled to take effect on January 1, 2012, and extends the subsequent 1% increases through 2018.

It eliminates the New Haven Line revitalization account within the STF into which the revenue from the increases was deposited. Under prior law, money in the account was used for New Haven line capital costs, debt service, and the purchase of new rail cars.

§§ 10–16, 20–22, 24–32, & 188 — TSB ELIMINATED

The act eliminates the TSB and makes minor and conforming changes but retains the STF account that funds TSB projects. It also retains TSB projects enumerated by law (e.g., building or expanding certain rail stations) and the five Transportation Investment Areas (TIAs). It retains a requirement that the governor recommend to the legislature, by the day on which he submits his

OLR PUBLIC ACT SUMMARY

proposed biennial budget, (1) any projects he believes are needed to implement the transportation strategy that the board initially proposed and (2) a plan to finance them. It eliminates a requirement that the OPM secretary, when developing recommendations to delineate the boundaries of priority funding areas, consider certain TSB principles, among other things.

§§ 17-19 — STF FUNDING

By law, certain revenue derived from motor vehicle receipts and other sources must be credited to the STF. The act specifies that, starting July 1, 2011, this includes all money the law requires to be credited to the STF from the petroleum products gross earnings sales tax. The act also requires crediting to the STF (1) motor vehicle sales tax revenue; (2) funds the law requires to be transferred to the STF from the General Fund; and (3) any other funds the law requires to be deposited, transferred, or paid into the STF, other than the proceeds of bonds, other state securities, or federal grants. It also makes minor changes.

§§ 33-36 — NONADMITTED INSURANCE POLICIES AND PREMIUM TAXES

Under prior law, the state imposed a 4% tax on gross premiums charged by nonadmitted (i.e., unauthorized) insurers on insurance policies procured independently or through licensed surplus lines brokers. In accordance with the 2010 federal Nonadmitted and Reinsurance Reform Act (NRRA), the act:

1. limits the policies subject to the tax,
2. modifies how individuals and brokers must pay the tax,
3. allows the revenue services and insurance commissioners to enter into an agreement with other states regarding the allocation of premium taxes among the states in cases where the policy covers multiple states, and
4. exempts certain commercial purchasers from certain filing requirements.

Under the NRRA, states must adopt, by July 21, 2011, uniform requirements and procedures for allocating and collecting premium taxes on nonadmitted insurance policies. The act requires that its provisions be construed so as to avoid preemption under the NRRA.

It also modifies the penalty and interest due on unpaid tax payments.

Nonadmitted Insurance Premium Tax

Applicability. Under prior law, the 4% premium tax on independently procured unauthorized insurance (i.e., policies not purchased through a broker) applied to any individual procuring, continuing, or renewing insurance with an unauthorized insurer on an insured risk that (1) resided, (2) was located, or (3) was performed in the state. The premium tax on policies procured through a licensed surplus lines broker applied to the gross premiums for all policies the broker sold, minus any premium amounts returned to policyholders.

To conform to NRRA provisions, the act limits the tax to any nonadmitted insurance policy procured directly or through a licensed surplus lines broker where Connecticut is the insured's home state. Under the NRRA, an insured's

OLR PUBLIC ACT SUMMARY

“home state” is the state where an insured maintains its principal place of business or residence. If the insured risk is located entirely outside of the state in which the insured resides or maintains its principal place of business, the “home state” is the state to which the greatest percentage of the insured’s taxable premium is allocated. In the case of an affiliated group insured on a single nonadmitted insurance contract, the “home state” is the state to which the largest percentage of premium is allocated.

By law, the tax on surplus lines broker premiums does not apply to policies issued to (1) the state, (2) any town, or (3) any special taxing district if any of these are named on the policy and responsible for paying its premiums. Also, by law, the tax on independently procured policies does not apply to (1) individual life or disability, (2) wet marine, or (3) transportation insurance. The act also makes a minor related change.

Tax Administration. Prior law required individuals who procured an insurance policy from a nonadmitted insurance company to withhold 4% of the premium for premium taxes, file an annual tax return, and remit the tax by March 1 to the Department of Revenue Services (DRS). Licensed surplus lines brokers (see BACKGROUND—*Surplus Lines Insurance*), on the other hand, had to file quarterly tax returns and remit the tax to the Insurance Department by the first day of February, May, August, and November. The act requires both individuals and brokers to file quarterly tax returns and remit the tax to DRS and the Insurance Department, respectively, by the 15th day of these months.

Late Filing Penalty and Interest. Under prior law, surplus lines brokers that failed to pay the premium tax were subject to a penalty of 10% of the tax due plus at least 1% interest for each full or partial month that the tax remained unpaid. The act makes the interest rate 1% and subjects individuals who fail to pay the tax on independently procured policies to the same penalty and interest. It eliminates the \$75 minimum penalty for independently procured policies.

Under prior law, the DRS commissioner could ask the attorney general to recover any delinquent taxes on independently procured policies. The act authorizes the attorney general to also recover any related interest and penalties. By law, the DRS commissioner may waive all or part of the penalty if he finds that the taxpayer’s failure to pay the tax has a reasonable cause and is not intentional or due to neglect.

Nonadmitted Insurance Premium Agreement

The act allows the DRS and insurance commissioners to enter into a cooperative or reciprocal agreement with other states to allocate nonadmitted insurance premium taxes among them in accordance with the NIRA’s requirements. The agreement may include the National Association of Insurance Commissioners’ Nonadmitted Insurance Multistate Agreement (NIMA) (see BACKGROUND—*Nonadmitted Insurance Multistate Agreement*). Under the act, if the agreement’s provisions differ from those in the act, the agreement prevails.

Premium Allocation. The agreement may provide a formula for allocating nonadmitted insurance premiums for policies that cover insured risks that are only partially in the state. For such policies, premiums allocated to Connecticut are

OLR PUBLIC ACT SUMMARY

subject to the state's 4% tax; premiums allocated to other states that are a party to the agreement are subject to each state's respective tax rate. To the extent that a policy covers an insured risk in a state that is not a party to the agreement, the portion of gross premiums otherwise allocable to that state must be allocated to Connecticut.

Administrative Requirements. The agreement may include requirements or procedures for (1) recordkeeping, (2) audits, (3) information-sharing, (4) collecting delinquent taxes, (5) disbursing funds to other states in the agreement, and (6) any additional provisions that will facilitate its administration.

Cooperative Agreements with Processing Entities. The commissioners may enter into cooperative agreements with processing entities in Connecticut or any other state to collect and process nonadmitted insurance tax premiums and data.

Disclosing Confidential Information. Although the DRS and insurance commissioners are generally prohibited from disclosing tax return information, the act allows them to disclose such information on insured individuals under the agreement's terms. "Return information" includes a taxpayer's identity and the nature, source, or amount of the taxpayer's income, tax liability, and tax payments. The act also allows the insurance commissioner to disclose information on surplus lines brokers that is otherwise confidential under state law, under the agreement's terms.

Both commissioners may disclose the information to officials in (1) other states that are a party to the agreement and (2) entities that collect and process nonadmitted insurance premiums and related data, if their official duties require such information.

Exemption from Diligent Search Requirements for Certain Commercial Purchasers

The law requires the insurance commissioner to maintain, publish, and make available to surplus lines brokers a list of lines of insurance he believes are not available from admitted Connecticut insurers (i.e., surplus lines insurance). By law, licensed surplus lines brokers and their clients that procure a type of insurance that is not on this list must file with the commissioner an affidavit that shows that they made diligent efforts to procure the full amount of the coverage from an admitted insurer.

The act exempts from this requirement any insurance policy a licensed surplus lines broker procures for an "exempt commercial purchaser," as defined in the NRRA (see BACKGROUND—*Exempt Commercial Purchaser*). In doing so, it aligns state law to the NRRA's requirements that certain commercial purchasers be exempt from state diligent search requirements.

Under the act and the NRRA, an exempt commercial purchaser is exempt from state diligent search requirements if (1) the broker procuring the insurance discloses to the purchaser that such insurance may or may not be available from an authorized insurer that may provide greater protection with more regulatory oversight and (2) the purchaser subsequently requests, in writing, that the broker procure the policy from a nonadmitted insurer.

EFFECTIVE DATE: Upon passage and applicable to nonadmitted insurance

OLR PUBLIC ACT SUMMARY

coverage procured, continued, or renewed on or after July 1, 2011.

§ 37 — FILM TAX CREDIT TRANSFERS

PA 11-6 limits the transfer of film production tax credits allowed in any one income year to 50% in 2011 and 25% in 2012 and thereafter. It exempts from these transfer restrictions: (1) entities subject to the corporation or insurance premium tax and (2) credits issued for any production that the Department of Economic and Community Development (DECD) commissioner determines is created in whole or significant part in a “qualified production facility.”

This act adds an exemption for entities that are not subject to the insurance premium or corporation tax but that, directly or indirectly, own at least 50% of another entity subject to the business entity tax.

§ 38 — TOBACCO PRODUCTS TAX ON CIGARS

PA 11-6 increases the tax on (1) snuff tobacco from 55 cents to \$1 per ounce and (2) all other tobacco products from 27.5% to 50% of the wholesale price. This act caps the tax on cigars at 50 cents each.

The tobacco products tax applies to cigars, cheroots, pipe tobacco, and similar products, but not cigarettes.

EFFECTIVE DATE: July 1, 2011 and applicable to sales on or after that date.

§ 39 — ESTATE TAX LIEN RELEASE CERTIFICATES

By law, a person who does not owe, or who has paid, the estate tax receives a certificate releasing the lien on his or her interest in real property in the estate. Probate courts issue lien release certificates for estates that owe no tax because they fall below the estate tax threshold.

PA 11-6 lowered the estate tax threshold from \$3.5 million to \$2 million for estates of those who die on or after January 1, 2011. This act validates probate court lien release certificates issued and recorded in town records where the property is located before May 4, 2011 (PA 11-6’s effective date) for estates of those who die on or after January 1, 2011, and whose Connecticut taxable estates were valued at between \$2 million and \$3.5 million.

EFFECTIVE DATE: Upon passage and applicable to estates of those who die on or after January 1, 2011.

§§ 40-43 & 183-184 — SALES TAX CHANGES

The act makes numerous changes to the sales tax provisions in PA 11-6. It specifies that the sales and use tax increases in PA 11-6 apply to the sale of services that are billed to customers for any period that includes July 1, 2011. It also makes technical corrections to the flat sales and use tax on items sold for \$1.18 or less to conform to the sales and use tax rate increases in PA 11-6.

PA 11-6 imposes the sales tax on intrastate transportation services via limousines, community cars, and vans with a driver, excluding taxis, buses, ambulances, scheduled public transportation, and funerals. This act also excludes

OLR PUBLIC ACT SUMMARY

(1) Medicaid nonemergency medical transportation, (2) paratransit services provided under an agreement with the state or any political subdivision, and (3) dial-a-ride services.

The act restores sales tax exemptions eliminated in PA 11-6 for (1) services provided by a person selling clothing and footwear on consignment and (2) property or services used in operating solid waste-to-energy facilities.

EFFECTIVE DATE: July 1, 2011 and applicable to sales on or after that date, except for the provisions (1) on bills issued to customers on or after July 1, 2011 and (2) restoring the sales tax exemption for solid waste-to-energy facilities, which are effective upon passage.

§ 45 — ELECTRIC GENERATION TAX EXEMPTION

The act exempts electricity generated by a resources recovery facility from a temporary electricity tax imposed by PA 11-6. The exemption applies to any facility using processes that reclaim material or energy values from solid waste.

The tax is one-quarter of a cent per net kilowatt hour of electricity generated and uploaded into the regional bulk power grid at Connecticut facilities. It expires on June 30, 2013. PA 11-6 already exempts electricity generated through a fuel cell or an alternative energy system, such as a solar or wind system. (PA 11-233 adds an exemption for customer-side distributed resources.)

§§ 46, 47, & 185 — SALES AND USE TAX COLLECTION BY REMOTE SELLERS

State law requires “retailers” to collect Connecticut sales tax if they are “engaged in the business” of making retail sales in the state. If a retailer is engaged in business in Connecticut, it is said to have “nexus” here.

PA 11-6 required certain remote (out-of-state) sellers who have no physical presence in Connecticut to impose and collect sales tax on their taxable sales in the state by presuming a seller is a retailer with Connecticut sales tax nexus if it annually sells more than \$2,000 worth of taxable items or services in Connecticut through certain agreements with Connecticut residents. The agreements must provide that, in return for the resident directly or indirectly referring potential customers to the retailer through an Internet link or otherwise, he or she will receive a commission or other compensation from that retailer. PA 11-6 allowed a remote seller to rebut the presumption that it must collect Connecticut sales tax by proving that the person with whom it has an agreement did not solicit business in the state in a manner that would satisfy the federal constitutional nexus requirement.

This act:

1. eliminates the rebuttable presumption;
2. requires the person making referrals to the remote seller under an agreement to be located in, rather than a resident of, Connecticut;
3. requires the commission the person receives to be based on the sale of the taxable item or service;
4. expressly defines someone who sells taxable items or services under the

OLR PUBLIC ACT SUMMARY

above conditions to be “engaged in business in this state” and thereby required to impose Connecticut sales tax on the sales; and

5. applies the requirements to sales occurring on or after May 4, 2011 (PA 11-6’s effective date) instead of on or after July 1, 2011.

By law, for purposes of sales and use tax, “person” includes individuals, businesses, associations, government entities, and any group or combination acting as a unit.

EFFECTIVE DATE: Upon passage and applicable to sales occurring on or after May 4, 2011.

§ 48 — INSURANCE PREMIUM TAX CREDIT LIMIT

For the 2011 and 2012 calendar years, PA 11-6 lowered, from 70% to 30%, the maximum amount by which an insurer can reduce its annual insurance premium tax liability through tax credits. PA 11-6 also exempted insurance reinvestment fund credits from the 30% limit, thus allowing an insurer to continue to apply those credits to reduce its annual tax liability by up to 70% in those years.

This act instead classifies insurance premium tax credits into three types and establishes three levels of maximum tax liability that an insurer can offset in calendar years 2011 and 2012 by claiming one or 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 act also specifies the order in which an insurer must apply the three credit types to offset liability (see Table 1).

Table 1: Application of Insurance Premium Tax Credits

<i>Credit Types Claimed</i>	<i>Order of Applying Credits</i>	<i>Maximum Reduction In Tax Liability</i>
Type 3	None	30%
Types 1 & 3	1. Type 3 2. Type 1	Type 3 = 30% Sum of two types = 55%
Types 2 & 3	1. Type 3 2. Type 2	Type 3 = 30% Sum of two types = 70%
Types 1, 2, & 3	1. Type 3 2. Type 1 3. Type 2	Type 3 = 30% Type 1 + Type 3 = 55% Sum of all types = 70%
Types 1 & 2	1. Type 1 2. Type 2	Type 1 = 55% Sum of two types = 70%

EFFECTIVE DATE: Upon passage and applicable to calendar years starting on or after January 1, 2011.

§§ 49, 50, & 187 — ECONOMIC RECOVERY REVENUE BOND ISSUANCE CANCELLED

In 2010, the General Assembly authorized the issuance of economic recovery

OLR PUBLIC ACT SUMMARY

revenue bonds (ERRBs) to provide up to \$956 million in revenue for transfer to the General Fund and to pay the bond financing costs. The bonds were payable from revenue generated by (1) extending a per-kilowatt-hour surcharge (the competitive transition assessment or CTA) on electric company bills beyond the dates when it would otherwise have expired and (2) diverting 35% of the revenue from a conservation charge that would otherwise go to the Energy Conservation and Load Management Fund (ECLM).

This act:

1. repeals the state treasurer's ("financing entity's") authority to issue ERRBs,
2. bars the use of any CTA charge to secure and pay off the ERRBs, and
3. eliminates the ECLM revenue diversion.

Prior law required all excess revenue from extended CTA charges beyond that needed to repay rate reduction bonds issued before January 1, 2002 to be used to pay off the ERRBs or, if ERRBs were not issued, deposited in the General Fund. The act instead requires the excess to be used to benefit customers as long as it does not lead to a recharacterization of the tax, accounting, or other characteristics of the financing of the pre-2002 rate reduction bonds.

EFFECTIVE DATE: Upon passage

§ 51 — DEPARTMENT OF TRANSPORTATION (DOT) FARE CHANGES

The act allows DOT to change the fares it charges for mass transportation, which, by law, includes rail and bus services, without going through the Uniform Administrative Procedure Act's (UAPA) regulatory process. (A 1981 Connecticut Supreme Court case (*Hartford v. Powers*, 183 Conn. 76) held that the DOT is subject to the provisions of the UAPA with respect to setting bus fares.) Instead, the act requires DOT to follow a specific procedure before changing a fare. In practice, fares are set in statute or through the budget process.

Under the act, DOT must provide notice of a proposed fare change, the amount of the change, and its effective date, by advertising in at least one newspaper that circulates in the area of the state that the change may affect. This notice must run at least once, provide the time and place of a public hearing on the proposed change, and appear at least 15 days before the hearing. The hearing must be held at a time and place convenient to the public.

The act requires DOT to send a copy of the notice to the chairpersons and ranking members of the Transportation and Finance, Revenue and Bonding committees. But it does not specify when DOT must do so.

§ 53 — TAX INCENTIVES FOR AEROSPACE AND DEFENSE PLANTS

The law targets some business tax incentives to state-designated economically distressed municipalities. But it also provides procedures for extending them to other municipalities. Until 2010, it provided a procedure for extending the incentives only to municipalities affected by defense cuts. The incentives are for improving property, acquiring machinery and equipment, and creating jobs. They are also for occupying vacant facilities that were vacant on July 1, 1998 and

OLR PUBLIC ACT SUMMARY

previously used to manufacture defense goods.

PA 10-162 provided a similar procedure for extending the tax incentives to municipalities hit by major aerospace and defense plant closings affecting at least 800 employees. In doing so, it also extended the incentives to businesses occupying a facility that was vacant on July 1, 1998 and previously used as an aerospace or defense plant. This act extends the incentives to businesses occupying such facilities that are vacant on or after June 21, 2011.

EFFECTIVE DATE: Upon passage

§ 54 — RECIPROCAL TAX REFUND AGREEMENTS WITH OTHER STATES

The act eliminates certain notice and certification requirements when the DRS commissioner withholds a taxpayer's Connecticut tax refund at the request of another state where the taxpayer owes taxes.

Existing law allows the commissioner to withhold all or part of a taxpayer's Connecticut tax refund if (1) another state to which the taxpayer owes taxes requests it and (2) the other state authorizes its tax officials to withhold tax refunds from a taxpayer who owes taxes to Connecticut. Under prior law, as part of such a request, the other state's tax officer had to certify:

1. the taxpayer's full name, address, and Social Security or federal employer identification number;
2. the amount to be collected, including a detailed statement showing the tax, interest, and penalty for each taxable period; and
3. that applicable administrative and judicial remedies have been exhausted or have expired and the tax amount is legally enforceable.

The act eliminates the requirement that the officer's certification include a detailed statement showing the tax, interest, and penalty for each taxable period.

Prior law also required the DRS commissioner to notify the taxpayer whenever he received such a certification. The act requires him to do so only if the taxpayer is otherwise entitled to a Connecticut tax refund. It eliminates a requirement that the commissioner include a copy of the other state's certification with the notice.

EFFECTIVE DATE: Upon passage

§ 55 — ECONOMIC NEXUS FOR CORPORATION TAX

The act (1) requires a company to meet both, rather than one, of the existing criteria to have economic nexus in Connecticut and thus be liable for corporation tax and (2) exempts certain foreign corporations from economic nexus in conformity with DRS' policy.

Under prior law, and to the extent allowed by the U.S. Constitution, a company was subject to the Connecticut corporation tax if, regardless of physical presence, it either (1) had a "substantial economic presence" here or (2) derived income from sources in the state. The act requires that, to be subject to the Connecticut tax, a company must meet both rather than only one of these conditions. By law, a company has "substantial economic presence" in

OLR PUBLIC ACT SUMMARY

Connecticut if it purposefully directs business towards the state, which must be determined by the frequency, quantity, and systematic nature of its economic contact with the state.

The act also makes the law conform to DRS policy by exempting from the tax any company that (1) is treated as a foreign corporation under the federal tax code and (2) has no income “effectively connected” with a U.S. trade or business, as determined under the code. But if, and to the extent that, a company treated as a foreign corporation has income effectively connected with a U.S. trade or business, that income must be considered to be its gross income for Connecticut corporation tax purposes, regardless of other corporation tax statutes. In addition, when such a company calculates its net income apportionment fractions to determine its Connecticut corporation tax liability, the act requires it to do so using only its U.S.-connected property, payroll, and receipts.

EFFECTIVE DATE: Upon passage and applicable to income years starting on or after January 1, 2011.

§ 56 — ESTIMATED CORPORATION TAX OVERPAYMENTS

The act gives a company that overpays its estimated corporation tax for the year the option to apply the overpayment to its estimated tax payments in the following year.

By law, a corporation must make estimated corporation tax payments in four installments during its income year as follows: 30% of its estimated annual liability in the third month, 40% in the sixth, 10% in the ninth, and 20% in the 12th. If a company overpays one installment, the law requires the excess to be credited against the next installment. But, if the amount paid for the year exceeds the amount due for that year, under prior law, the company had to receive a refund.

The act gives a company that has overpaid its estimated corporation tax in one income year the option to apply the excess to its estimated taxes in the following year instead of receiving a refund. (DRS policy already allows companies to do this.) It requires the excess to be applied to the first installment due in the next income year and to any subsequent installments in the order they are due. The act also eliminates the DRS commissioner’s authority to adopt regulations concerning how excess estimated corporation tax payments are credited from one year to the next.

EFFECTIVE DATE: October 1, 2011 and applicable to estimated corporation tax payments for income years starting on or after January 1, 2012.

§ 57 — ELECTRONIC FUNDS TRANSFER REQUIREMENTS FOR WITHHOLDING TAX PAYMENTS FROM NONPAYROLL AMOUNTS

The act allows the DRS commissioner to require payers that withhold Connecticut income tax from nonpayroll amounts to pay the withholding tax to DRS electronically on the same basis as employers.

By law, the DRS commissioner can require employers with more than \$2,000 in annual income tax withholding liability from wages to pay the taxes

OLR PUBLIC ACT SUMMARY

electronically. The act also allows the commissioner to require electronic payments from any payer that had more than \$2,000 in income tax withholding liability from nonpayroll amounts. The commissioner must determine a payer's annual withholding tax liability based on the amount the payer withheld from nonpayroll amounts in the calendar year two years before the one in which the commissioner makes the determination (the "look-back" year) or, if the payer filed no withholding tax return for that period, on information available to him.

As under existing law, the commissioner must notify the payer of the electronic payment requirement.

By law, nonpayroll amounts include:

1. gambling winnings paid to Connecticut residents that are subject to federal income tax withholding (i.e., payments over \$5,000);
2. Connecticut lottery winnings that must be reported to the Internal Revenue Service (IRS), regardless of whether they are subject to federal withholding (i.e., payments of \$600 or more and 300 times the wager);
3. pension and annuity distributions and military retirement paid to Connecticut residents requesting state income tax withholding;
4. unemployment compensation paid to those requesting state income tax withholding; and
5. nonwage payments to athletes or entertainers for which the DRS commissioner requires withholding (generally, fees over \$1,000 unless DRS grants a waiver).

EFFECTIVE DATE: July 1, 2011 and applicable to tax periods ending on or after that date.

§ 58 — SUCCESSOR LIABILITY FOR WITHHOLDING TAXES

The act requires a successor who buys a business or its entire stock from an employer to withhold enough funds from the purchase price to cover any withholding tax due until the employer produces either a DRS receipt for the tax payment or a DRS certificate that no taxes are due.

Under the act, when an employer who is required to pay withholding taxes sells or quits its business or sells out its entire stock, the employer's successors or assigns must hold back enough money from the purchase price to cover any unpaid withholding taxes, penalties, or interest due when the employer sells or quits. The buyer must hold back the money until the employer provides either a DRS receipt showing that the employer has paid all taxes, penalties, and interest or a DRS certificate stating that no taxes are due. If the buyer fails to hold back the money, the act makes the buyer personally liable for the amount that should have been withheld, up to the monetary value of the purchase price of the business or stock.

The act requires the DRS commissioner to issue the certificate or mail the buyer a tax deficiency assessment notice according to the regular procedure for such notices within 60 days after the latest of the following: (1) the date the commissioner receives the buyer's written request for a certificate that no taxes are due, (2) the date the employer sold or quit the business, or (3) the date the employer's records become available for DRS audit. If the commissioner fails to

OLR PUBLIC ACT SUMMARY

mail the deficiency assessment notice in time, the buyer need not hold back money from the purchase price.

Under the act, the statutory three-year time limit for enforcing the successor's liability starts when the (1) employer sells or quits the business or (2) assessment against the employer becomes final, whichever is later.

EFFECTIVE DATE: July 1, 2011 and applicable to sales of businesses and stock occurring on or after that date.

§ 59 — WITHHOLDING TAX DEFICIENCY ASSESSMENT DEADLINE

The act extends, from three to six years, the deadline for DRS to send a tax deficiency assessment notice to any employer or pass-through entity that omits from its withholding tax return more than 25% of includable amounts withheld from employee wages or payments to nonresident members, respectively.

By law, DRS has six years, rather than the usual three, to send an income tax deficiency assessment notice to a taxpayer who omits more than 25% of his includable Connecticut adjusted gross income (AGI) from his income tax return without adequately disclosing the amount and nature of the omission in either the return itself or an attached statement.

The act extends the same six-year time limit for DRS to send a tax deficiency assessment notice to (1) an employer that omits more than 25% of Connecticut wages from its withholding tax return or (2) a pass-through entity that omits more than 25% of includable Connecticut-sourced AGI from the withholding taxes required for its nonresident members. As under existing law, in either case, the extended statute of limitations applies only when the employer or entity does not adequately disclose the amount and nature of the omission in the return or an attached statement.

By law, a "pass-through entity" is an S corporation; a general, limited, or limited liability partnership; or a limited liability company treated for tax purposes as a partnership. A "member" is a shareholder in an S corporation; a partner in a general, limited, or limited liability partnership; or a member in a limited liability company.

EFFECTIVE DATE: Upon passage and applicable to tax years starting on or after January 1, 2011.

§§ 60 & 61 — SALE OF USED MOTOR VEHICLE CONTAINING TAX-EXEMPT SPECIAL EQUIPMENT

The act exempts from sales and use tax any part of the sale price of a vehicle that has special equipment for the exclusive use of a person with physical disabilities already installed, if the vehicle is sold to such a person.

By law, the sale of special equipment to be installed in a motor vehicle for the exclusive use of a person with physical disabilities is exempt from sales and use tax. The act also exempts the part of the sale price attributable to such special equipment when a vehicle with the equipment already installed is sold, either privately or by a dealer, for exclusive use by a person with physical disabilities. It requires the dealer to collect sales tax, or the private buyer to pay use tax, on the

OLR PUBLIC ACT SUMMARY

price of the vehicle alone.

EFFECTIVE DATE: Upon passage and applicable to all open tax periods.

§ 62 — SALE OF CIGARETTES OR TAXED TOBACCO PRODUCTS WITH AN EXPIRED LICENSE

The act reduces penalties for certain cigarette dealers who continue to sell cigarettes or taxed tobacco products after their licenses expire.

It is illegal to sell, offer to sell, or possess with intent to sell cigarettes or taxed tobacco products without a license from DRS. Under prior law, the penalty for each knowing violation was a fine of up to \$500, up to three months in jail, or both, with each day of unauthorized operation counted as a separate offense. In the case of a cigarette dealer who operates for no more than 90 days after his or her license expires, the act reduces the penalty to an infraction, with a \$90 fine.

Taxed tobacco products include snuff, cigars, cheroots, pipe tobacco, and similar products.

§ 63 — SALE OR POSSESSION OF UNSTAMPED CIGARETTES

The act reduces penalties for certain cigarette dealers who possess cigarettes that do not have required Connecticut tax stamps.

It is illegal to sell, offer to sell, display for sale, or possess cigarettes without the required Connecticut tax stamp, except that a licensed cigarette dealer may possess unstamped cigarettes, other than those that may not legally be stamped, at a licensed location for no more than 24 hours. Under prior law, the penalty for any knowing violation was a fine of up to \$1,000, up to one year in jail, or both. Under the act, if it is the dealer's first violation and he or she possesses no more than 600 unstamped cigarettes, the penalty is reduced to an infraction, with a \$90 fine.

§ 64 — ILLEGAL USE OF DYED DIESEL FUEL

Federal law exempts diesel fuel used for certain non-highway purposes from federal fuel taxes and requires exempt diesel fuel to be dyed red so it can be identified.

This act imposes a fine of up to \$1,000 on anyone who uses dyed diesel fuel in a motor vehicle, other than a passenger or combined passenger-commercial vehicle, on a public highway. The penalty does not apply to those who use dyed diesel fuel under federal law or regulation. The act imposes the same penalty on anyone who refuses to allow an authorized DRS or other state official to inspect such a vehicle's fuel tank upon request.

The act requires violators who live in Connecticut to pay the fine by mail, or plead not guilty through the Centralized Infractions Bureau. If the violator is a nonresident, he or she must either post a bond equal to the fine or, if the violator lives in a state that has reciprocity with Connecticut for suspending an operator's license for nonpayment of a fine, pay or plead not guilty through the Centralized Infractions Bureau.

OLR PUBLIC ACT SUMMARY

The act also imposes the same bond or reciprocity requirements on nonresidents charged with infractions for operating motor carriers on Connecticut highways without proper identification markers.

§ 65 — PENALTY FOR FAILING TO PAY TAXES ELECTRONICALLY

By law, the DRS commissioner may require taxpayers and employers to pay taxes by electronic funds transfer if they have (1) \$4,000 or more in annual tax liability or (2) more than \$2,000 in annual withholding tax payments. This act establishes maximum penalties on taxpayers who, for the first or second time, fail to make tax payments electronically when required to do so.

Under prior law, the penalty for failing to pay electronically when required to do so was a flat 10% of the required electronic payment, regardless of the amount of that payment. Starting with the first imposition of a penalty for a tax period starting on or after January 1, 2012, the act establishes penalties of 10% or \$2,500, whichever is less, for the first such failure and 10% or \$10,000, whichever is less, for the second. It maintains the existing 10% penalty with no maximum for a third or subsequent failure.

The act also makes technical changes.
EFFECTIVE DATE: Upon passage and applicable to tax periods starting on or after January 1, 2012.

§ 66 — TAX SECURITY REQUIREMENTS FOR NONRESIDENT CONTRACTORS

To secure payment of Connecticut taxes in connection with a nonresident contractor's in-state activities, prior law required a person doing business with a nonresident contractor to either hold back and deposit with DRS 5% of the contract price or obtain proof from the contractor that it had posted a bond for the equivalent amount with DRS.

This act revamps these tax security requirements to, among other things:

1. require DRS, upon request, to verify whether nonresident contractors and subcontractors are registered with DRS for tax purposes, have filed all required tax returns, and, if required, have posted a bond with DRS;
2. impose the bond requirement only on nonresident general or prime contractors, and the hold-back requirement only on nonresident subcontractors, who are not so verified by DRS;
3. require general contractors to hold back funds from their unverified subcontractors; and
4. require customers contracting with unverified general or prime contractors to obtain proof that the contractor has posted the required bond and eliminate the customer hold-back option.

Prior law made anyone who does business with a nonresident contractor without complying with the security requirements personally liable for the contractor's taxes stemming from the project. The act applies this liability to anyone who does business with an unverified prime or general contractor without obtaining proof that the contractor has posted the required bond. It also caps the

OLR PUBLIC ACT SUMMARY

customer's liability at 5% of the contract price. The act specifies that the personal liability applies to sales, use, or withholding taxes the contractor owes that arise from its activities under the contract. Under prior law, a customer also had to pay any use taxes due on purchases of services from the unverified contractor in connection with the project but under the act, the customer must do so only if he or she fails to obtain proof that the contractor has posted the required bond.

The act exempts contracts whose total contract price is less than \$250,000. In addition, as under prior law, the tax security requirements do not apply to a homeowner's or tenant's contract involving his or her own residence with three or fewer units.

As under prior law, the "contract price" covers all contract charges, including deposits, retainage, change orders, or charges for add-ons.

Nonresident Contractors

Under the act, as under prior law, a nonresident contractor or subcontractor is one who does not continuously maintain or occupy any Connecticut office, factory, warehouse, or other space where it regularly and systematically does business in its own name through employees who are (1) in regular attendance and (2) carrying on the contractor's business in the contractor's own name. The act classifies nonresident contractors as either verified or unverified and applies the tax security requirements only to the latter.

Verified Contractors and Subcontractors

The act requires the DRS commissioner, upon request, to verify whether a nonresident contractor or subcontractor:

1. has (a) been registered with DRS for all applicable taxes (sales and use and income tax withholding) for at least three years before it concludes a contract covered by the act's security requirements, (b) filed all required tax returns, and (c) no outstanding tax liabilities with DRS or
2. (a) is registered with DRS for all applicable taxes, (b) has filed all required tax returns and has no outstanding liabilities with DRS, and (c) has posted a valid bond with DRS in an amount the commissioner determines up to a maximum of six times the contractor's average tax liability. The bond must be with a surety company authorized to do business in Connecticut.

The act requires DRS to treat contractors and subcontractors who meet either of these two sets of conditions as "verified contractors." Verified contractors are not subject to the act's tax security requirements (see below).

Unverified Contractors and Subcontractors

Tax Security Requirements. Prior law allowed two alternative methods of ensuring tax security when someone hires a nonresident contractor for a project in Connecticut. The first was for the customer to hold back 5% of the contract price and deposit it with DRS. The second was for the nonresident contractor to post a bond equal to that amount with DRS.

The act divides nonresident contractors into two categories:

1. "prime or general" contractors, who either (a) make contracts with those

OLR PUBLIC ACT SUMMARY

who own or control real property to perform services, furnish material, or both on construction projects involving the property or (b) own or lease real estate to develop for others to occupy and, in the course of development, contract, change, or improve it and

2. subcontractors, who contract with either prime or general contractors or other subcontractors to perform part of the contract work.

The act eliminates the customer hold-back option; imposes the bond requirement only on unverified contractors who qualify as general or prime contractors; and requires all general or prime contractors, including resident contractors, to hold back 5% of the payment to unverified subcontractors to provide security for tax payment.

Bond Requirement for Unverified General Contractors. The act requires every unverified prime or general contractor that makes a contract priced at more than \$250,000 for a project in Connecticut to post a bond with DRS equal to 5% of the contract price. The bond is to secure payment of required taxes by both the general or prime contractor and its subcontractors.

Hold-Back Requirements for Unverified Subcontractors. The act requires any resident or nonresident general or prime contractor that does business with an unverified subcontractor to hold back 5% of its payments to the subcontractor until the subcontractor furnishes a certificate of compliance from DRS authorizing the general contractor to release all or part of the hold-back (see below). The contractor must keep the hold-backs in a special fund in trust for the state. The act eliminates the requirement that hold-backs be periodically transferred to DRS and that DRS hold the money in a special trust fund.

General or prime contractors must give unverified subcontractors written notice of the hold-back requirements by the time the subcontractor begins work under the contract. As under prior law, no subcontractor may sue a general or prime contractor for holding back payments to comply with the act.

Releasing Bonds and Hold-Backs

Under prior law, a contractor who posted a bond or whose payments were withheld had to file a written request, within three years after the final payment to DRS, that the DRS commissioner audit its records for the project to determine if it owed taxes. If a contractor failed to file its request on time, it waived the right both to an audit and any refund of excess amounts withheld or excess bond amounts. DRS had to refund excess amounts from the bond or hold-back within 90 days after completing its audit and issuing a certificate of no tax due.

The act instead establishes separate procedures for releasing bond obligations and hold-backs.

Bond Obligations. The act requires the DRS commissioner to release an unverified general or prime contractor from its bond obligation once the contractor satisfies the commissioner, by submitting necessary documentation that includes any DRS-prescribed forms, that:

1. the contractor and its unverified subcontractors have paid all the taxes they owe in connection with the contract or
2. the contractor has (a) paid all taxes it owes in connection with the contract,

OLR PUBLIC ACT SUMMARY

(b) held back the required 5% of its payments to any unverified subcontractors, and (c) released the hold-backs to a subcontractor in accordance with a DRS certificate of compliance authorizing it to release all or part of those amounts.

Hold-Backs — Certificate of Compliance. Once an unverified subcontractor's work on the contract is completed, the act requires the subcontractor to file a written request that the DRS commissioner issue a certificate of compliance authorizing the general contractor to release all or part of its hold-backs. After receiving the request and any documentation and forms he considers necessary, the commissioner must review it in the context of generally accepted construction industry cost guidelines for the project's scope and type. The commissioner has 120 days after receiving the required documentation to issue a certificate allowing release of all or part of the hold-backs. If no certificate is issued within that time, the commissioner is deemed to have issued one.

If the certificate authorizes the general contractor to release the full amount of the hold-back, the contractor must do so; if the certificate authorizes release of part of the hold-back, the general contractor must pay the required amount to the subcontractor and the balance to DRS. In the latter case, the contractor is not liable to the (1) subcontractor for failing to pay the full amount or (2) commissioner for failing to pay the subcontractor's taxes arising from the project.

The act imposes a 10% penalty on any general contractor who fails to pay DRS the balance of a partially released hold-back within 30 days after DRS mails the certificate of compliance. It allows DRS to use existing tax collection procedures to collect the required payment and the penalty. Under the act, DRS must treat issuance of a certificate authorizing a partial release of hold-backs as a notice of assessment under the sales and use tax law. That law requires the commissioner to give written notice of the assessment, either by personal service or by mail, at the address appearing in DRS records.

The certificate of compliance does not prevent the commissioner from exercising his authority to examine an unverified subcontractor's tax returns, books, and records and, if appropriate, make an assessment against the subcontractor for tax deficiencies stemming from activities other than the project to which the certificate of compliance applies.

DRS Disclosures

In addition to allowing DRS to verify nonresident contractors and subcontractors, the act requires it, upon request, to:

1. disclose, to a person doing business with an unverified subcontractor and who is consequently required to hold-back part of the subcontractor's payments, whether the subcontractor has requested or been issued a certificate of compliance;
2. disclose, to a person doing business with an unverified prime or general contractor, whether that contractor has posted the required bond; and
3. verify whether a contractor or subcontractor is a resident contractor.

The act also allows the DRS commissioner to give a requestor a copy of a subcontractor's certificate of compliance.

OLR PUBLIC ACT SUMMARY

EFFECTIVE DATE: October 1, 2011

§§ 67-69, 166-179, & 181 — ADJUSTMENTS IN FY 12 AND FY 13 APPROPRIATIONS

The act adjusts funds appropriated in PA 11-6 for state agency operations and programs in FY 12 and FY 13. The changes affect the General Fund, STF, and Consumer Counsel and Public Utility Control Fund. The act’s total adjusted net appropriations for these funds for each fiscal year are shown in Table 2.

Table 2: Revised FY 12 & FY 13 Appropriations By Fund

§	Fund	Net Appropriation		Change from PA 11-6	
		FY 12	FY 13	FY 12	FY 13
67	General Fund	\$18,707,734,750	\$18,952,488,239	\$357,467,233	\$170,677,161
68	Special Transportation Fund	1,261,932,205	1,277,832,928	(41,960,022)	(56,372,777)
69	Consumer Counsel and Public Utility Control Fund	26,428,820	25,986,745	299,573	291,932

The act repeals the provisions of PA 11-6 concerning FY 12 and FY 13 appropriations from the three funds and makes other conforming changes in that act. (PA 11-1, JSS, adjusted General Fund and STF appropriations again but those adjustments were cancelled in favor of this act’s provisions upon approval of a concession agreement with state employees on August 22, 2011.)

The act also repeals a provision of PA 11-6 that required the Department of Children and Families (DCF) and the Judicial Department, by July 1, 2011, to conclude a memorandum of understanding to implement the appropriate transfer of funds and services between the two agencies to provide services for children on parole in FYs 12 and 13.

EFFECTIVE DATE: Upon passage for the repeal of PA 11-6’s provisions and July 1, 2011 for the replacement appropriation provisions.

§§ 70-73 — FY 11 DEFICIENCY APPROPRIATIONS

§§ 70 & 71 — *General Fund*

The act appropriates \$355.195 million additional funds for FY 11 from the General Fund for various state agencies and purposes as shown in Table 3. It also reduces the FY 11 appropriation to the Reserve for Salary Adjustments by \$26 million.

Table 3: Additional FY 11 General Fund Appropriations, by Agency

Agency	Total
State Comptroller	\$625,000
Public Works	6,770,000
Agriculture	180,000
Public Safety	9,000,000

OLR PUBLIC ACT SUMMARY

Mental Health and Addiction Services	57,250,000
Social Services	277,000,000
Teachers' Retirement Board	70,000
Public Defender Services Commission	1,600,000
Child Protection Commission	2,400,000
Workers' Compensation Claims – Dept. of Administrative Services	300,000
TOTAL	\$355,195,000

EFFECTIVE DATE: Upon passage

§§ 72 & 73 — STF

The act reduces the FY 11 STF debt service appropriation by \$4 million and appropriates, also for FY 11, an additional \$4 million to DOT for personal services.

EFFECTIVE DATE: Upon passage

§§ 74 & 75 — GOVERNOR’S PROPOSED BUDGET, PROGRAM BUDGET INFORMATION

The act restores a requirement, eliminated by PA 11-48, that the governor include certain content in the proposed biennial budget he must submit to the General Assembly in odd-numbered years. Under the act, as under the law prior to passage of PA 11-48, the governor’s proposed budget must continue to include:

1. a list, for each budgeted agency and its subdivisions, of all the agency’s programs;
2. for each program, its (a) statutory authorization; (b) objectives; (c) description, including need, eligibility requirements, and any intergovernmental participation; (d) performance measures, including a workload analysis, service quality or level, and effectiveness; (e) budget data broken down by major expenditure object and showing any additional federal and private funds; and (f) detailed information about current and recommended permanent filled and vacant positions by fund; and
3. an explanation of any significant program changes the agency requested or the governor recommends.

The act restores the requirement that the governor submit the following information by program instead of including it only in summary form in the required financial statements:

1. expenditures for the prior and current fiscal years;
2. each budgeted agency’s budget request and the governor’s recommended budget for each fiscal year of the biennium; and
3. for each new or expanded program, estimated expenditures required for the fiscal year following the biennium.

It also restores a requirement that the governor’s drafts of proposed appropriations bills include appropriations for each major program in each budgeted agency.

Finally, the act requires the OPM secretary, when preparing the governor’s budget recommendations for submission to the legislature, to include the

OLR PUBLIC ACT SUMMARY

expenditure estimates for the Public Defenders Services Division submitted by the chief public defender. Under prior law, the division's estimated expenditures were included in estimates for the Judicial Department submitted by the chief court administrator.

By law, OPM cannot adjust the estimates for the Judicial Department or the legislative branch. The act extends the same restriction to the estimates for the Public Defenders Services Division.

§§ 76 & 77 — STATE EMPLOYEE DIRECT DEPOSIT

The act makes the provision in PA 11-48 requiring state employees to be paid via direct deposit effective upon passage, instead of on July 1, 2011. It also allows the comptroller to meet that requirement as soon as practicable, instead of on June 13, 2011.

EFFECTIVE DATE: Upon passage

§ 78 — GUBERNATORIAL APPOINTMENTS

By law, the governor appoints the chairperson and executive director, if any, of executive branch boards or commissions, with certain exceptions. The act requires the governor to appoint the chairperson of the Commission on Fire Prevention and Control. (PA 11-233 reverses this change.)

It also makes a technical correction by specifying that the governor does not appoint the chairperson or executive director of the State Properties Review Board, State Elections Enforcement Commission, Commission on Human Rights and Opportunities (CHRO), or Citizen's Ethics Advisory Board.

§ 79 — HOSPITAL NET PATIENT REVENUE TAX

PA 11-6 and PA 11-44 replaced the non-operational hospital gross earnings tax with a new tax on hospital net patient revenue. They require hospitals to submit, on a quarterly basis, the amount of their net patient revenue to the DRS commissioner. Previously, the hospitals had to submit tax returns and payments based on revenue for the calendar quarter ending on the last day of the preceding month. This act instead requires the Department of Social Services (DSS) commissioner to determine the revenue period.

EFFECTIVE DATE: July 1, 2011 and applicable to calendar quarters beginning on and after that date.

§ 80 — BANKING FUND

PA 11-6 (§ 134), as amended by PA 11-48 (§ 11), shifts from the Banking Fund to the General Fund revenue from fines, civil penalties, and restitution imposed by the banking commissioner or ordered by a court stemming from violations of the banking laws, Uniform Securities Act, and Business Opportunity Investment Act, with certain exceptions. This act eliminates this shift regarding revenue from restitution for such violations.

OLR PUBLIC ACT SUMMARY

§ 81 — STATE FIRE ADMINISTRATOR

The act (1) requires the Commission on Fire Prevention and Control to recommend, instead of appoint, a state fire administrator; (2) requires the Department of Emergency Services and Public Protection (DESPP) commissioner to appoint the administrator; and (3) makes a conforming change to reflect the merger of the departments of Energy and Environmental Protection.

§ 82 — DIRECTOR TO OVERSEE GAMBLING AND CHARITABLE GAMING

The act authorizes the Department of Consumer Protection (DCP) commissioner to appoint a director to implement and administer the gambling and charitable gaming statutes. The director is exempt from the classified service.

§§ 83-85 — WORKERS' COMPENSATION ASSESSMENTS ON EMPLOYERS AND FUNDING FOR THE BUREAU OF REHABILITATION SERVICES (BRS)

By law, the Workers' Compensation Commission (WCC) chairman determines the amount of funds sufficient to meet the expenses of the WCC. The act requires the WCC chairman to also determine the amount sufficient to meet the expenses of the BRS to provide rehabilitation services for employees with compensable injuries, beginning July 1, 2011.

By law, the state treasurer collects an assessment levied on all employers in order to raise the necessary funds to administer the WCC. The act requires the treasurer, when collecting the assessments, to deposit all the funds to meet the BRS expenses into the Workers' Compensation Administration Fund. By law and under the act, assessments to meet WCC expenses must be deposited in the Workers' Compensation Administration Fund.

The law requires the WCC chairman and the comptroller to account for the total expenses of the WCC for the previous year and make this information publicly available for 30 days in the chairman's office. Under the act, the chairman and the comptroller must also perform this function for the BRS.

§ 86 — VO-AG CENTER CONSTRUCTION REIMBURSEMENT RATE

The act changes the state reimbursement, from 95% to 80%, for constructing, acquiring, renovating, and equipping approved facilities for regional vo-ag centers operated by local or regional school districts. The lower reimbursement applies to the eligible project costs for applications filed on or after July 1, 2011. Applications filed before that are eligible for the 95% reimbursement.

§ 87 — DEPARTMENT OF DEVELOPMENTAL SERVICES (DDS) COST SETTLEMENTS WITH PRIVATE PROVIDERS

During FY 12 and FY 13, PA 11-6 requires private organizations providing services under contract with DDS to reimburse DDS for 100% of the difference

OLR PUBLIC ACT SUMMARY

between the actual expenses incurred and the amount the organization received from DDS under the contract. This act requires the organizations to reimburse DDS for, rather than during, those years.

§§ 88 & 89 — PROPERTY LEASING AND INVENTORY

PA 11-51 requires the Department of Administrative Services (DAS) commissioner to adopt regulations outlining the procedure for leasing offices or facilities. Under that act, the regulations must require agencies to submit lease, lease renewal, or hold-over agreements to the OPM secretary for approval. This act instead requires the regulations to mandate that the DAS commissioner, rather than the agencies, submit the agreements to OPM for approval.

Additionally, this act requires the DAS commissioner to prepare an annual inventory of state-owned improved and unimproved real estate that is unused or underutilized. He must submit, annually by January 1, to the Appropriations and Government Administration and Elections committees, a status report on the inventory and recommend possible reuse or disposition of such real estate. Under PA 11-51, unchanged by this act, the OPM secretary also maintains such an inventory and recommends possible reuse or disposition.

This act also requires, rather than allows upon request, the OPM secretary to physically compile the inventory of improved or unimproved real estate available to the state by lease. It eliminates a requirement that the DAS commissioner share the inventory with the State Properties Review Board.

§ 90 — BINGO PRIZES

With exceptions, prior law limited the maximum value of the prize a bingo permittee could award to \$100. PA 11-51 increased the limit to \$200 and this act increases it to \$250.

§§ 91 & 92 — STATE FIRE MARSHAL'S DUTIES

The act requires the DESPP commissioner, instead of the state fire marshal, to investigate the cause, circumstances, and origins of fires involving property damage or personal injury or death. It requires the commissioner, instead of the state fire marshal, to provide quarterly reports to the insurance commissioner detailing arson cases. By law, the reports are provided within available appropriations.

§§ 93 & 94 — SCHOOL CONSTRUCTION

The act modifies the changes to the school construction grant application process made in PA 11-51. It requires applications to be submitted on the form provided and manner prescribed by the construction services (DCS) commissioner instead of by the education commissioner in consultation with the DCS commissioner.

The act also requires DCS, rather than the SBE, to include reimbursement for reasonable lease costs required as part of a school building project grant and

OLR PUBLIC ACT SUMMARY

makes technical changes.

§ 95 — COORDINATING ADVISORY BOARD FOR DESPP

The act expands the membership of this board, from eight to 12, by adding the public health commissioner and the presidents of the following associations, or their designees: the Connecticut Police Chiefs Association, Connecticut Fire Chiefs Association, and Connecticut Career Fire Chiefs Association. (PA 11-51 (§ 137) created this board to advise the DESPP commissioner on emergency management issues.)

§§ 96 & 97 — POLICE STANDARDS AND TRAINING COUNCIL (POST)

PA 11-51 (§ 146) put POST in the Division of State Police within DESPP. This act instead puts POST within DESPP, without specifying its exact location. It requires DESPP to consult with POST in carrying out its charge to (1) operate the Connecticut Police Academy; (2) fix fees for tuition, training, education programs and sessions, and other purposes the commissioner deems necessary for the academy; and (3) expend money in the municipal police officer training and education extension account. This is a nonlapsing General Fund account used for operating training and education programs DESPP establishes.

The act eliminates a requirement that DESPP get OPM approval to fix tuition and fees, as required by PA 11-51 (§ 149).

§ 98 — LOTTERY ASSESSMENTS

Under PA 11-51 (§ 198), OPM must annually, beginning April 1, 2012, assess the Connecticut Lottery Corporation (CLC) an amount sufficient to compensate DCP for its reasonable and necessary costs for regulating CLC. This act advances the start date to July 1, 2011.

The act changes the dates for the assessment year ending on June 30, 2012, but reverts to the dates required by PA 11-51 for the assessment year ending on June 30, 2013, and each year thereafter. Under PA 11-51, OPM must submit, by May 1 of each year, its assessment of the preceding year's cost and an estimate of the next year's cost to CLC. It must also, by June 15 of each year, finalize the assessment for the preceding year. CLC must make quarterly payments on July 1, October 1, January 1, and April 1.

For the assessment year ending on June 30, 2012, this act instead requires OPM to submit, by August 1, 2012, instead of May 1, 2012, its assessment of the preceding year's cost and an estimate of the next year's cost. It must also by, September 15, 2011, finalize the assessment for the preceding year. CLC must make quarterly payments on October 1, 2011, January 1, 2012, April 1, 2012, and June 1, 2012.

The final quarterly assessment payment for the fiscal year ending June 30, 2011 must be paid on July 1, 2011.

§ 99 — BOARD OF ACCOUNTANCY STAFFING

OLR PUBLIC ACT SUMMARY

PA 11-48 placed the Board of Accountancy in the Secretary of the State's office for administrative purposes only. This act transfers the board's hiring authority to the secretary of the state. It allows the board to make hiring recommendations and eliminates the board's executive director position.

§ 100 — PROBATE COURT ADMINISTRATION FUND SURPLUS

The act adds another transfer of surplus funds from the Probate Court Administration Fund to those already specified in PA 11-6 (§ 50) and PA 11-48 (§ 42). In FY 11 and FY 12, it transfers \$150,000 per year to the Judicial Department's Other Expenses account for a grant to the Ralphola Taylor Community Center YMCA in Bridgeport. It eliminates a provision in PA 11-6, as amended by PA 11-48, requiring that any Probate Court Administration Fund surplus remaining after all FY 12 transfers go to the General Fund.

Finally, it also changes a reference to a transfer to the Child Advocates of Connecticut's services in Stamford and Danbury to services in the Stamford/Norwalk and Danbury Judicial Districts.

EFFECTIVE DATE: Upon passage

§ 102 — ELECTRONIC BUSINESS PORTAL

PA 11-48 (§ 29) requires the Office of the Secretary of the State's Commercial Recording Division to establish an electronic portal to serve as a single entry point for businesses registering with the secretary, effective January 1, 2012. The portal must provide these entities with explanatory information and electronic links to other specified state agencies and organizations to help them (1) obtain necessary licenses and permits, (2) identify state taxes and other revenue responsibilities and benefits, and (3) find relevant state financial incentives and programs. The act adds the Connecticut Center for Advanced Technology to the organizations to which the business portal must link.

EFFECTIVE DATE: January 1, 2012

§ 103 — DISPARITY STUDY

PA 11-48 (§ 20) requires CHRO to conduct a disparity study in consultation with DAS. This act extends, from January 1, 2012 to January 1, 2013, the deadline by which CHRO must submit its findings and any recommendations for legislative action concerning the study to the Government Administration and Elections Committee.

EFFECTIVE DATE: Upon passage

§ 104 — ADDITIONAL APPOINTMENT TO VOCATIONAL-TECHNICAL SCHOOL SYSTEM ADDITIONAL APPOINTMENT TO TASK FORCE

PA 11-48 establishes a 15-member task force, appointed by the governor and legislative leaders and representing various organizations and others, to study the finances, management, and enrollment structure of the vocational-technical (V-T) school system, and several other issues. The act expands the task force to 16

OLR PUBLIC ACT SUMMARY

members by adding an additional gubernatorial appointee, who must be the parent of a student enrolled at a V-T school.

EFFECTIVE DATE: Upon passage

§ 105 — STATE POLICE MAJORS

The act puts state police majors appointed on or after July 1, 1999 in the classified service.

State jobs are divided into two groups: classified and unclassified. Classified jobs are civil service jobs. Unclassified jobs are exempt from statutory merit hiring requirements (i.e., civil service exams). Instead, hiring authorities have discretion over how to hire employees for unclassified positions.

§§ 106-112, 114, 136, & 137 — HIGHER EDUCATION

The act modifies certain provisions of PA 11-48 concerning the Board of Regents for Higher Education (BOR).

PA 11-48 requires the House speaker to appoint a person to the BOR who is a specialist in K-12 education and the Senate minority leader to appoint an alumnus of the Connecticut State University System (CSUS). This act reverses these requirements so that the House speaker appoints a CSUS alumnus and the Senate minority leader appoints a specialist in K-12 education. It also increases the membership of the Higher Education Coordinating Council by adding (1) the chairpersons of the BOR and the UConn Board of Trustees and (2) the BOR vice presidents for the constituent units.

PA 11-48 establishes vice presidents to serve as liaisons to CSUS and the community-technical colleges (CTC). This act requires that (1) there be a BOR vice president for each constituent unit and (2) their duties be prescribed by BOR and the BOR president, but must include oversight of academic programs, student support services, and institutional support.

PA 11-48 requires the existing CSUS and CTC boards of trustees and the Board for State Academic Awards (BSAA) to remain in office from July 1, 2011 to December 31, 2011 to facilitate the transition of duties and responsibilities to the BOR. This act requires these boards and the Board of Governors for Higher Education to continue to protect and hold harmless their members and employees from financial expense until December 31, 2011.

PA 11-48 also requires the newly created Office of Financial and Academic Affairs for Higher Education (OFAAHE) to (1) assist in providing tutors for certain students and (2) administer certain community service programs. This act transfers these responsibilities to BOR.

Lastly, the act makes technical changes and repeals obsolete language.

§§ 113 & 115 — AFFIRMATIVE ACTION PLANS

PA 11-51 establishes a working group to review CHRO's existing regulations governing affirmative action plans and recommend changes. It requires CHRO's executive director to chair the working group. This act allows the executive

OLR PUBLIC ACT SUMMARY

director to appoint a designee for this purpose.

PA 11-51 also requires affirmative action plans to be filed electronically. This act specifies that plans must be filed electronically only if it is practicable to do so.

EFFECTIVE DATE: Upon passage

§§ 116-118 — DCP UNIT HEAD

PA 11-51 eliminates the Division of Special Revenue (DSR) and transfers (1) its responsibilities to DCP and (2) the DSR executive director's powers and duties to the DCP commissioner. This act makes minor, technical, and conforming changes to implement these changes.

It defines a "unit head" as a managerial employee with direct oversight of a legalized gambling activity. It eliminates the requirement that unit heads be (1) appointed with the advice and consent of the Gaming Policy Board and (2) qualified and experienced in the functions to be performed. It also eliminates a provision that exempted the position from the classified service.

The act eliminates the prohibition on Gaming Policy Board employees purchasing lottery tickets.

§ 119 — FALSE CLAIM ACT WHISTLEBLOWERS

PA 11-44 (§ 158) creates whistleblower protections for those who experience adverse job actions as a result of lawfully testifying, participating in, or taking steps to end illegal medical assistance activities. That act covers employees, contractors, or agents that experience discrimination. This act adds "associated others."

EFFECTIVE DATE: Upon passage

§ 120 — DRIVER TRAINING FOR PEOPLE WITH DISABILITIES

PA 11-44 transfers DMV's handicapped driver training unit to the BRS and renames it the driver training program for persons with disabilities. The act eliminates from this program the statutory position of driver consultant for persons with disabilities, who oversees the program. BRS is authorized, as under existing law, to hire staff for the unit.

§§ 121-124 — COST-NEUTRAL, ACUITY-BASED MEDICAL SERVICE RATES

PA 11-44 requires the DSS commissioner, in consultation with the DMHAS and public health (DPH) commissioners and the OPM secretary, to develop a plan for implementing a cost neutral, acuity-based method for establishing medical service rates for outpatient, inpatient, and homemaker home health services if doing so is needed to ensure that the conversion to an administrative services organization is cost neutral in the aggregate and ensures patient access. This act provides that service utilization cannot be a factor in determining cost neutrality (see BACKGROUND—*Administrative Service Organizations*).

OLR PUBLIC ACT SUMMARY

§§ 125 & 126 — AMBULANCE RATE REDUCTION

PA 11-44 modifies the amount DSS pays for emergency medical transportation (e.g., ambulances) in its medical assistance programs so that it does not exceed the maximum allowable under Medicaid plus an additional percentage set by the DSS commissioner. Under this act, the commissioner must, instead, reduce by up to 10% the rates that were in effect on December 31, 2010 for fees that DSS directly reimburses. The rates take effect on July 1, 2011. The commissioner may increase them when he determines there are sufficient funds and a reasonable need to do so.

The act also eliminates a provision that limits the amount DSS will reimburse DPH for emergency vehicle and invalid coach services for which DPH statutorily sets rates.

§ 127 — MEDICAID THERAPY MANAGEMENT SERVICES

PA 11-44 requires the DSS commissioner to contract with a pharmacy organization to provide Medicaid therapy management services, including reviewing a Medicaid patient's medical and prescription history. This act allows the commissioner to alternatively contract with a patient-centered medical home or health home for these services.

§§ 128-130 — WAIVER OF SCHOOL CONSTRUCTION PROJECT AUDIT DEFICIENCIES

The act allows the DCS commissioner to waive any deficiencies found in an audit of a regular or interdistrict magnet school construction building project, when he or she determines such a waiver is in the state's best interest.

The act applies to (1) the limited-scope audits DCS must conduct when it has not completed a project audit within five years after receiving a notice that the project is complete, (2) audits of interdistrict magnet school project expenditures, and (3) any other audits required under the school construction law. By law, limited-scope audits review only (1) the total expenditures reported, (2) off-site improvements, (3) adherence to standard space specifications, (4) interest costs on temporary notes and bonds, and (5) any other matters the DCS commissioner considers appropriate.

The act also makes (1) other changes identical to those already enacted in PA 11-51 and (2) technical changes.

§ 131— COPIES OF CERTAIN LEGISLATIVE DOCUMENTS

The act eliminates a provision in PA 11-150 (§ 10) requiring the Legislative Management Committee to determine how many printed copies of the revised statutes, public acts, and special acts the secretary of the state must distribute to the State Library and the Judicial Department. It thus leaves this determination to the secretary.

§§ 133-135 — SUPPORTIVE HOUSING INITIATIVE

OLR PUBLIC ACT SUMMARY

The act amends DMHAS' supportive housing initiative by eliminating references to its "Pilot" and "Next Steps" phases, and instead using the term "permanent." It also (1) adds two state entities to those already collaborating with DMHAS on the supportive housing initiative and (2) establishes a process for developing scattered-site housing. Finally, the act makes technical and conforming changes.

Designation as "Permanent"

By law, DMHAS is responsible for a supportive housing initiative that provides housing units mainly to individuals with mental illness. To date, the initiative has operated under two phases, a "Pilot" phase and the "Next Steps" phase. Under the Pilot, DMHAS was required to provide up to 650 housing units and support services to eligible persons. Subsequently, the law was amended to authorize an additional 1,000 units under the Next Steps initiative. The act eliminates references to the Pilot and Next Steps initiatives and instead refers to the initiative as "permanent supportive housing."

By law, those eligible for the initiative are:

1. people or families affected by psychiatric disabilities, chemical dependencies, or both and who are homeless or at risk of becoming homeless;
2. families who qualify for the temporary assistance for needy families program;
3. 18-to-23-year-olds who are homeless or at-risk of becoming homeless because they are transitioning out of foster care or other residential programs; and
4. community-supervised offenders with serious mental health needs who are under Judicial Branch or Department of Correction (DOC) jurisdiction.

This act clarifies that individuals and families with special needs and those at-risk for homelessness are eligible for supportive housing.

Agency Collaboration

DMHAS establishes and operates the supportive housing initiative in collaboration with DSS, the Department of Children and Families (DCF), DECD, and the Connecticut Housing Finance Authority (CHFA). The act adds DOC and the Court Support Services Division of the Judicial Branch to this collaboration.

Development and Scattered Site-Model

Under prior law, CHFA issued requests for proposals (RFPs) for those interested in participating in the supportive housing initiative to applicants, including organizations deemed by DMHAS, DSS, and DCF as qualified to provide services. CHFA then reviewed and underwrote projects developed under the supportive housing initiative.

The act limits CHFA's review and underwriting to "development projects" and creates a new RFP process for scattered-site models of supportive housing. It eliminates specific forms of financial assistance CHFA can provide.

The act requires DMHAS and DSS to issue, within available appropriations,

OLR PUBLIC ACT SUMMARY

RFPs in a scattered-site model for homeless individuals with psychiatric disabilities and substance abuse disorders.

EFFECTIVE DATE: Upon passage

§ 138 — STATE SUPERVISION OF WINDHAM SCHOOL DISTRICT

Special Master

The act requires the SBE to assign a special master to administer the Windham school district's educational operations to help it achieve adequate yearly progress (AYP) as a district in reading and mathematics as required by the federal No Child Left Behind Act. The act requires the special master to:

1. collaborate with the Windham board of education and school superintendent to implement the district's improvement plan developed under the state education accountability law;
2. manage and allocate the district's federal, state, and local funds; and
3. report regularly to the SBE on the (a) district's progress in implementing its improvement plan and (b) effectiveness of the Windham school board and superintendent.

By law, the SBE may take various actions to improve student performance in low-achieving schools and districts. The act delegates to the special master the SBE's authority to take several of these actions in Windham. It authorizes the Windham special master to:

1. require an operations audit to identify possible program savings and an instructional audit to identify problems with the district's curriculum and instruction or learning environment;
2. provide incentives to attract highly qualified teachers and principals;
3. direct the assignment and transfer of teachers and principals;
4. require additional training and technical assistance for the district's teachers, principals, and central office staff, and for parents and guardians of the district's students;
5. require implementation of model curriculum, including recommended textbooks, material, and supplies approved by the State Department of Education (SDE);
6. direct the school board to develop and implement a plan to address deficits in achievement identified in the instructional audit;
7. assign a technical assistance team to guide school or district initiatives and report to the education commissioner on its progress;
8. establish instructional and learning environment benchmarks for the district to meet;
9. direct establishment of learning academies within schools that require teacher groups to continuously monitor student learning; and
10. require Windham's board of education members to (a) undergo training to improve the board's operational efficiency and effectiveness in leading the district's improvement plan and (b) submit an annual action plan to the education commissioner that outlines how and when its effectiveness is to be monitored.

OLR PUBLIC ACT SUMMARY

The special master serves at the SBE's pleasure. His authority expires one year after the school year in which the Windham school district as a whole makes AYP in both reading and mathematics.

The act overrides both the Freedom of Information Act and another law barring the disclosure of teacher evaluations to give the SBE and the special master access to all district records, facilities, communications, and meetings, including school board executive sessions, that relate to the special master's authority under the act.

Special Procedures for Reopening Collective Bargaining Agreements

Negotiations. The act authorizes the SBE to require the Windham school board to ask the union representing a school district bargaining unit to reopen negotiations on an existing contract. The sole purpose of the request must be to allow the board to present proposed revisions in salary, hours, and employment conditions to implement the district's improvement plan. The act gives the union five days to respond, with failure to respond considered a rejection. If the union agrees to reopen negotiations, the parties have 30 days to negotiate the revisions.

Any agreement the parties reach must be ratified by a majority vote of the union's members employed by the Windham school board. If the parties fail to agree on one or more issues, or if the union's members fail to ratify an agreement, the act requires the parties to use an expedited arbitration process to resolve the dispute.

Expedited Arbitration Process. The parties must select a single neutral arbitrator, using the procedures specified in the state Teacher Negotiations Act (TNA), no later than five days after they either reach an impasse on one or more issues or the union's members fail to ratify the agreement. Within 10 days after his or her selection, the arbitrator must hold a hearing in Windham at which the parties must submit their last best offers on each issue in dispute. Within 20 days after the hearing closes, the arbitrator must issue a detailed written decision, which is final and binding.

Arbitrator Decision Criteria. In his or her decision, the arbitrator must give the highest priority to the state's educational interests as they relate to children of Windham. By law, these interests are that (1) each child have an equal opportunity for a suitable educational program; (2) each school district finance such a program at a reasonable level; (3) each district provide educational opportunities to interact with students and teachers from different racial, ethnic, and economic backgrounds, as well as, at district discretion, from different communities; and (4) statutory educational mandates under SBE jurisdiction are implemented.

The arbitrator must also consider the TNA's statutory criteria in light of those interests. By law, TNA arbitrators must consider:

1. as a first priority (second under the act), the public interest and the financial capability of the town or towns in the school district, including other demands on its capability;
2. the negotiations between the parties;
3. the interests and welfare of the employee group;

OLR PUBLIC ACT SUMMARY

4. changes in the cost of living averaged over three years;
5. existing employment conditions of the employee group and those of similar groups; and
6. salaries, fringe benefits, and other employment conditions prevailing in the state labor market.

EFFECTIVE DATE: Upon passage

§§ 139 & 140 — LANDOWNER RECREATIONAL LAND IMMUNITY

The law protects private parties from liability to the public if they allow members of the public to use their land for recreation without charging admission fees. PA 11-141 extended this protection to municipalities, special taxing districts, and metropolitan districts. This act eliminates the protection for these entities and makes a conforming change.

PA 11-141 sets conditions protecting large municipalities from liability to the state with respect to contaminated property for which they have an easement. It protects them from liability if they allow the public to use the property without charge for recreation. This act makes a conforming technical change.

EFFECTIVE DATE: October 1, 2011

§ 141 — HEALTHCARE PARTNERSHIP PLANS

PA 11-58 requires the comptroller to offer health insurance coverage under “partnership plans” to certain employer groups and specifies that nothing in its provisions regarding these plans modifies the state employee health plan in any way without the written consent of SEBAC and the OPM secretary. This act extends this SEBAC consent requirement to include PA 11-58’s provisions regarding (1) the SustiNet Health Care Cabinet, (2) the Office of Health Reform and Innovation, and (3) health insurance claims data reporting and collection requirements.

EFFECTIVE DATE: Upon passage

§ 142 — HEALTH INSURANCE EXCHANGE EMPLOYEES

PA 11-53 (§ 2) requires exchange employees who sell to, solicit from, or negotiate insurance with individuals and small employers to become licensed insurance producers within one year after starting work for the exchange. This act instead requires exchange employees whose primary purpose is to help individuals or small employers select health insurance plans offered on the exchange to become licensed insurance producers within 18 months of starting work for the exchange.

EFFECTIVE DATE: Upon passage

§ 143 — OFFICE OF HEALTH CARE ACCESS (OHCA) DATA COLLECTION

PA 11-58 (§ 12) requires hospitals to submit patient-identifiable inpatient discharge data and emergency department data to the OHCA division of DPH.

OLR PUBLIC ACT SUMMARY

“Patient-identifiable data” means any information that identifies, or may reasonably be used as a basis to identify, an individual patient, including data from patient medical abstracts and bills.

PA 11-58 allows an intermediary to submit data to OHCA on behalf of a hospital or outpatient surgical facility. This act instead allows the data to be submitted through a contractual arrangement with an intermediary. The contractual arrangement must (1) comply with the federal Health Insurance Portability and Accountability Act (HIPAA) and (2) ensure that data is submitted accurately and on time.

PA 11-58 requires OHCA, by October 1, 2011, to enter into a memorandum of understanding with the comptroller to allow the comptroller access to the hospital data if he agrees in writing to keep patient and physician data confidential. This act instead requires him to keep patient and provider data confidential.

§ 144 — PLAN FOR COORDINATING CHILD DAY CARE AND SCHOOL READINESS SERVICES

PA 11-48 requires the education and DSS commissioners to develop a plan to integrate DSS-administered child day care services offered as part of the school readiness program into the school readiness program administered by SDE. It required the (1) plan to address eligibility, slot rates, and program requirements and (2) education commissioner to submit the plan, with any findings and recommendations, to the governor by July 1, 2012.

This act (1) modifies the plan’s content and purpose; (2) requires the agencies to submit a report, rather than the plan itself; (3) moves up the submission deadline to January 1, 2012; (4) makes both departments rather than just the education commissioner responsible for submitting the report; and (5) requires submission to the Education and Human Services committees as well as the governor.

Under the act, the commissioners’ plan must coordinate, rather than integrate, school readiness and child daycare into a coordinated early care and education program and cover all DSS-administered day care services, not only those offered as part of the school readiness program. In addition to addressing eligibility, slot rates, and program requirements, the plan must include recommendations to maintain the mission and integrity of DSS’ existing child care subsidy program.

§ 145 — AID TO INDEPENDENT COLLEGES AND UNIVERSITIES

PA 11-6 required the higher education commissioner to review the Connecticut Independent College Student (CICS) grant program and, by January 1, 2012, present findings and recommendations to the Appropriations and Higher Education committees. The review had to evaluate the cost-effectiveness and benefits of the (1) formula for deriving the annual appropriation, (2) manner of allocating the appropriation to participating institutions, and (3) system used to determine the amount of aid given to individual students.

This act instead requires the OFAAHE executive director, in consultation with

financial aid and institutional research staff from participating independent institutions, to perform these functions. It also removes the reference to cost-effectiveness and benefits. PA 11-6 also required the recommendations to suggest possible modifications to the program. This act instead requires that the recommendations presented to the legislature concern the collection of further data to demonstrate the CICS program's results.

This act also requires the executive director and staff to determine what additional data may be necessary to demonstrate grant recipients' need. The executive director must also require institutions participating in CICS to provide (1) the number of students receiving awards and the average amount of the award, (2) student family income, (3) the number of first-year recipients retained over the years of eligibility, and (4) the percentage of recipients graduating in (a) four and six years.

EFFECTIVE DATE: Upon passage

§§ 146-151 — JUDGES RETIREMENT SYSTEM

The act makes a number of changes to retirement eligibility and benefits for judges, family support magistrates, and compensation commissioners, whose retirement system is separate from the State Employee Retirement System (SERS). The judges system has its own pension fund and it is governed by statute and not subject to collective bargaining as is the case with SERS.

§ 146 — Right to Retirement Salary after 10 Years of Service

By law, judges, family support magistrates, or compensation commissioners can receive a normal retirement benefit if they retire (1) at age 65 or older; (2) after at least 20 years of service; or (3) after at least 30 years of service with at least 10 years as a judge, family support magistrate, or compensation commissioner.

Under prior law, a reduced retirement benefit was available to judges, family support magistrates, and compensation commissioners who served at least 10 years in any of these capacities but did not meet the normal retirement criteria. The act makes several changes to the retirement benefit for those who serve at least 10 years. The exact changes depend on the dates these officials start and end their service.

Under prior law, a judge or compensation commissioner whose service started before January 1, 1981 and who retired before meeting normal retirement criteria was eligible for a reduced retirement benefit of 50% of the benefit he or she would have received under a normal retirement. An additional 10% was added for each year of service beyond 10, up to a maximum of five additional years. The act ends this benefit for those who retire on or after September 2, 2011. For those retiring on or after September 2, 2011 and before July 1, 2022, the benefit is a fraction of the retirement salary they would be eligible for when they resigned, but the act does not specify how the fraction must be calculated. The act also requires the beneficiary to be at least age 62 before collecting it.

Under prior law, judges, magistrates, or compensation commissioners whose

OLR PUBLIC ACT SUMMARY

service started on or after January 1, 1981 and who retired before meeting normal retirement criteria were eligible for a reduced retirement of a fraction of what they would have received if they had continued to serve until eligible for a normal retirement benefit. The reduced benefit was based on the ratio of the years of service actually completed to the years the person would have completed at age 65, or 20 years of service, whichever was less. The act ends this benefit for those who retire on or after September 2, 2011. For those retiring on or after September 2, 2011 and before July 1, 2022, the act changes the benefit to the fraction of the retirement salary to which the person would have been eligible when they resigned, but does not specify how the fraction must be calculated. Presumably, the fraction is based on the ratio of the years of service actually completed to the years the person would have completed at age 65, or 20 years of service, whichever is less. Beneficiaries cannot collect the benefit until they reach age 65.

These changes also apply to judges, magistrates, and officials whose service begins on or after July 1, 2011, serve for at least 10 years, and resign before becoming eligible for benefits. Retirees in this group must be age 65 before they can begin receiving the pension benefit.

§§ 147 & 151 — COLAS for Retired Judges, Family Support Magistrates, and Compensation Commissioners

Under prior law, retired judges, family support magistrates, and compensation commissioners or their surviving spouses received an annual cost of living adjustment (COLA) that matched the increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the previous year, up to a maximum of 3%.

Under the act, the existing COLA formula applies only to judges who retire by September 2, 2011. For those retiring after that date, the act caps the annual COLA at 2%.

The act reduces the maximum annual COLA for surviving spouses of judges, family support magistrates, and compensation commissioners, from 3% to 2%, beginning January 1, 2012.

§ 148 — Retirement Salary of Judges and Surviving Spouses Benefit

Under the act, as under prior law, a judge's retirement benefit is based on the judge's salary. The act changes how the benefit is calculated.

By law, for judges whose service started before January 1, 1981, the judge's salary for retirement purposes is his or her final salary. For those whose service began after that date, it is the salary the judge was earning at the time of his or her retirement or death. For judges whose service begins on or after July 1, 2011, the act changes salary for retirement purposes to the judge's average salary for the five years immediately preceding his or her retirement or death. Under existing law and the act, longevity pay is part of salary.

On or after September 2, 2011, the act also limits salary for retirement benefit calculation purposes at the maximum set by federal tax law (currently, \$195,000 annually for defined benefit plans such as the judges' plan and adjusted periodically for inflation (IRC § 415)). Thus, retirement benefits for judges

OLR PUBLIC ACT SUMMARY

earning more than \$195,000 annually must be based on only the first \$195,000 of their salary. Under prior law, there was no limit in the salary amount that could be used. (No state judge in Connecticut currently earns \$195,000 or more.)

§ 149 — Retirement at Age 62 or 63

The act requires judges, family support magistrates, and compensation commissioners who retire at age 62 or 63 on or after July 1, 2022 to meet minimum service requirements (see Table 4). Presumably, the existing law, also shown, will no longer be in effect after July 1, 2022, but the act does not specify this.

Table 4: Age and Service Requirements for Judges, Family Support Magistrates, and Compensation Commissioners

<i>Existing Law For Those Retiring on or Before June 30, 2022</i>		<i>Law for Those Retiring on or After July 1, 2022</i>	
<i>Age</i>	<i>Service</i>	<i>Age</i>	<i>Service</i>
65	None	63	25 years as a judge, magistrate, or compensation commissioner
None	20 years as a judge, magistrate, or compensation commissioner	62	10 years as a judge, magistrate, or compensation commissioner
None	30 years of state service, with at least 10 years of service as a judge, family support magistrate, or compensation commissioner (provided the years of state service that are not in the Judges' Retirement System are not used for a separate SERS retirement benefit)	None	Same as prior law

The law provides for a retirement salary for judges who are at least age 63, have served for at least 16 years, and were nominated but not reappointed for another term. The law specified the formula for this benefit, which is a fraction of the retirement salary the judge would have received if he or she served until age 65, or for 20 years, whichever occurred first. The act adds an identical, duplicate provision without the benefit formula.

OLR PUBLIC ACT SUMMARY

§ 150 — Retirement Salary of Family Support Magistrates and Surviving Spouse Benefit

The act changes the salary used to calculate retirement benefits for family support magistrates and their surviving spouses from the last year's salary, used under prior law, to the average annual salary for the five years preceding a magistrate's retirement.

On September 2, 2011, the act also limits the maximum salary that can be used for retirement benefit calculations to the limits imposed by the IRS as described above.

EFFECTIVE DATE: Upon the General Assembly's approval of the agreement between the state and SEBAC under another provision of this act. (PA 11-1, JSS, changed the effective date to be upon the General Assembly's approval of the SEBAC agreement provided in that act and would have repealed these provisions if no agreement was approved. However, under PA 11-1, JSS, the General Assembly was deemed to have approved the SEBAC agreement on August 22, 2011.)

§ 152 — PRE-1920 STOCK CORPORATION CONVERSION

The act allows certain stock corporations organized before January 1, 1920 to convert into nonstock corporations under the nonstock corporations law. To be eligible, a stock corporation's certificate of incorporation must provide that each corporation member has one vote, regardless of how many shares the member holds in the corporation.

Certificate of Conversion

To convert in this manner, the stock corporation must file a certificate of conversion with the secretary of the state. The certificate must indicate the terms of the corporation's conversion plan and the membership classes to which its shareholders will or may elect to belong after the conversion. This can include any current shareholder classes. The certificate must also include any amendment, restatement, or amendment and restatement of the corporation's certificate of incorporation that will be effected due to the conversion.

The certificate of conversion must certify that the corporation's board of directors adopted the conversion plan and the amendment, restatement, or amendment and restatement. It must also certify that a majority of the members or shares present or represented by proxy and voting at a duly noticed shareholder or member meeting voted in favor of the conversion plan and to effect the amendment, restatement, or amendment and restatement.

Effect of Filing the Certificate of Conversion

After a corporation files a certificate of conversion:

1. it is deemed to have continued in existence with all the same corporate powers as it had before conversion, except for those that a nonstock corporation cannot exercise under the nonstock corporations law;
2. it is deemed to continue to own its pre-conversion assets and properties

OLR PUBLIC ACT SUMMARY

- and to be liable for its pre-conversion debts and liabilities;
3. the actions taken by a majority vote of shares present and voting at its past shareholder meetings, as recorded in the meeting minutes, are valid despite any notice defect or lack of a quorum, unless someone brought an action before the act's passage alleging a notice defect or lack of a quorum; and
 4. it need not comply until after January 1, 2015 with the law relating to ownership interests in the corporation deemed abandoned. (The law imposes certain requirements and procedures for holders of ownership interests in a corporation presumed abandoned.)

EFFECTIVE DATE: Upon passage

§§ 153 & 154 — POLICE AND SPECIAL POLICE OFFICERS

The act adds the Connecticut Police Chiefs Association president to the State-Wide Security Management Council. The council coordinates nonexempt state agencies' activities that relate to statewide state facility security. (Agencies exempt from Department of Public Work's security standards and audits must report to the council quarterly on (1) the frequency, character, and resolution of workplace violence and (2) security-related expenditures.) By law, each member must provide technical assistance in his or her area of expertise, as required by the council.

The act authorizes the POST Council to recommend to the DESPP commissioner the appointment of any POST training instructor, or other person it determines, to act as a special police officer statewide as his or her official duties may require, provided the appointee is a certified police officer. (Under prior law, repealed by PA 11-51 (§ 147) POST was authorized to appoint, not recommend, such special police officers.) The officer must be sworn and may arrest and present anyone before a competent authority for an offense committed in his or her precinct.

§ 155 — PILOT PROGRAM FOR JOBS FIRST EMPLOYMENT SERVICES (JFES) PARTICIPANTS

PA 11-44 requires the DSS and labor commissioners to implement, within available appropriations, a pilot program for up to 100 JFES participants that includes intensive case management services. It requires the DSS commissioner to extend Temporary Family Assistance (TFA, cash assistance) to these families beyond TFA's 21-month time limit if they make a good faith effort to comply with the pilot program's requirements, have not received more than 60 months of TFA benefits, and have not been granted more than two six-month extensions (which is generally the maximum number of extensions allowed).

This act (1) limits to one the number of six-month extensions participants may receive under the pilot program and (2) allows extensions only if there are available appropriations for them.

OLR PUBLIC ACT SUMMARY

§ 156 — ELIMINATION OF SPREADING JUNE NURSING HOME PAYMENTS INTO NEXT FISCAL YEAR

Under prior law, DSS had to pay nursing homes one-half of the June payment for their Medicaid residents, and pay the balance in July. This act eliminates this practice.

EFFECTIVE DATE: Upon passage

§ 157 — VISITOR WELCOME CENTER STAFFING

PA 11-48 requires DECD, rather than the Commission on Culture and Tourism, to station a full-time year-round supervisor and a part-time assistant supervisor at the Danbury, Darien, North Stonington, and West Willington visitor welcome centers. This act eliminates these positions at the West Willington center. (PA 11-233 restores these positions.)

§ 158 — ADULT DENTAL SERVICES

PA 11-44 limits Medicaid coverage for nonemergency dental services for healthy adults to one periodic dental examination and, tooth cleaning, and one set of bitewing x-rays, each year. This act defines a “healthy adult” as one age 21 or older. The prior act provided coverage for people over age 21.

§§ 159 & 160 — REPORTS ON COLLEGE TRANSITION PILOT PROGRAMS

PA 11-48 requires the education commissioner, in consultation with the higher education commissioner, to establish two college transition pilot programs, one an adult education program in three municipalities and the respective community colleges located in them and the other for high school students at Hillhouse High in New Haven and Gateway Community College.

PA 11-48 requires the two commissioners to report to the Education and Higher Education committees, by October 1, 2012, on the results of the programs. This act requires the commissioners to submit an additional report on the programs by October 1, 2013.

§ 161 — FY 12 TRANSFER TO STF

For FY 12, the act reduces the required revenue transfer from the General Fund to the STF by \$42.5 million, from \$124.05 million to \$81.55 million. (PA 11-1, JSS, reduced the FY 12 transfer by an additional \$40.55 million to \$41 million, but the reduction was repealed and this provision restored upon the August 22, 2011 approval of an agreement between the state and SEBAC.)

§§ 162-164 & 180 — DECD GRANT PROGRAMS

The act requires the DECD commissioner to establish a single grant program to fund specified existing and new high technology, business development, and

OLR PUBLIC ACT SUMMARY

technology diffusion programs and specifies how she must do so. It repeals the laws authorizing the existing programs as well as an obsolete law.

New Activities

The act requires the commissioner to fund new programs to:

1. promote, retain, and expand the state's hydrogen and fuel cell industries;
2. promote research innovation and nanotechnology;
3. provide technical assistance to small business owners;
4. train small businesses in high performance work practices; and
5. develop marine science, maritime, and homeland security defense industries.

The act provides funds for developing marine science, maritime, and homeland security defense industries by reallocating an existing \$1 million Manufacturing Assistance Act bond authorization. It also requires DECD to grant the bond proceeds to the Connecticut Center for Advanced Technologies (CCAT), which must use them to develop these industries. Although the bonds are available for this purpose on July 1, 2011, the authorization for developing the industries does not take effect until July 1, 2012.

Under prior law, DECD had to grant the proceeds to CCAT for developing a supply chain integration center.

Existing Activities

The act also requires the commissioner to fund several already authorized programs under the new consolidated grant program and makes conforming technical changes. These programs:

1. promote supply chain integration and encourage businesses to adopt digital manufacturing and information technology, which CCAT performed under prior law and
2. develop incubators for small technology-based businesses.

The act repeals the small business incubator program's advisory board, but retains the General Fund account for funding incubator facilities.

The act also eliminates the manufacturing extension service program, which helped small manufacturers adopt cost-cutting technology and techniques.

Program Administration

The act requires (1) the commissioner to specify how entities may apply for grants under the program and (2) the application process to include a request for proposals or a competitive award process. (The act appears to limit the grants for developing marine, maritime science, and homeland security defense industries to CCAT.)

The act allows the commissioner to administer the programs directly or under a personal services agreement with a person, firm, corporation, or other entity.

EFFECTIVE DATE: July 1, 2011, except for the provisions (1) creating the new programs and (2) repealing the authorization for the supply chain integration center and manufacturing extension service and an obsolete law, which take effect July 1, 2012.

§ 165 — SEBAC AGREEMENT APPROVAL

SEBAC is a collective bargaining coalition of 15 state employee unions representing approximately 85% of all state employees. The act establishes an expedited method for the General Assembly to approve the tentative collective bargaining agreement between SEBAC and the state signed on May 27, 2011. Upon approval, the act also requires nonunion state employees to be subject to terms comparable to those in the SEBAC agreement. Regardless of approval, the act also requires changes in nonunion longevity payments comparable to those provided in the agreement.

(SEBAC did not ratify the May 27, 2011 agreement and it was never submitted to the General Assembly. PA 11-1, JSS, amends this act so that similar provisions applied if the state and SEBAC reached another agreement by August 31, 2011. A new version of the SEBAC agreement was approved on August 22, 2011.)

Expedited Process for Approving the May 27, 2011 SEBAC Agreement

By law, if the General Assembly does not act on a state employee union agreement submitted to it within 30 days, it is deemed approved. The act essentially speeds up the approval process by allowing the General Assembly to call itself into special session to approve the May 27, 2011 SEBAC agreement no later than five calendar days after it is filed with the Senate and House clerks, or by June 30, 2011, whichever comes first. Under the act, the agreement is deemed approved if the General Assembly does not call itself into session within that time.

(Under PA 11-1, JSS, the General Assembly used a similar expedited approval method for the agreement with SEBAC approved on August 22, 2011.)

Applying Terms Comparable to SEBAC to Nonunionized State Employees

If the General Assembly approves the May 27 agreement, the act requires the administrative services commissioner and the OPM secretary to apply comparable terms to all nonunion classified and unclassified officers and state employees in the Executive Branch. The OPM secretary must submit a plan to the Appropriations Committee by June 30, 2011, detailing how the terms of the SEBAC contract will apply to these employees.

By the same date, the chief court administrator and the legislative management executive director must also submit plans to the Appropriations Committee detailing how the terms of the SEBAC contract will apply to nonunion classified and unclassified officers and employees of the Judicial Department and legislative branch, respectively. Both branches must implement the changes to their employees' wages and longevity payments by August 1, 2011.

The act specifies that the requirement to implement changes in wages and longevity payments in the Judicial Branch does not apply to officers or employees whose wages are set in statute (such as judges, family support magistrates, and workers' compensation commissioners).

OLR PUBLIC ACT SUMMARY

Nonunion Longevity Pay

By August 1, 2011, the act requires all three government branches and the Board of Regents of Higher Education to implement changes to longevity pay for nonunion classified and unclassified officers and employees comparable to the longevity pay provisions of the May 27 SEBAC agreement. These changes are not contingent on passage of the May 27 agreement. Under that agreement, (1) longevity payments will be frozen for two years of service in the budget biennium and those years will not count as service for longevity purposes, (2) new employees hired after July 1, 2011 will not be eligible for future longevity payments, and (3) union employees with capped longevity will not receive their October 2011 payment and those with uncapped longevity will lose an amount equal to that lost by those with capped longevity. The procedure for implementing the last of these provisions is yet to be determined.

The act also specifies that it does not grant longevity payments to legislators.

(PA 11-1, JSS, amends this act to make many changes to nonunion longevity payments contingent on General Assembly approval of a SEBAC agreement by August 31, 2011. If such an agreement is approved, PA 11-1, JSS, requires the BOR and all three government branches to make longevity payments for their respective nonunion employees comparable to the executive longevity pay plan. Under PA 11-1, JSS, a SEBAC agreement was deemed approved by the General Assembly on August 22, 2011.)

EFFECTIVE DATE: Upon passage

§ 182 — STUDY OF THE REGULATION ADOPTION PROCESS

The act repeals a provision in PA 11-150 (§ 20) requiring the Program Review and Investigations Committee to study the regulation adoption process and recommend modifications to achieve cost savings.

EFFECTIVE DATE: Upon passage

§ 186 — CABARET TAX REPEAL

The act repeals the provisions in PA 11-6 that impose a 3% cabaret tax and require the state to disburse the tax revenue to the municipality where the sale occurred.

EFFECTIVE DATE: Upon passage

§ 187 — AIRCRAFT REGISTRATION FEE REVENUE

The act repeals an obsolete provision that requires revenue from aircraft registration fees to be distributed to towns to reimburse them for lost revenue from the property tax exemption for aircraft.

EFFECTIVE DATE: Upon passage

BACKGROUND

Surplus Lines Insurance

OLR PUBLIC ACT SUMMARY

Surplus lines insurance is property and casualty insurance coverage that is not available from licensed Connecticut insurers (also called admitted companies) and must be purchased from a nonadmitted carrier. Nonadmitted insurers are not licensed to transact business in the state but may still offer a line of insurance or a particular type of coverage in the state through a surplus lines broker. Examples of surplus lines insurance include commercial general liability insurance, fire insurance, mobile home policies, and medical malpractice insurance.

Nonadmitted Insurance Multistate Agreement (NIMA)

This agreement establishes procedures for participating states' payment and allocation of premium tax revenue. It also establishes a clearinghouse for the coordination and dissemination of premium tax and transaction data related to nonadmitted insurance multi-state risks. States participating in NIMA must share tax revenue they are authorized to collect under the NRRA as the home state on a nonadmitted insurance placement.

Exempt Commercial Purchaser

The NRRA defines an exempt commercial purchaser as any person that (1) employs or retains a qualified risk manager to negotiate insurance coverage; (2) has, in the preceding year, paid over \$100,000 in aggregate nationwide commercial property and casualty insurance premiums; and (3) meets at least one of the following requirements:

1. has a net worth over \$20 million;
2. generates over \$50 million in annual revenue;
3. employs more than 500 full-time or full-time equivalent employees per individual insured or is a member of an affiliated group that employs more than 1,000 employees;
4. is a nonprofit organization or public entity that generates at least \$30 million in annual budgeted expenditures; and
5. is a municipality with a population over 50,000.

Administrative Service Organizations

Administrative service organizations contract with state Medicaid agencies (DSS in Connecticut) to provide care coordination, utilization and disease management, customer service, and grievance reviews for Medicaid recipients. They may also provide network management, provider credentialing, and monitor co-payments and premiums. DSS is authorized by law to enter into such contracts for recipients of Medicaid, HUSKY A and B, and the Charter Oak Health Plan.

Related Acts

PA 11-48 (§ 21) also makes the position of state police major a classified one and increases the number of majors that the public safety commissioner must appoint by five (from seven to 12) (see § 105 above).

PA 11-51 (§§ 36-37) also makes changes regarding the Probate Court Administration Fund surplus distribution (see § 100 above).

OLR PUBLIC ACT SUMMARY

PA 11-64 contains the same language concerning the DMHAS Supportive Housing Initiative as this act (see §§ 133-135 above).

OLR Tracking: JSL:various:VR:tjo/ts