



Senate

General Assembly

File No. 152

February Session, 2012

Substitute Senate Bill No. 27

Senate, March 28, 2012

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT TRANSITIONING THE REGULATIONS OF CONNECTICUT STATE AGENCIES TO AN ONLINE FORMAT.

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

1 Section 1. Section 4-167 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2013*):

3 (a) In addition to other regulation-making requirements imposed by
4 law, each agency shall: (1) Adopt as a regulation a description of its
5 organization, stating the general course and method of its operations
6 and the methods whereby the public may obtain information or make
7 submissions or requests; (2) adopt as a regulation rules of practice
8 setting forth the nature and requirements of all formal and informal
9 procedures available provided such rules shall be in conformance with
10 the provisions of this chapter; and (3) make available for public
11 inspection, upon request, paper copies of all regulations and all other
12 written statements of policy or interpretations formulated, adopted or
13 used by the agency in the discharge of its functions, and all forms and

14 instructions used by the agency.

15 (b) No agency regulation is enforceable against any person or party,
16 nor may it be invoked by the agency for any purpose, until (1) it has
17 been made available for public inspection as provided in this section,
18 and (2) the regulation or a notice of the adoption of the regulation has
19 been [published in the Connecticut Law Journal] posted online by the
20 Secretary of the State pursuant to section 4-173, as amended by this act.
21 This provision is not applicable in favor of any person or party who
22 has actual notice or knowledge thereof. The burden of proving the
23 notice or knowledge is on the agency. [The provisions of subdivision
24 (2) of this subsection shall not apply to regulations adopted under
25 subsection (f) of section 4-168.]

26 Sec. 2. Section 4-168 of the 2012 supplement to the general statutes is
27 repealed and the following is substituted in lieu thereof (*Effective July*
28 *1, 2013*):

29 (a) Except as provided in subsection (g) of this section, an agency,
30 prior to adopting a proposed regulation, shall: (1) Give at least thirty
31 days' notice by [publication in the Connecticut Law Journal] having
32 the Secretary of the State post a notice of its intended action online. The
33 notice shall include (A) either a statement of the terms or of the
34 substance of the proposed regulation or a description sufficiently
35 detailed so as to apprise persons likely to be affected of the issues and
36 subjects involved in the proposed regulation, (B) a statement of the
37 purposes for which the regulation is proposed, (C) a reference to the
38 statutory authority for the proposed regulation, (D) when, where and
39 how interested persons may obtain a copy of the small business impact
40 and regulatory flexibility analyses required pursuant to section 4-168a,
41 and (E) when, where and how interested persons may present their
42 views on the proposed regulation; (2) give electronic notice to each
43 joint standing committee of the General Assembly having cognizance
44 of the subject matter of the proposed regulation; (3) give electronic or
45 paper copy notice to all persons who have made requests to the agency
46 for advance notice of its regulation-making proceedings. The agency

47 may charge a reasonable fee for such notice based on the estimated
48 cost of providing the service; (4) provide a paper copy or electronic
49 version of the proposed regulation to persons requesting it. The agency
50 may charge a reasonable fee for paper copies in accordance with the
51 provisions of section 1-212; (5) no later than the date of [publication of
52 the notice in the Connecticut Law Journal] submission of the notice to
53 the Secretary of the State for posting online, prepare a fiscal note,
54 including an estimate of the cost or of the revenue impact (A) on the
55 state or any municipality of the state, and (B) on small businesses in
56 the state, including an estimate of the number of small businesses
57 subject to the proposed regulation and the projected costs, including
58 but not limited to, reporting, recordkeeping and administrative,
59 associated with compliance with the proposed regulation and, if
60 applicable, the regulatory flexibility analysis prepared under section 4-
61 168a. The governing body of any municipality, if requested, shall
62 provide the agency, within twenty working days, with any
63 information that may be necessary for analysis in preparation of such
64 fiscal note; (6) afford all interested persons reasonable opportunity to
65 submit data, views or arguments, orally at a hearing granted under
66 subdivision (7) of this subsection or in writing, and to inspect and copy
67 or view online and print the fiscal note prepared pursuant to
68 subdivision (5) of this subsection; (7) grant an opportunity to present
69 oral argument if requested by fifteen persons, by a governmental
70 subdivision or agency or by an association having not less than fifteen
71 members, if notice of the request is received by the agency within
72 fourteen days after the date of [publication] posting of the notice; and
73 (8) consider fully all written and oral submissions respecting the
74 proposed regulation and revise the fiscal note prepared in accordance
75 with the provisions of subdivision (5) of this subsection to indicate any
76 changes made in the proposed regulation. Notice and all
77 accompanying documents prepared by an agency pursuant to this
78 subsection shall be posted online by the Secretary of the State not later
79 than five calendar days after such agency submits such notice and
80 documents to the Secretary of the State. Each agency shall also post the
81 notice and all accompanying documents on its Internet web site. No

82 regulation shall be found invalid due to the failure of an agency to give
83 notice to each committee of cognizance pursuant to subdivision (2) of
84 this subsection, provided one such committee has been so notified.

85 (b) If an agency is required by a public act to adopt regulations, the
86 agency, [within] not later than five months after the effective date of
87 the public act or by the time specified in the public act, shall [publish
88 in the Connecticut Law Journal the notice required by] post online on
89 its Internet web site notice of its intent to adopt regulations and submit
90 to the office of the Secretary of the State for posting online pursuant to
91 subsection (a) of this section [of its intent to adopt regulations] such
92 notice. If the agency fails to [publish] post the notice within such five-
93 month period or by the time specified in the public act, the agency
94 shall submit [a written] an electronic statement of its reasons for failure
95 to do so to the Governor, the joint standing committee having
96 cognizance of the subject matter of the regulations and the standing
97 legislative regulation review committee. The agency shall submit the
98 required regulations to the standing legislative regulation review
99 committee, as provided in subsection (b) of section 4-170, as amended
100 by this act, not later than one hundred eighty days after [publication
101 of] posting the notice of its intent to adopt regulations, or electronically
102 submit a [written] statement of its reasons for failure to do so to the
103 committee.

104 (c) An agency may begin the regulation-making process under this
105 chapter before the effective date of the public act requiring or
106 permitting the agency to adopt regulations, but no regulation may take
107 effect before the effective date of such act.

108 (d) Upon reaching a decision on whether to proceed with the
109 proposed regulation or to alter its text from that initially proposed, the
110 agency, at least twenty days before submitting the proposed regulation
111 to the standing legislative regulation review committee, shall (1) post
112 on the agency's Internet web site, (2) submit to the office of the
113 Secretary of the State for posting online, and (3) either electronically
114 mail or mail a paper copy to all persons who have made submissions

115 pursuant to subdivision (6) of subsection (a) of this section or who
116 have made statements or oral arguments concerning the proposed
117 regulation and who have requested notification, notice that it has
118 decided to take action on the proposed regulation and that it has
119 posted on the agency's Internet web site and has made available for
120 copying and inspection pursuant to the Freedom of Information Act, as
121 defined in section 1-200: [(1)] (A) The final wording of the proposed
122 regulation; [(2)] (B) a statement of the principal reasons in support of
123 its intended action; and [(3)] (C) a statement of the principal
124 considerations in opposition to its intended action as urged in written
125 or oral comments on the proposed regulation and its reasons for
126 rejecting such considerations.

127 (e) Except as provided in subsection (f) of this section, no regulation
128 may be adopted, amended or repealed by any agency until it is (1)
129 approved by the Attorney General as to legal sufficiency, as provided
130 in section 4-169, (2) approved by the standing legislative regulation
131 review committee, as provided in section 4-170, as amended by this
132 act, and (3) [filed in] posted online by the office of the Secretary of the
133 State, as provided in section 4-172, as amended by this act.

134 (f) (1) An agency may proceed to adopt an emergency regulation in
135 accordance with this subsection without prior notice or hearing or
136 upon any abbreviated notice and hearing that it finds practicable if (A)
137 the agency finds that adoption of a regulation upon fewer than thirty
138 days' notice is required (i) due to an imminent peril to the public
139 health, safety or welfare or (ii) by the Commissioner of Energy and
140 Environmental Protection in order to comply with the provisions of
141 interstate fishery management plans adopted by the Atlantic States
142 Marine Fisheries Commission or to meet unforeseen circumstances or
143 emergencies affecting marine resources, (B) the agency states in
144 writing its reasons for that finding, and (C) the Governor approves
145 such finding in writing.

146 (2) The original of such emergency regulation and an electronic
147 copy shall be submitted to the standing legislative regulation review

148 committee in the form prescribed in subsection (b) of section 4-170, as
149 amended by this act, together with a statement of the terms or
150 substance of the intended action, the purpose of the action and a
151 reference to the statutory authority under which the action is
152 proposed, not later than ten days, excluding Saturdays, Sundays and
153 holidays, prior to the proposed effective date of such regulation. The
154 committee may approve or disapprove the regulation, in whole or in
155 part, within such ten-day period at a regular meeting, if one is
156 scheduled, or may upon the call of either chairman or any five or more
157 members hold a special meeting for the purpose of approving or
158 disapproving the regulation, in whole or in part. Failure of the
159 committee to act on such regulation within such ten-day period shall
160 be deemed an approval. If the committee disapproves such regulation,
161 in whole or in part, it shall notify the agency of the reasons for its
162 action. An approved regulation, [filed in] posted online by the office of
163 the Secretary of the State, may be effective for a period of not longer
164 than one hundred twenty days renewable once for a period of not
165 exceeding sixty days, provided notification of such sixty-day renewal
166 is [filed in] posted online by the office of the Secretary of the State and
167 [a] an electronic copy of such notice is [given] sent to the committee,
168 but the adoption of an identical regulation in accordance with the
169 provisions of subsections (a), (b) and (d) of this section is not
170 precluded. The sixty-day renewal period may be extended an
171 additional sixty days for emergency regulations described in
172 subparagraph (A)(ii) of subdivision (1) of this subsection, provided the
173 Commissioner of Energy and Environmental Protection requests of the
174 standing legislative regulation review committee an extension of the
175 renewal period at the time such regulation is submitted or not less
176 than ten days before the first sixty-day renewal period expires and said
177 committee approves such extension. Failure of the committee to act on
178 such request within ten days shall be deemed an approval of the
179 extension.

180 (3) If the necessary steps to adopt a permanent regulation, including
181 [publication] the posting of notice of intent to adopt, preparation and
182 submission of a fiscal note in accordance with the provisions of

183 subsection (b) of section 4-170, as amended by this act, and approval
184 by the Attorney General and the standing legislative regulation review
185 committee, are not completed prior to the expiration date of an
186 emergency regulation, the emergency regulation shall cease to be
187 effective on that date.

188 (g) If an agency finds (1) that technical amendments to an existing
189 regulation are necessary because of (A) the statutory transfer of
190 functions, powers or duties from the agency named in the existing
191 regulation to another agency, (B) a change in the name of the agency,
192 (C) the renumbering of the section of the general statutes containing
193 the statutory authority for the regulation, or (D) a correction in the
194 numbering of the regulation, and no substantive changes are
195 proposed, or (2) that the repeal of a regulation is necessary because the
196 section of the general statutes under which the regulation has been
197 adopted has been repealed and has not been transferred or reenacted,
198 it may elect to comply with the requirements of subsection (a) of this
199 section or may proceed without prior notice or hearing, provided the
200 agency has posted such amendments to or repeal of a regulation on its
201 Internet web site. Any such amendments to or repeal of a regulation
202 shall be submitted in the form and manner prescribed in subsection (b)
203 of section 4-170, as amended by this act, to the Attorney General, as
204 provided in section 4-169, and to the standing legislative regulation
205 review committee, as provided in section 4-170, as amended by this
206 act, for approval and upon approval shall be [filed in] submitted to the
207 office of the Secretary of the State with, in the case of renumbering of
208 sections only, a correlated table of the former and new section
209 numbers.

210 (h) No regulation adopted after October 1, 1985, is valid unless
211 adopted in substantial compliance with this section. A proceeding to
212 contest any regulation on the ground of noncompliance with the
213 procedural requirements of this section shall be commenced within
214 two years from the effective date of the regulation.

215 Sec. 3. Section 4-168b of the general statutes is repealed and the

216 following is substituted in lieu thereof (*Effective July 1, 2013*):

217 (a) Each agency shall maintain an official regulation-making record
218 for the period required by law for each regulation it proposes in
219 accordance with the provisions of section 4-168, as amended by this
220 act. The regulation-making record and materials incorporated by
221 reference in the record shall be available for public inspection and
222 copying and when required under any provision of this chapter,
223 posted on the Internet web site of the agency.

224 (b) The agency regulation-making record shall contain: (1) Copies of
225 all [publications in the Connecticut Law Journal with respect to the
226 regulation or the proceeding upon which the regulation is based]
227 notices of the agency's intent to adopt regulations submitted to the
228 office of the Secretary of the State; (2) a copy of any written analysis
229 prepared for the proceeding upon which the regulation is based,
230 including the regulatory flexibility analyses required pursuant to
231 section 4-168a; (3) all written petitions, requests, submissions, and
232 comments received by the agency and considered by the agency in
233 connection with the formulation, proposal or adoption of the
234 regulation or the proceeding upon which the regulation is based; (4)
235 the official transcript, if any, of proceedings upon which the regulation
236 is based or, if not transcribed, any tape recording or stenographic
237 record of such proceedings, and any memoranda prepared by any
238 member or employee of the agency summarizing the contents of the
239 proceedings; (5) a copy of all official documents relating to the
240 regulation, including the regulation [filed in] submitted to the office of
241 the Secretary of the State in accordance with section 4-172, as amended
242 by this act, a statement of the principal considerations in opposition to
243 the agency's action, and the agency's reasons for rejecting such
244 considerations, as required pursuant to section 4-168, as amended by
245 this act, and the fiscal note prepared pursuant to subsection (a) of said
246 section 4-168 and section 4-170, as amended by this act; (6) a copy of
247 any petition for the regulation filed pursuant to section 4-174; and (7)
248 copies of all comments or communications between the agency and the
249 legislative regulation review committee.

250 (c) The agency regulation-making record need not constitute the
251 exclusive basis for agency action on that regulation or for judicial
252 review thereof.

253 Sec. 4. Subsection (b) of section 4-170 of the 2012 supplement to the
254 general statutes is repealed and the following is substituted in lieu
255 thereof (*Effective July 1, 2013*):

256 (b) (1) No adoption, amendment or repeal of any regulation, except
257 a regulation issued pursuant to subsection (f) of section 4-168, as
258 amended by this act, shall be effective until (A) the original of the
259 proposed regulation approved by the Attorney General, as provided in
260 section 4-169, the regulatory flexibility analyses as provided in section
261 4-168a and an electronic copy thereof are submitted to the standing
262 legislative regulation review committee at the designated office of the
263 committee, in a manner designated by the committee, by the agency
264 proposing the regulation, (B) the regulation is approved by the
265 committee, at a regular meeting or a special meeting called for the
266 purpose, and (C) the regulation [is filed in] and an electronic copy are
267 submitted to the office of the Secretary of the State by the agency, as
268 provided in section 4-172, as amended by this act, and the regulation is
269 posted online by the Secretary. (2) The date of submission for purposes
270 of subsection (c) of this section shall be the first Tuesday of each
271 month. Any regulation received by the committee on or before the first
272 Tuesday of a month shall be deemed to have been submitted on the
273 first Tuesday of that month. Any regulation submitted after the first
274 Tuesday of a month shall be deemed to be submitted on the first
275 Tuesday of the next succeeding month. (3) The form of proposed
276 regulations which are submitted to the committee shall be as follows:
277 New language added to an existing regulation shall be in capital letters
278 or underlining, as determined by the committee; language to be
279 deleted shall be enclosed in brackets and a new regulation or new
280 section of a regulation shall be preceded by the word "(NEW)" in
281 capital letters. Each proposed regulation shall have a statement of its
282 purpose following the final section of the regulation. (4) The committee
283 may permit any proposed regulation, including, but not limited to, a

284 proposed regulation which by reference incorporates in whole or in
285 part, any other code, rule, regulation, standard or specification, to be
286 submitted in summary form together with a statement of purpose for
287 the proposed regulation. On and after October 1, 1994, if the committee
288 finds that a federal statute requires, as a condition of the state
289 exercising regulatory authority, that a Connecticut regulation at all
290 times must be identical to a federal statute or regulation, then the
291 committee may approve a Connecticut regulation that by reference
292 specifically incorporates future amendments to such federal statute or
293 regulation provided the agency that proposed the Connecticut
294 regulation shall submit for approval amendments to such Connecticut
295 regulations to the committee not later than thirty days after the
296 effective date of such amendment, and provided further the committee
297 may hold a public hearing on such Connecticut amendments. (5) The
298 agency shall append a copy of the fiscal note, prepared pursuant to
299 subsection (a) of section 4-168, as amended by this act, to each copy of
300 the proposed regulation. At the time of submission to the committee,
301 the agency shall submit an electronic copy of the proposed regulation
302 and the fiscal note to (A) the Office of Fiscal Analysis which, not later
303 than seven days after receipt, shall submit an analysis of the fiscal note
304 to the committee; and (B) each joint standing committee of the General
305 Assembly having cognizance of the subject matter of the proposed
306 regulation. No regulation shall be found invalid due to the failure of an
307 agency to submit a copy of the proposed regulation and the fiscal note
308 to each committee of cognizance, provided such regulation and fiscal
309 note has been submitted to one such committee.

310 Sec. 5. Subsections (e) and (f) of section 4-170 of the 2012
311 supplement to the general statutes are repealed and the following is
312 substituted in lieu thereof (*Effective July 1, 2013*):

313 (e) If the committee rejects a proposed regulation without prejudice,
314 in whole or in part, it shall notify the agency of the reasons for the
315 rejection and the agency shall resubmit the regulation in revised form,
316 if the adoption of such regulation is required by the general statutes or
317 any public or special act, not later than the first Tuesday of the second

318 month following such rejection without prejudice and may so resubmit
319 any other regulation, in the same manner as provided in this section
320 for the initial submission with a summary of revisions identified by
321 paragraph. The committee shall review and take action on such
322 revised regulation no later than thirty-five days after the date of
323 submission, as provided in subsection (b) of this section. [Publication]
324 Posting of the notice [in the Connecticut Law Journal] online pursuant
325 to the provisions of section 4-168, as amended by this act, shall not be
326 required in the case of such resubmission.

327 (f) If an agency fails to [file] submit any regulation approved in
328 whole or in part by the standing legislative regulation review
329 committee [in] to the office of the Secretary of the State as provided in
330 section 4-172, as amended by this act, within fourteen days after the
331 date of approval, the agency shall notify the committee, [within] not
332 later than five days after such fourteen-day period, of its reasons for
333 [not so filing] failing to submit such regulation. If any agency fails to
334 comply with the time limits established under subsection (b) of section
335 4-168, as amended by this act, or under subsection (e) of this section,
336 the administrative head of such agency shall submit to the committee a
337 written explanation of the reasons for such noncompliance. The
338 committee, upon the affirmative vote of two-thirds of its members,
339 may grant an extension of the time limits established under subsection
340 (b) of section 4-168, as amended by this act, and under subsection (e) of
341 this section. If no such extension is granted, the administrative head of
342 the agency shall personally appear before the standing legislative
343 regulation review committee, at a time prescribed by the committee, to
344 explain such failure to comply. After any such appearance, the
345 committee may, upon the affirmative vote of two-thirds of its
346 members, report such noncompliance to the Governor. Within
347 fourteen days thereafter the Governor shall report to the committee
348 concerning the action the Governor has taken to ensure compliance
349 with the provisions of section 4-168, as amended by this act, and with
350 the provisions of this section.

351 Sec. 6. Section 4-172 of the general statutes is repealed and the

352 following is substituted in lieu thereof (*Effective July 1, 2013*):

353 (a) After approval of a regulation as required by sections 4-169 and
354 4-170, as amended by this act, or after reversal of a decision of the
355 standing committee by the General Assembly pursuant to section 4-
356 171, each agency shall [file in] submit to the office of the Secretary of
357 the State [two certified copies] a certified copy and an electronic copy
358 of such regulation together with a statement from the department head
359 of such agency certifying that such electronic copy is a true and
360 accurate copy of the regulation approved in accordance with sections
361 4-169 and 4-170, as amended by this act. Each regulation when [filed]
362 so submitted shall be in the form intended for [publication] posting
363 online, and each section of the regulation shall include the appropriate
364 regulation section number and a section heading. The Secretary of the
365 State shall, [keep a permanent register of the regulations open to public
366 inspection] not later than five calendar days after submission by the
367 agency, post each such regulation online in a manner that is easily
368 accessible to and searchable by the public.

369 (b) Each regulation hereafter adopted is effective upon [filing] its
370 posting online by the Secretary of the State in accordance with this
371 section, except that: (1) If a later date is required by statute or specified
372 in the regulation, the later date is the effective date; (2) a regulation
373 may not be effective before the effective date of the public act requiring
374 or permitting the regulation; and (3) subject to applicable
375 constitutional or statutory provisions, an emergency regulation
376 becomes effective immediately upon [filing with] submission to the
377 Secretary of the State, or at a stated date less than twenty days
378 thereafter, if the agency finds that this effective date is necessary
379 because of imminent peril to the public health, safety, or welfare. The
380 agency's finding and a brief statement of the reasons therefor shall be
381 [filed] submitted with the regulation. The agency shall take
382 appropriate measures to make emergency regulations known to the
383 persons who may be affected by them including, but not limited to, by
384 posting such emergency regulations on the agency's Internet web site.

385 [(c) The Secretary of the State, upon receipt of the certified copies of
386 each regulation as provided in subsection (a) of this section, shall
387 include the effective date of the particular regulation on one copy
388 thereof, and forward the copy to the Commission on Official Legal
389 Publications which shall publish the regulation in accordance with the
390 provisions of section 4-173.]

391 Sec. 7. Section 4-173 of the general statutes is repealed and the
392 following is substituted in lieu thereof (*Effective July 1, 2013*):

393 (a) The [Commission on Official Legal Publications] Secretary of the
394 State shall [publish and distribute] post online a compilation of all
395 effective regulations adopted by all state agencies subsequent to
396 October 27, 1970. [, except regulations adopted pursuant to subsection
397 (f) of section 4-168. Such publication may be a supplement to or
398 revision of the most current compilation, and shall be published at
399 least semiannually. The Commission on Official Legal Publications]
400 The Secretary of the State may omit from such compilation (1) any
401 regulation that is incorporated by reference into a Connecticut
402 regulation and published by or otherwise available in printed or
403 electronic form from a federal agency [,] or a government agency of
404 another state, [or a commercial publishing company,] and (2) any
405 regulation that [is too expensive to publish, or (3) any regulation the
406 publication of which would be unduly cumbersome] is incorporated
407 by reference into a Connecticut regulation and to which a third party
408 holds the intellectual property rights, until such time as the Secretary
409 of the Office of Policy and Management obtains a licensing agreement
410 in accordance with section 8 of this act. If the [commission] Secretary of
411 the State omits a regulation from the compilation, [it] the secretary
412 shall publish in the compilation a notice identifying the omitted
413 regulation, stating the general subject matter of the regulation and
414 stating an address, telephone number, web site link, if applicable, and
415 any other information needed to obtain a copy of the regulation. The
416 Secretary of the State shall also provide a web site link, if applicable, to
417 any regulation that is incorporated by reference into a Connecticut
418 regulation. Such [address and telephone number] information shall be

419 kept current [in each semiannual publication of the compilation. The
420 commission shall publish any regulation that has been omitted from
421 publication under subdivision (2) of this subsection as soon as the
422 commission has sufficient funds] and updated not less than quarterly.

423 (b) All regulations published online pursuant to subsection (a) of
424 this section shall be accessible to the public and shall be the official
425 version of the regulations of Connecticut state agencies for all
426 purposes, including all legal and administrative proceedings. The
427 Secretary of the State may adopt regulations, in accordance with the
428 provisions of this chapter, specifying the format in which state
429 agencies shall submit the final approved version of such regulations
430 and all other documents required pursuant to this section and sections
431 4-167, 4-168, 4-170 and 4-172, as amended by this act.

432 [(b) The Commission on Official Legal Publications shall in addition
433 cause to be published in the Connecticut Law Journal at least monthly
434 the text of all regulations received by the commission from the office of
435 the Secretary of the State pursuant to section 4-172 during the
436 preceding month. The commission may omit from the Connecticut
437 Law Journal (1) any regulation submitted in accordance with
438 subsection (g) of section 4-168, for the purposes of renumbering
439 sections only, if a correlated table of the former and new section
440 numbers is published in lieu of the full text, (2) any regulation that is
441 incorporated by reference into a Connecticut regulation and published
442 by or otherwise available in printed form from a federal agency, a
443 government agency of another state or a commercial publishing
444 company, and (3) any regulation the publication of which would be
445 too expensive or unduly cumbersome. If the commission omits a
446 regulation from publication in the Connecticut Law Journal under
447 subdivision (2) or (3) of this subsection, the commission shall publish
448 in the Connecticut Law Journal a notice identifying the omitted
449 regulation, stating the general subject matter of the regulation and
450 stating an address, telephone number and any other information
451 needed to obtain a copy of the regulation.

452 (c) Each agency which adopts a regulation shall make the regulation
453 available for inspection and copying at its main office.

454 (d) Any publication made pursuant to subsections (a) and (b) of this
455 section shall be made available upon request to agencies and officials
456 of this state free of charge, and to other persons at prices fixed by the
457 Commission on Official Legal Publications, in accordance with section
458 51-216b.

459 (e) The compilation of regulations published under subsection (a) of
460 this section and all Connecticut regulations omitted from the
461 compilation under subsection (a) shall be maintained in the reference
462 collection of each law library described in section 11-19a.]

463 Sec. 8. (NEW) (*Effective July 1, 2013*) The Secretary of the Office of
464 Policy and Management shall seek to obtain one or more licensing
465 agreements with the International Code Council, American Society of
466 Mechanical Engineers, National Safety Council, National Fire
467 Protection Association or other entity, as applicable, to permit the
468 posting online in accordance with the provisions of chapter 54 of the
469 general statutes of all codes or other standards incorporated by
470 reference into regulations adopted in accordance with the provisions
471 of chapter 54 of the general statutes by state agencies, including, but
472 not limited to, the State Building Code, State Fire Safety Code, State
473 Fire Prevention Code, Connecticut Safety Code for Elevators and
474 Escalators, Safety Code for Passenger Tramways, Safety Code for
475 Operation and Maintenance of Cranes, Oil Burning Equipment Code,
476 Flammable and Combustible Liquids Code, Gas Equipment and
477 Piping Code, Liquefied Petroleum Gas and Liquefied Natural Gas
478 Code, Hazardous Chemicals Code and Model Rocketry Code.

479 Sec. 9. Section 17b-10 of the general statutes is repealed and the
480 following is substituted in lieu thereof (*Effective July 1, 2013*):

481 (a) The Department of Social Services shall prepare and routinely
482 update state medical services and public assistance manuals. The
483 pages of such manuals shall be consecutively numbered and indexed,

484 containing all departmental policy regulations and substantive
485 procedure, written in clear and concise language. Said manuals shall
486 be published by the department, posted on the Internet web site of the
487 department and distributed so that they are available to (1) all regional
488 and subregional offices of the Department of Social Services; (2) each
489 town hall in the state; (3) all legal assistance programs in the state; and
490 (4) any interested member of the public who requests a copy. All
491 policy manuals of the department, as they exist on May 23, 1984,
492 including the supporting bulletins but not including statements
493 concerning only the internal management of the department and not
494 affecting private rights or procedures available to the public, shall be
495 construed to have been adopted as regulations in accordance with the
496 provisions of chapter 54. After May 23, 1984, any policy issued by the
497 department, except a policy necessary to conform to a requirement of a
498 federal or joint federal and state program administered by the
499 department, including, but not limited to, the state supplement
500 program to the Supplemental Security Income Program, shall be
501 adopted as a regulation in accordance with the provisions of chapter
502 54.

503 (b) The department shall adopt as a regulation in accordance with
504 the provisions of chapter 54, any new policy necessary to conform to a
505 requirement of an approved federal waiver application initiated in
506 accordance with section 17b-8 and any new policy necessary to
507 conform to a requirement of a federal or joint state and federal
508 program administered by the department, including, but not limited
509 to, the state supplement program to the Supplemental Security Income
510 Program, but the department may operate under such policy while it is
511 in the process of adopting the policy as a regulation, provided the
512 Department of Social Services posts such policy on its Internet web
513 site, submits such policy electronically to the Secretary of the State for
514 posting online prior to adopting the policy and prints notice of intent
515 to adopt the regulation in the Connecticut Law Journal [within] not
516 later than twenty days after adopting the policy. Such policy shall be
517 valid until the time final regulations are effective.

518 (c) On and after July 1, 2004, the department shall submit proposed
519 regulations that are required by subsection (b) of this section to the
520 standing legislative regulation review committee, as provided in
521 subsection (b) of section 4-170, as amended by this act, not later than
522 one hundred eighty days after publication of the notice of its intent to
523 adopt regulations. The department shall include with the proposed
524 regulation a statement identifying (1) the date on which the proposed
525 regulation became effective as a policy as provided in subsection (b) of
526 this section, and (2) any provisions of the proposed regulation that are
527 no longer in effect on the date of the submittal of the proposed
528 regulation, together with a list of all policies that the department has
529 operated under, as provided in subsection (b) of this section, that
530 superseded any provision of the proposed regulation.

531 (d) In lieu of submitting proposed regulations by the date specified
532 in subsection (c) of this section, the department may submit to the
533 legislative regulation review committee a notice not later than thirty-
534 five days before such date that the department will not be able to
535 submit the proposed regulations on or before such date and shall
536 include in such notice (1) the reasons why the department will not
537 submit the proposed regulations by such date, and (2) the date by
538 which the department will submit the proposed regulations. The
539 legislative regulation review committee may require the department to
540 appear before the committee at a time prescribed by the committee to
541 further explain such reasons and to respond to any questions by the
542 committee about the policy. The legislative regulation review
543 committee may request the joint standing committee of the General
544 Assembly having cognizance of matters relating to human services to
545 review the department's policy, the department's reasons for not
546 submitting the proposed regulations by the date specified in
547 subsection (c) of this section and the date by which the department will
548 submit the proposed regulations. Said joint standing committee may
549 review the policy, such reasons and such date, may schedule a hearing
550 thereon and may make a recommendation to the legislative regulation
551 review committee.

552 (e) If amendments to an existing regulation are necessary solely to
553 conform the regulation to amendments to the general statutes, and if
554 the amendments to the regulation do not entail any discretion by the
555 department, the department may elect to comply with the
556 requirements of subsection (a) of section 4-168, as amended by this act,
557 or may proceed without prior notice or hearing, provided the
558 department has posted such amendments on its Internet web site. Any
559 such amendments to a regulation shall be submitted in the form and
560 manner prescribed in subsection (b) of section 4-170, as amended by
561 this act, to the Attorney General, as provided in section 4-169, and to
562 the committee, as provided in section 4-170, as amended by this act, for
563 approval and upon approval shall be [filed in] submitted to the office
564 of the Secretary of the State for posting online in accordance with
565 section 4-172, as amended by this act.

566 Sec. 10. Section 17b-423 of the general statutes is repealed and the
567 following is substituted in lieu thereof (*Effective July 1, 2013*):

568 (a) The Department of Social Services shall prepare and routinely
569 update a community services policy manual. The pages of such
570 manual shall be consecutively numbered and indexed, containing all
571 departmental policy regulations and substantive procedure. Such
572 manual shall be published by the department, posted on the Internet
573 web site of the department and distributed so that it is available to all
574 district, subdistrict and field offices of the Department of Social
575 Services. The Department of Social Services shall adopt such policy
576 manual in regulation form in accordance with the provisions of
577 chapter 54. The department may operate under any new policy
578 necessary to conform to a requirement of a federal or joint state and
579 federal program. The department may operate under any new policy
580 while it is in the process of adopting the policy in regulation form,
581 provided the Department of Social Services posts such policy on its
582 Internet web site and submits such policy electronically to the
583 Secretary of the State for posting online prior to adopting the policy
584 and prints notice of intent to adopt the regulations in the Connecticut
585 Law Journal [within] not later than twenty days after adopting the

586 policy. Such policy shall be valid until the time final regulations are
587 effective.

588 (b) The Department of Social Services shall write the community
589 services policy manual using plain language as described in section 42-
590 152. The manual shall include an index for frequent referencing and a
591 separate section or manual which specifies procedures to follow to
592 clarify policy.

593 Sec. 11. (NEW) (*Effective July 1, 2013*) Notwithstanding any
594 provision of the general statutes, no policy or procedure that is
595 implemented by any state agency while in the process of adopting
596 such policy or procedure in regulation form shall become effective
597 unless such agency has (1) posted such policy or procedure on its
598 Internet web site prior to implementation, (2) electronically submitted
599 such policy or procedure to the Secretary of the State to be posted in
600 the online database on the Secretary's Internet web site prior to
601 implementation, and (3) complied with every other requirement of the
602 authorizing statute. Any state agency that has implemented a policy or
603 procedure prior to July 1, 2013, that is in effect on said date shall, not
604 later than October 1, 2013, post such policy or procedure on its Internet
605 web site and electronically submit such policy or procedure to the
606 Secretary of the State to be posted in the online database on the
607 Secretary's Internet web site. At the time of submission of adopted
608 regulations that supersede such policy or procedure to the Secretary of
609 the State in accordance with section 4-172 of the general statutes, as
610 amended by this act, the agency shall notify the Secretary of the State
611 that such policy or procedure is no longer in effect and the Secretary of
612 the State shall remove such posted policy or procedure from its
613 Internet web site.

614 Sec. 12. (NEW) (*Effective July 1, 2013*) Any state agency that has
615 written a manual or other guidance document shall post such manual
616 or document on its Internet web site.

617 Sec. 13. Subsection (c) of section 51-216a of the general statutes is
618 repealed and the following is substituted in lieu thereof (*Effective July*

619 1, 2013):

620 (c) [In addition to the publication of regulations pursuant to section
621 4-173, the] The commission shall publish in the Connecticut Law
622 Journal except as they may be incorporated into any revision of the
623 Connecticut Practice Book: (1) Rules adopted by the judges of the
624 Supreme Court, including but not limited to the rules adopted by the
625 Supreme Court for the courts of probate, (2) the rules of the Appellate
626 Court, and (3) the rules of the Superior Court.

627 Sec. 14. Subsection (g) of section 51-216a of the general statutes is
628 repealed and the following is substituted in lieu thereof (*Effective July*
629 *1, 2013*):

630 (g) All official legal publications published by the commission
631 pursuant to this section [and each compilation of effective regulations
632 published by the commission pursuant to section 4-173] shall be
633 printed on paper that meets or exceeds the American National
634 Standards Institute standards for permanent paper, unless such paper
635 is not available.

636 Sec. 15. (*Effective from passage*) (a) There is established a Regulations
637 Modernization task force. The task force shall consist of eleven
638 members appointed by the Governor. All appointments to the task
639 force shall be made not later than thirty days after the effective date of
640 this section. Any vacancy shall be filled by the Governor. The
641 Governor shall select the chairperson of the task force from among the
642 members of the task force.

643 (b) The Department of Administrative Services shall provide
644 administrative staff support for the task force.

645 (c) The task force shall develop a plan to ensure that by July 1, 2013,
646 the regulations of Connecticut state agencies are available to the public
647 in an easily accessible online format. The task force shall submit the
648 plan not later than January 1, 2013, to the standing legislative
649 regulation review committee and the Governor, in accordance with the

650 provisions of section 11-4a of the general statutes. The task force shall
651 terminate on the date it submits such plan or January 1, 2013,
652 whichever is later. The plan shall include, but not be limited to:

653 (1) An identification of all physical equipment and software needed
654 to transition the regulations of Connecticut state agencies to an online
655 format;

656 (2) A recommendation identifying the appropriate state agency to
657 supervise continued maintenance of an online system once established;

658 (3) A description of all training that will be necessary to instruct
659 existing staff on the use and maintenance of such system;

660 (4) A description of the anticipated additional workload and agency
661 responsibilities that will be required to transition all such regulations
662 to an online format and to maintain such system once established;

663 (5) A description of the anticipated reduction in workload and cost
664 savings that will be achieved as a result of transitioning all such
665 regulations to an online format;

666 (6) An estimate of the cost to implement and maintain such system
667 along with recommendations on how the state may recover such costs;
668 and

669 (7) Recommendations for any additional legislation the task force
670 finds necessary to facilitate the transition of such regulations to an
671 online format.

672 (d) The task force shall, if necessary, employ an expert consultant to
673 advise the task force on technical aspects involved with implementing
674 and maintaining an online system of the regulations of Connecticut
675 state agencies. The task force may seek bond funds, through the
676 Department of Administrative Services, to pay the costs of such
677 consultant.

678 (e) The Legislative Commissioners' Office, the Commission on

679 Official Legal Publications and all executive branch agencies shall
 680 cooperate and provide information to the task force as necessary to
 681 fulfill its duties.

| | | |
|---|---------------------|------------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>July 1, 2013</i> | 4-167 |
| Sec. 2 | <i>July 1, 2013</i> | 4-168 |
| Sec. 3 | <i>July 1, 2013</i> | 4-168b |
| Sec. 4 | <i>July 1, 2013</i> | 4-170(b) |
| Sec. 5 | <i>July 1, 2013</i> | 4-170(e) and (f) |
| Sec. 6 | <i>July 1, 2013</i> | 4-172 |
| Sec. 7 | <i>July 1, 2013</i> | 4-173 |
| Sec. 8 | <i>July 1, 2013</i> | New section |
| Sec. 9 | <i>July 1, 2013</i> | 17b-10 |
| Sec. 10 | <i>July 1, 2013</i> | 17b-423 |
| Sec. 11 | <i>July 1, 2013</i> | New section |
| Sec. 12 | <i>July 1, 2013</i> | New section |
| Sec. 13 | <i>July 1, 2013</i> | 51-216a(c) |
| Sec. 14 | <i>July 1, 2013</i> | 51-216a(g) |
| Sec. 15 | <i>from passage</i> | New section |

Statement of Legislative Commissioners:

In section 2(d)(3) "either" was added for proper grammar and in section 11, "any other" was changed to "every other" for accuracy.

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 13 \$ | FY 14 \$ |
|--|--------------------|-------------------|-------------------|
| Secretary of the State, Various State Agencies | GF - Cost | Less than \$1,000 | See Below |
| Various State Agencies | GF - Savings | None | See Below |
| Judicial Dept. | GF - Savings | None | Less than \$1,000 |

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires all agency regulations and related documents to be posted online, rather than in the *Connecticut Law Journal*. Regulations must be posted on both the Secretary of the State's Web site, and the Web site of the regulating agency.

The bill establishes a task force to develop a plan that ensures that regulations of all state agencies are online by July 1, 2013. There may be a cost of less than \$1,000 to agencies participating in the task force to reimburse legislators and agency staff for mileage expenses.

There is a potential cost to the Secretary of the State (SOTS) associated with creating and maintaining an online database of agency regulations. These costs, such as hardware and software, and necessary staff training, depend on the recommendations the task force makes for transitioning agency regulations to an online format.

There is a savings of less than \$1,000 to the Judicial Department's Commission on Legal Publications associated with reduced printing and paper costs. These savings will begin to be achieved in FY 14, which is the first year agencies will no longer be required to publish

regulations in the *Connecticut Law Journal*.

Some agencies may realize a savings. For example, if an agency currently submits regulations via mail to the *Connecticut Law Journal*, and SOTS requires agencies to submit regulations electronically, there would be a savings associated with reduced mailing expenses.

The bill also permits the task force to request bond funds through the Department of Administrative Services (DAS). This has no fiscal impact because it does not authorize additional General Obligation (GO) bonds. There may be an increase in future General Fund debt service costs to the degree that this causes GO bond funds authorized to DAS to be expended more rapidly than they otherwise would have been.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR BILL ANALYSIS**sSB 27*****AN ACT TRANSITIONING THE REGULATIONS OF CONNECTICUT STATE AGENCIES TO AN ONLINE FORMAT.*****SUMMARY:**

This bill requires that state agency regulations be posted online, rather than published in the *Connecticut Law Journal*, making them available to the public on the Office of the Secretary of the State's and regulating agency's Internet websites.

The bill requires the Office of Policy and Management (OPM) secretary to seek the necessary licensing agreements to permit the online posting of regulations containing codes or standards for which a third party holds the intellectual property rights. It requires agencies to post online (1) their policy manuals and guidance documents and (2) policies that have been implemented while in the process of being adopted in regulation form.

Lastly, the bill creates an 11-member Regulation Modernization Task Force to develop an implementation plan for publishing regulations online.

EFFECTIVE DATE: July 1, 2013, except for the task force provision which is effective upon passage.

§§ 1 & 2—NOTICE REQUIREMENTS***Notice of Intent***

By law, agencies may be authorized or required to adopt regulations. They must provide at least 30 days' notice of their intent to adopt proposed regulations. Agencies required to adopt regulations must provide the notice within five months after the passage of the act requiring adoption or by the time specified in the act.

The bill requires that the secretary of the state post the notice, rather than the *Connecticut Law Journal* publish it. The secretary must post the notice and its accompanying documents on her office's website within five days after receiving them from the agency. Any agency that fails to post notice of intent to adopt required regulations within the specified periods must explain its reasons in an electronic, rather than written, statement to the governor and the Legislative Regulation Review Committee.

The bill requires agencies to post the notice and accompanying documents on their websites. They must also give electronic notice to the legislature's committees of cognizance for the regulation's subject matter. Additionally, the bill changes the date by which an agency must prepare a fiscal note regarding the regulations. The new date is the date the notice of intent is submitted to the secretary, rather than the date of publication in the *Connecticut Law Journal*.

The bill requires agencies, after deciding to proceed with a proposed regulation or alter its text, to post to its own website and submit to the secretary for posting on her office's website (1) the proposed regulation's final wording, (2) supporting reasons, and (3) opposing arguments and why they were rejected.

By law, agencies must provide electronic or paper copies of proposed regulations upon request. The bill permits anyone who requests it to continue to inspect paper copies of their regulations and policies. The bill prohibits agencies from charging a fee for electronic copies of the proposed regulation.

Other Notices

By law, an agency may propose, without prior notice, (1) technical amendments to regulations when necessary to conform to certain changes or (2) a repeal of a regulation if the authorizing statute is repealed. The bill requires the agency to post to its website any such proposed technical amendments or repeals.

§ 6—APPROVED REGULATIONS

Submission to the Secretary

Once regulations have been approved by the attorney general and the Legislative Regulation Review Committee, current law requires agencies to submit two certified paper copies of the approved regulations to the Office of the Secretary of the State. The bill instead requires agencies to submit one certified and one electronic copy to the secretary along with a statement from the department head certifying that the electronic version is a true and accurate copy of the approved regulation. The bill authorizes the secretary to adopt regulations specifying the format agencies must use to submit electronic regulations and documents.

Regulation Effective Date

Currently with some exceptions, regulations become effective when an agency files them with the secretary. Under the bill, regulations become effective when the secretary publishes them online, which she must do within five calendar days after the agency's filing, in a manner easily accessible to, and searchable by, the public. The bill specifies that emergency regulations are effective upon submission to the secretary. It deletes the requirement that, before becoming enforceable, agency regulations must be published in the *Connecticut Law Journal*.

The bill designates the online regulations published by the secretary as the "official version" of the regulations of state agencies for "all purposes, including all legal and administrative proceedings." It requires agencies to provide, if requested, paper copies of regulations and other written policy statements and agency forms and instructions.

§§ 6-8— PUBLISHED REGULATIONS

The bill removes:

1. the duties of the Commission on Official Legal Publications (COLP) to publish (a) the compilation of all adopted state agency regulations that it currently publishes with semiannual supplements and (b) a monthly update of approved regulations

in the *Connecticut Law Journal*;

2. the provision for making published regulations available to state agencies and officials for free and to others for sale;
3. the requirement that published regulations be included in each state law library's reference collection; and
4. the ability to omit from the compilation emergency regulations and those that are too expensive or unduly cumbersome to publish.

The bill requires the secretary to publish the compilation of regulations online with website links to any other state or federal regulations adopted or incorporated by reference. She must also include in the compilation a website link, if available, to information about any omitted regulations. She must update the compilation at least quarterly.

Proprietary Regulations

Under current practice, non-state entities hold the intellectual property rights to several codes and standards that are incorporated by reference into state agency regulations (e.g., the State Building Code and the State Fire Safety Code). The bill requires the OPM secretary to seek one or more licensing agreements from the publishers of these codes and standards to permit them to be posted online by the secretary of the state.

§§ 9-12— AGENCY POLICIES

Policy Manuals and Guidance Documents

The bill requires any state agency that has written a manual or guidance document to post it on its website. It specifically requires the Department of Social Services (DSS) to post to its website its medical services, public assistance, and community services manuals.

Policies Awaiting Adoption in Regulation Form

By law, DSS must adopt as regulations policies necessary to

conform to certain federal or joint federal and state program requirements. The law allows DSS to operate under such policies while in the process of adopting them in regulation form. The bill requires DSS to post the policies to its website and electronically submit them to the secretary of the state for online posting before implementing them. The bill retains current law's requirement that notices of intent to adopt these policies as regulations appear in the *Connecticut Law Journal*.

The bill also extends the online posting requirement to all agencies that adopt interim policies or procedures while such policies or procedures are in the process of being adopted in regulation form. The bill prohibits such policies or procedures from being effective unless the agency (1) posts them on its website, (2) electronically submits them to the secretary for posting online, and (3) complies with the authorizing statute's other requirements, if applicable. Such policies or procedures in effect on July 1, 2013 must be posted on the agency's website and submitted to the secretary by October 1, 2013. There is no deadline for the secretary to post them. When the superseding regulations take effect, the agency must notify the secretary, who must then remove the policy or procedure from the secretary's website.

§ 15—REGULATION MODERNIZATION TASK FORCE

The bill establishes an 11-member gubernatorial-appointed task force to develop a plan that ensures, by July 1, 2013, that Connecticut state agency regulations are available to the public in an accessible online format. The governor must (1) make the appointments within 30 days of the bill's passage, (2) select the chairperson, and (3) fill any vacancy. It requires the Department of Administrative Services (DAS) to provide administrative staff support.

By January 1, 2013, the task force must submit a plan to the governor and the Legislative Regulation Review Committee that ensures state agency regulations are easily accessible to the public in an online format by July 1, 2013. The task force terminates on January 1, 2013 or when it submits its plan, whichever is later.

The bill requires the plan to:

1. identify the hardware and software needed to transfer regulations to an online format;
2. recommend the appropriate state agency to supervise maintenance of the online system;
3. describe the necessary staff training for using and maintaining the system;
4. describe the amount of additional work and responsibilities required to create and maintain the system;
5. describe the reduction in workload and costs that are anticipated with the system;
6. estimate the cost to implement and maintain the system, with recommendations on how the state can recover it; and
7. recommend additional legislation that may be necessary to facilitate the transition to publishing regulations in an online format.

The bill authorizes the task force to request bond funds through DAS to pay a consultant for advice on the technical aspects of implementing and maintaining an online system for regulations. The Legislative Commissioners' Office, COLP, and all executive branch agencies must cooperate and provide information the task force needs.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/12/2012)