



House of Representatives

General Assembly

File No. 402

January Session, 2013

Substitute House Bill No. 6374

House of Representatives, April 8, 2013

The Committee on Public Safety and Security reported through REP. DARGAN of the 115th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING COORDINATED LONG-TERM DISASTER RELIEF AND RECOVERY.

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

1 Section 1. Section 4-37e of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in this section and sections 4-37f to 4-37j, inclusive, as
4 amended by this act:

5 (1) "State agency" means each state board, authority, commission,
6 department, office, institution, council or other agency of the state
7 including, but not limited to, each constituent unit and each public
8 institution of higher education.

9 (2) "Foundation" means an organization, fund or any other legal
10 entity which is (A) exempt from taxation pursuant to Section 501(c)(3)
11 of the Internal Revenue Code of 1986, [as amended] or any subsequent
12 corresponding internal revenue code of the United States, as from time

13 to time amended, and (B) established for the principal purpose of
14 receiving or using private funds for charitable, scientific, cultural,
15 educational or related purposes that support or improve a state agency
16 or for coordinated emergency recovery purposes. Such an
17 organization, fund or other legal entity shall not be deemed to be a
18 state agency or a public agency, as defined in section 1-200.

19 (3) "Executive authority" means (A) a department head, as defined
20 in section 4-5, (B) the executive secretary or president of a constituent
21 unit, (C) the chief executive officer of a public institution of higher
22 education, and (D) the chief executive officer of any other state agency.

23 (4) "Constituent unit" means a constituent unit as defined in section
24 10a-1.

25 (5) "Public institution of higher education" means a public college or
26 university in the state system of higher education or The University of
27 Connecticut School of Law.

28 (6) "Coordinated emergency recovery" means the support and
29 improvement of state services affected by a natural disaster, act of
30 domestic terrorism, catastrophic event or other unforeseen emergency,
31 including, but not limited to, services provided by the Department of
32 Emergency Services and Public Protection and the Office of Victim
33 Services.

34 Sec. 2. Section 4-37f of the general statutes is repealed and the
35 following is substituted in lieu thereof (*Effective from passage*):

36 The executive authority of each state agency for which a foundation
37 is established shall, in accordance with a policy adopted by the board
38 of trustees of the constituent unit for each state agency which is a
39 constituent unit or which is a public institution of higher education
40 under the jurisdiction of the constituent unit, ensure that, or the
41 executive authority of each state agency for which a foundation is
42 established for the principal purpose of coordinated emergency
43 recovery shall ensure that:

44 (1) The foundation shall have a governing board to oversee its
45 operation;

46 (2) If the state agency is a constituent unit, the following persons
47 shall serve as nonvoting members of the governing board of the
48 foundation unless the bylaws of the foundation provide that they be
49 voting members: The executive authority of the constituent unit, or his
50 designee, a student enrolled at an institution under the jurisdiction of
51 the constituent unit, who shall be elected by the students enrolled at
52 the institutions under the jurisdiction of the constituent unit, and a
53 member of the faculty of any such institution, who shall be elected by
54 the faculty of the institutions under the jurisdiction of the constituent
55 unit. Elections pursuant to this subdivision shall be conducted in
56 accordance with procedures for such elections established by the board
57 of trustees of the constituent unit;

58 (3) If the constituent unit is the Board of Trustees of the
59 Community-Technical Colleges or the Board of Trustees of the
60 Connecticut State University System, the purposes of the foundation
61 shall be limited to providing funding for (A) scholarships or other
62 direct student financial aid, and (B) programs, services or activities at
63 one or more of the institutions within its jurisdiction;

64 (4) If the state agency is a public institution of higher education, the
65 following persons shall serve as nonvoting members of the governing
66 board of the foundation unless the bylaws of the foundation provide
67 that they be voting members: The executive authority of the
68 institution, or his designee, a student enrolled at the institution, who
69 shall be elected by the students enrolled in the institution and a
70 member of the faculty of the institution, who shall be elected by the
71 faculty of the institution. Elections pursuant to this subdivision shall be
72 conducted in accordance with procedures for such elections
73 established by the board of trustees of the constituent unit which has
74 jurisdiction over the institution;

75 (5) The governing board of the foundation shall annually file with
76 the state agency an updated list of the members and officers of such

77 board;

78 (6) The salaries, benefits and expenses of officers and employees of
79 the foundation shall be paid solely by the foundation;

80 (7) The foundation shall use generally accepted accounting
81 principles in its financial record-keeping and reporting;

82 (8) A foundation which has in any of its fiscal years receipts and
83 earnings from investments totaling one hundred thousand dollars per
84 year or more, or a foundation established for the principal purpose of
85 coordinated emergency recovery that operated in response to an
86 eligible incident, as defined in section 4 of this act, during the fiscal
87 year or with funds that exceeded one hundred thousand dollars in the
88 aggregate, shall have completed on its behalf for such fiscal year a full
89 audit of the books and accounts of the foundation. A foundation which
90 has receipts and earnings from investments totaling less than one
91 hundred thousand dollars in each fiscal year during any three of its
92 consecutive fiscal years beginning October 1, 1986, shall have
93 completed on its behalf for the third fiscal year in any such three-year
94 period a full audit of the books and accounts of the foundation, unless
95 such foundation was established for the principal purpose of
96 coordinated emergency recovery and had completed on its behalf such
97 an audit for any year in any such three-year period. For each fiscal year
98 in which an audit is not required pursuant to this subdivision financial
99 statements shall be provided by the foundation to the executive
100 authority of the state agency. Each audit under this subdivision shall
101 be conducted (A) by an independent certified public accountant or, if
102 requested by the state agency with the consent of the foundation, the
103 Auditors of Public Accounts, and (B) in accordance with generally
104 accepted auditing standards. The audit report shall include financial
105 statements, a management letter and an audit opinion which address
106 the conformance of the operating procedures of the foundation with
107 the provisions of sections 4-37e to 4-37i, inclusive, as amended by this
108 act, and recommend any corrective actions needed to ensure such
109 conformance. Each audit report shall disclose the receipt or use by the

110 foundation of any public funds in violation of said sections or any
111 other provision of the general statutes. The foundation shall provide a
112 copy of each audit report completed pursuant to this subdivision to the
113 executive authority of the state agency and the Attorney General. Each
114 financial statement required under this subdivision shall include, for
115 the fiscal year to which the statement applies, the total receipts and
116 earnings from investments of the foundation and the amount and
117 purpose of each receipt of funds by the state agency from the
118 foundation. As used in this subdivision, "fiscal year" means any
119 twelve-month period adopted by a foundation as its accounting year;
120 [and]

121 (9) There shall be a written agreement between the state agency and
122 the foundation which (A) addresses any use by the foundation of the
123 agency's facilities and resources including, but not limited to, office
124 space, storage space, office furniture and equipment, utilities,
125 photocopying services, computer systems and the maintenance by the
126 state agency of the books and records of the foundation, provided any
127 such books and records maintained by the state agency shall not be
128 deemed to be public records and shall not be subject to disclosure
129 pursuant to the provisions of section 1-210, (B) provides that the state
130 agency shall have no liability for the obligations, acts or omissions of
131 the foundation, (C) requires the foundation to reimburse the state
132 agency for expenses the agency incurs as a result of foundation
133 operations, if the agency would not have otherwise incurred such
134 expenses, (D) in the case of foundations established for a constituent
135 unit of the state system of higher education or for a public institution
136 of higher education, requires the foundation to establish and adhere to
137 an investment policy and a spending policy that are consistent with
138 sections 45a-535 to 45a-535i, inclusive, and (E) provides that if the
139 foundation ceases to exist or ceases to be a foundation, as defined in
140 section 4-37e, as amended by this act, (i) the foundation shall be
141 prohibited from using the name of the state agency, (ii) the records of
142 the foundation, or copies of such records, shall be made available to
143 and may be retained by the state agency, provided any such records or
144 copies which are retained by the state agency shall not be deemed to be

145 public records and shall not be subject to disclosure pursuant to the
146 provisions of section 1-210, and (iii) there are procedures for the
147 disposition of the financial and other assets of the foundation. If the
148 state agency is a constituent unit, the board of trustees of the
149 constituent unit shall approve such agreement. If the state agency is a
150 public institution of higher education, the board of trustees of the
151 constituent unit which has jurisdiction over the institution shall
152 approve such agreement; and

153 (10) If the foundation is established for the principal purpose of
154 coordinated emergency recovery, the Department of Emergency
155 Services and Public Protection shall be deemed the state agency for
156 purposes of this section, and the deputy commissioner of said
157 department with jurisdiction over the Division of Emergency
158 Management and Homeland Security shall be deemed the executive
159 authority for purposes of this section.

160 Sec. 3. Section 4-31a of the general statutes is repealed and the
161 following is substituted in lieu thereof (*Effective from passage*):

162 (a) Any gift, contribution, income from trust funds, or other aid
163 from any private source or from the federal government, except federal
164 aid for highway and bridge purposes or federal funds in the
165 possession of the Board of Control of the Connecticut Agricultural
166 Experiment Station, the Board of Trustees of the University of
167 Connecticut, the Board of Trustees of the Connecticut State University
168 System, the Board of Trustees of the Community-Technical Colleges,
169 or the Employment Security Division of the Labor Department, or any
170 other gift, grant or trust fund in the possession of any of said boards,
171 shall be entered upon the records of the General Fund in the manner
172 prescribed by the Secretary of the Office of Policy and Management.
173 When so recorded, such amounts shall be deemed to be appropriated
174 to the purposes of such gift, contribution or other aid and shall be
175 allotted in accordance with law. No gift, contribution, income from
176 trust funds, or other aid from any private source or from the federal
177 government that is subject to this subsection shall require allotment,

178 except upon a notice by the Secretary of the Office of Policy and
179 Management that the state agency receiving such funding has failed to
180 consistently provide the notifications required in subsection (e) of
181 section 4-66a.

182 (b) Notwithstanding the provisions of subsection (a) of this section,
183 any funds that are donated or contributed by any private source with
184 the intent that such gift or contribution be used to support coordinated
185 emergency recovery, as defined in section 4-37e, as amended by this
186 act, shall not be entered upon the records of the General Fund and
187 such amounts shall not be deemed to be appropriated to the purposes
188 of such gift or contribution.

189 [(b)] (c) No fund shall be created and set up on the books of the state
190 except by act of the General Assembly or upon the approval of the
191 Governor.

192 Sec. 4. (NEW) (*Effective from passage*) As used in this section and
193 sections 5 to 7, inclusive, of this act:

194 (1) "Eligible incident" means any emergency declared by a political
195 subdivision of the state, declared by the Governor in accordance with
196 section 28-9 of the general statutes or declared by two-thirds vote of
197 the board following a request of the Governor;

198 (2) "CT CARE" means the Connecticut Coordinated Assistance and
199 Recovery Endowment foundation established under section 5 of this
200 act;

201 (3) "Board" means the governing board of CT CARE;

202 (4) "Victims' relief" means direct financial payments to those
203 individuals determined by the board to be most affected by an eligible
204 incident;

205 (5) "Assistance" means moneys payable by CT CARE in furtherance
206 of coordinated emergency recovery, as defined in section 4-37e of the
207 general statutes, as amended by this act, other than victims' relief, to

208 assist eligible recipients affected by an eligible incident including
209 individuals, municipalities and nonprofit organizations; and

210 (6) "Endowment fund eligible gift" means a gift from a private
211 source to or for the benefit of CT CARE that the donor has specifically
212 designated for deposit in an endowment fund or that, by the terms of
213 the gift, CT CARE may and does deposit or permit to be deposited in
214 an endowment fund.

215 Sec. 5. (NEW) (*Effective from passage*) (a) There is established, in
216 accordance with the provisions of section 4-37f of the general statutes,
217 as amended by this act, a foundation that shall be known as the
218 Connecticut Coordinated Assistance and Recovery Endowment or CT
219 CARE. The purpose of the foundation is to support coordinated
220 emergency recovery, as defined in section 4-37e of the general statutes,
221 as amended by this act. The foundation may accept disbursements
222 from the Coordinated Emergency Recovery Fund pursuant to section 6
223 of this act and may accept gifts, grants or donations from private
224 sources to enable the foundation to carry out its purposes.

225 (b) (1) CT CARE shall be administered by a governing board. The
226 board shall include the following voting members: (A) Seven members
227 appointed by the Governor who shall have experience in finance or
228 accounting or with the operation of a nonprofit or other corporation,
229 each of whom shall serve at the pleasure of the Governor; (B) the
230 Secretary of the Office of Policy and Management, or the secretary's
231 designee; (C) the Deputy Commissioner of Emergency Services and
232 Public Protection with jurisdiction over the Division of Emergency
233 Management and Homeland Security, or the deputy commissioner's
234 designee; (D) an employee of the Office of Victim Services within the
235 Judicial Department appointed by the Chief Court Administrator; (E)
236 the chairperson of each regional emergency planning team established
237 by the Division of Emergency Management and Homeland Security
238 within the Department of Emergency Services and Public Protection;
239 and (F) two members, appointed by the Connecticut Council for
240 Philanthropy, each of whose term shall be coterminous with that of the

241 Governor, provided such member's term shall extend through the
242 duration of an eligible incident and, after expiration of such member's
243 term, through any period in which a new appointment to replace such
244 member has yet to be made.

245 (2) The following persons shall serve on the governing board as
246 nonvoting members in an advisory capacity, in a manner determined
247 by the executive committee pursuant to subsection (g) of this section:
248 (A) The State Emergency Management Director, or the director's
249 designee; (B) the Commissioner of Social Services, or the
250 commissioner's designee; (C) the Insurance Commissioner, or the
251 commissioner's designee; (D) (i) the executive director of the
252 Connecticut Conference of Municipalities or the executive director's
253 designee, and (ii) the executive director of the Connecticut Council of
254 Small Towns or the executive director's designee, each of whose term
255 shall be coterminous with that of the Governor, provided such
256 member's term shall extend through the duration of an eligible
257 incident; and (E) such other persons as determined by the executive
258 committee established pursuant to subsection (g) of this section.

259 (3) All appointments to the governing board shall be made not later
260 than thirty days after the effective date of this section. Any vacancy
261 shall be filled by the appointing authority. The Governor shall select
262 the chairperson of the governing board and the chairperson shall call
263 the first meeting of the board, which shall be held not later than sixty
264 days after the effective date of this section.

265 (c) The governing board shall: (1) Adopt policies, bylaws and
266 governing documents and undertake other measures to (A) ensure that
267 the foundation receives and maintains its status as a legal entity
268 exempt from taxation pursuant to Section 501(c)(3) of the Internal
269 Revenue Code of 1986, or any subsequent corresponding internal
270 revenue code of the United States, as from time to time amended, and
271 (B) receive and distribute funds donated in response to an eligible
272 incident; (2) register CT CARE with applicable state or federal
273 agencies; (3) establish best practices for operating and administering

274 CT CARE to provide coordinated emergency recovery; (4) in
275 anticipation of eligible incidents, create objective guidelines, protocols,
276 scenarios or bases tailored to respond to foreseeable eligible incidents;
277 (5) take actions necessary to ensure financial independence and
278 sustainability, which may include engaging in solicitation of private
279 donations including for the purpose of funding its operations with
280 restricted or endowment funds; (6) for each eligible incident, certify to
281 the Governor and the State Treasurer that the foundation is ready,
282 willing and able to receive private donations and carry out
283 coordinated emergency recovery, as defined in section 4-37e of the
284 general statutes, as amended by this act; (7) establish a distribution
285 committee pursuant to the provisions of subsection (f) of this section,
286 receive recommendations from such distribution committee and
287 formally adopt any proposed formula to distribute victims' relief
288 funds; and (8) fund its operations and pay its expenses from sources of
289 funding designated for that purpose.

290 (d) The board may: (1) Sue and be sued; (2) employ fiscal agents,
291 accountants, legal counsel or other professionals to carry out the
292 purposes of CT CARE, including, but not limited to, an executive
293 director or such other staff as the board may deem necessary; (3)
294 negotiate for services with state agencies or qualified nonprofit
295 entities; (4) delegate decision making authority on the distribution of
296 funds, except as provided in subdivision (7) of subsection (c) of this
297 section concerning adoption of any proposed formula to distribute
298 victims' relief funds; and (5) consider and promote the concepts and
299 best practices associated with coordinated emergency recovery.

300 (e) Any person employed by the board pursuant to the provisions of
301 subdivision (2) of subsection (d) of this section shall not be considered
302 a state employee.

303 (f) For each eligible incident, the board shall establish a distribution
304 committee. The distribution committee shall include: (1) The regional
305 coordinator for the Division of Emergency Management and
306 Homeland Security within the Department of Emergency Services and

307 Public Protection of any region affected, as determined by the board or
308 as otherwise provided for in a declaration of emergency causing an
309 incident to become eligible; (2) the chief executive officer for each
310 affected municipality, as determined by the board or as otherwise
311 provided for in a declaration of emergency causing an incident to
312 become eligible; (3) the chairperson of each regional emergency
313 planning team established by the Division of Emergency Management
314 and Homeland Security within the Department of Emergency Services
315 and Public Protection affected, as determined by the board or as
316 otherwise provided for in a declaration of emergency causing an
317 incident to become eligible; and (4) not more than two residents of an
318 affected municipality or municipalities who shall be appointed by the
319 chairperson of the board. The distribution committee shall assist the
320 board in determining eligibility requirements for recipients of
321 distributions from any fund established by CT CARE, provided no
322 distribution shall be made except by action of the board.

323 (g) The board shall establish an executive committee with
324 membership determined by the board. The executive committee shall
325 inform nonvoting members of the board of their roles as advisors and
326 attend to any other duties prescribed to the executive committee by the
327 board.

328 Sec. 6. (NEW) (*Effective from passage*) (a) There is established a fund
329 to be known as the Coordinated Emergency Recovery Fund. The State
330 Treasurer shall be the custodian of said fund and is authorized to
331 accept gifts, grants or donations from private sources to be held in the
332 fund and disbursed in accordance with subsection (b) of this section
333 and sections 45a-514 and 47-2 of the general statutes. The sums
334 received by the fund shall be accounted for separately and apart from
335 all other state moneys, and the full faith and credit of the state of
336 Connecticut is pledged for their safekeeping.

337 (b) Disbursements from the fund shall be made by the State
338 Treasurer or the State Treasurer's designee to CT CARE upon (1) the
339 declaration of an eligible incident, and (2) receipt of the certification

340 required in subdivision (6) of subsection (c) of section 5 of this act.

341 (c) On or before January 1, 2014, and monthly thereafter, the State
342 Treasurer shall submit to the Governor and the Attorney General a
343 report on the financial condition of the Coordinated Emergency
344 Recovery Fund. Such report shall include (1) an estimate of the fund's
345 value as of the date of the report; (2) the effect of disbursements and
346 scheduled disbursements on the fund's value; and (3) an estimate of
347 the monthly administrative costs necessary to operate the fund.

348 Sec. 7. (NEW) (*Effective from passage*) (a) CT CARE shall provide
349 victims' relief and assistance to individuals, municipalities, nonprofit
350 organizations and other eligible recipients affected by an eligible
351 incident. Upon the declaration of each eligible incident, the board shall
352 establish the following funds to provide victims' relief and assistance
353 as indicated: (1) A victims' relief fund to provide victims' relief in
354 accordance with the formula adopted by the board pursuant to
355 subdivision (7) of subsection (c) of section 5 of this act; (2) an
356 individual assistance fund to provide needs-based assistance to
357 affected individuals; and (3) a public assistance fund to provide local
358 emergency funding to affected municipalities, nonprofit organizations
359 and other eligible recipients. Such funds shall contain moneys
360 disbursed to CT CARE by the State Treasurer pursuant to section 6 of
361 this act. For each eligible incident, the board may establish such other
362 funds as it deems necessary or desirable to provide coordinated
363 emergency recovery with respect to each eligible incident.

364 (b) In the event the moneys in any of the funds established pursuant
365 to subsection (a) of this section, other than the victims' relief fund, are
366 insufficient to provide full and complete assistance, such assistance
367 shall be provided on a pro rata basis at the discretion of the board.
368 Victims' relief or assistance provided under this section shall be
369 deemed unavailable for repayment of assistance given by the Federal
370 Emergency Management Agency.

371 (c) The board may establish permanent endowment funds,
372 including, but not limited to, a permanently unrestricted fund to pay

373 for the operating expenses of CT CARE. Any such endowment funds
 374 shall be administered by the board and shall be held in a trust fund
 375 with a bank or trust company separate and apart from all other funds
 376 and accounts of CT CARE. There shall be deposited into any such
 377 endowment fund: (1) Endowment fund eligible gifts, and (2) interest or
 378 other income earned on the investment of moneys in such endowment
 379 fund pending application or transfer or use of earnings on the
 380 principal thereof for the purposes for which such fund was
 381 established.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4-37e
Sec. 2	<i>from passage</i>	4-37f
Sec. 3	<i>from passage</i>	4-31a
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	New section

PS *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:** None**Municipal Impact:** None**Explanation**

The bill establishes the Connecticut Coordinated Assistance and Recovery Endowment foundation (CT CARE) under section 501(c)(3) of the Internal Revenue Code and outlines its mission and function. This bill has no fiscal impact as CT CARE would be solely responsible for: its operating costs; employee costs and expenses; any expenses incurred by the Department of Emergency Services and Public Protection. Any expenses incurred by the Department of Emergency Services and Public Protection as a result of the foundation's operations must be reimbursed by the foundation as required by existing statutes.

There is no fiscal impact to the State Treasurer arising from its responsibilities as the proposed custodian of the Coordinated Emergency Recovery fund.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sHB 6374*****AN ACT CONCERNING COORDINATED LONG-TERM DISASTER RELIEF AND RECOVERY.*****SUMMARY:**

This bill establishes the Connecticut Coordinated Assistance and Recovery Endowment (CT CARE) as a tax exempt foundation, under a governing board, to support coordinated emergency recovery in cases where state services are affected by natural disasters, acts of domestic terrorism, catastrophic events, or other unforeseen emergencies. It establishes the Coordinated Emergency Recovery Fund (CERF), under the state treasurer's custody, to receive and disburse private funds to CT CARE to provide victims' relief and assistance to individuals, towns, and nonprofit organizations affected by such emergencies.

The bill subjects the foundation to many of the requirements governing other existing state foundations (such as the University of Connecticut Foundation). Among other things, the foundation must keep its books according to generally accepted accounting principles and be audited by either state auditors or an independent certified public accountant.

The bill designates the Department of Emergency Services and Public Protection (DESPP) as the state agency for which the foundation is established. It requires the foundation to have a written agreement with DESPP covering its use of DESPP's facilities and resources.

The bill requires the foundation to have a governing board. For each eligible incident, the board must establish a distribution committee to help it determine eligibility requirements for recipients of disbursements from any fund established by the foundation. An

“eligible incident” is any emergency declared by a political subdivision of the state; the governor; or two-thirds vote of the board, following a request by the governor.

EFFECTIVE DATE: Upon passage

CONNECTICUT CARE FOUNDATION

The bill establishes CT CARE as a tax exempt foundation to support coordinated emergency recovery. It defines “coordinated emergency recovery” as the support and improvement of state services affected by a natural disaster, an act of domestic terrorism, catastrophic event, or other unforeseen emergency, including services provided by DESPP or the Office of Victim Services (OVS).

The bill authorizes the foundation to accept disbursements from CERF and private gifts, grants, and donations to carry out its purposes.

Executive Authority

The bill designates DESPP as the state agency for which the foundation is established and DESPP’s deputy commissioner of the Division of Emergency Management and Homeland Security as the agency’s executive authority. The foundation itself is not a state or public agency. It is responsible for paying the salaries, benefits and expenses of officers and employees.

Agreements. The executive authority must ensure that there is an agreement between DESPP and the foundation covering the foundation’s use of DESPP’s facilities and resources, including any used to maintain foundation books. Foundation books and records kept by DESPP are not disclosable under the Freedom of Information Act (FOIA).

The agreement must also:

1. provide that the state is not liable for the foundation’s acts, omissions, or obligations;
2. require the foundation to reimburse the agency for any

expenses incurred solely as a result of foundation operations;

3. provide that, if the foundation ceases to exist, or to be a foundation, it may not use DESPP's name, and its records, or copies of them, will be available to, and may be stored by, the agency, but exempt from FOIA; and
4. provide for disposition of the foundation's assets.

Audits. The executive authority must ensure that the foundation's books and accounts are fully audited by an independent certified public accountant or, if requested by the state agency with the foundation's consent, the state auditors.

An audit of the foundation's books must be conducted for any fiscal year in which the foundation (1) has funds in excess of \$100,000 in the aggregate or (2) responds to an eligible incident. If the foundation receives and earns less than \$100,000 in any of three consecutive years, it must have an audit of the third year, unless it had an audit completed on its behalf in any year in the three-year period. It must provide copies of its audit reports to the DESPP executive authority and attorney general. Under the bill, existing foundations must provide copies to the attorney general as well, not just the executive authority.

Audits must be conducted in accordance with generally accepted accounting standards. The audit report must contain financial statements, a management letter, and an audit opinion addressing how the foundation's operating procedures conforms with the bill and recommending any necessary corrective steps. A financial statement must show the donation's total receipts and earnings for the fiscal year covered and the amount and purpose of each of its donations to the agency. The foundation may adopt any 12-month period as its fiscal year.

The bill requires the foundation to provide copies of its audit reports to the executive authority of the state agency and the attorney

general (§ 2). It also requires existing foundations to provide copies to the attorney general, not just to the executive authority, as they currently do.

CT CARE GOVERNING BOARD

The bill gives the executive authority responsibility for ensuring that the foundation is administered by a governing board and specifies the board's composition, duties, and legal obligations.

Board employees are not state employees.

Membership

Voting Members. The governing board consists of the following voting members:

1. seven gubernatorial appointees, who serve at the governor's pleasure, with experience in finance or accounting or running a nonprofit or other corporation;
2. the Office of Policy and Management (OPM) secretary or a designee;
3. the DESPP deputy commissioner with jurisdiction over the Division of Emergency Management and Homeland Security or a designee;
4. an OVS member;
5. the chairperson of each regional emergency planning team established by the Division of Emergency Management and Homeland Security; and
6. two members, appointed by the Connecticut Council for Philanthropy, whose terms are coterminous with that of the governor, except the terms must extend through the duration of an eligible incident, and after the expiration of the terms through any period in which new appointments to replace such members have yet to be made.

Nonvoting Members. The following members or their designees serve as nonvoting members in an advisory capacity, in a manner determined by the executive committee (described below):

1. the state emergency management director;
2. the social services commissioner;
3. the insurance commissioner,
4. the executive directors of the Connecticut Conference of Municipalities' (CCM) and Connecticut Council of Small Towns; and
5. other people, as the executive committee determines.

The CCM and Council of Small Towns members' terms are coterminous with the governor's term, provided the members' terms must extend through the duration of an eligible incident.

Deadlines. All appointments to the governing board must be made within 30 days after the bill passes. Vacancies must be filled by the appointing authority. The governor must select the chairperson, who must call the first board meeting within 60 days after the bill passes.

Board Duties

The governing board must:

1. adopt policies, bylaws, and governing documents, and undertake other measures to (a) ensure that the foundation receives and maintains federal tax exempt status and (b) receive and distribute funds donated in response to an eligible incident;
2. register the CT CARE Fund with applicable state or federal agencies;
3. establish best practices for operating and administering the CT CARE Fund to provide coordinated emergency recovery;

4. in anticipation of eligible incidents, create objective guidelines, protocols, or scenarios tailored to respond to foreseeable eligible incidents;
5. take actions necessary to ensure financial independence and sustainability, which may include soliciting private donations to fund its operations with restricted or endowment funds;
6. for each eligible incident, certify to the governor and the state treasurer that the foundation is ready, willing, and able to receive private donations and carry out coordinated emergency recovery;
7. establish a distribution committee, receive recommendations from the committee, and formally adopt any proposed formula to distribute victims' relief funds; and
8. fund its operations and pay its expenses from funding sources designated for the purpose.

Board Authority

The board may:

1. sue and be sued;
2. employ fiscal agents, accountants, legal counsel, or other professionals to carry out the foundation's purposes, such as an executive director or other staff the board deems necessary;
3. negotiate for services with state agencies or qualified nonprofit entities;
4. with exceptions, delegate decision making authority on the distribution of funds; and
5. consider and promote the concepts and best practices associated with coordinated emergency recovery.

Distribution Committee

For each eligible incident, the board must establish a distribution committee to help the board determine eligibility requirements for recipients of disbursements from any fund the foundation establishes. But any distribution must be made by action of the board.

The distribution committee consists of the (1) regional coordinator for the Division of Emergency Management and Homeland Security of any region affected; (2) chairperson of each regional emergency response team established by the division; and (3) chief executive officer for each affected municipality, in all three cases as determined by the board or as otherwise provided for in a declaration of emergency causing an incident to become eligible. The board chairperson must also appoint up to two residents of an affected municipality or municipalities to the board.

Executive Committee

The board must establish an executive committee and determine its membership. The committee must inform nonvoting board members of their roles as advisors and attend to any other duties the board prescribes for the committee.

CERF

Under the bill, the state treasurer is the custodian of CERF. It authorizes the treasurer to accept private gifts, grants, or donations for the fund. The funds received must be accounted for separately and apart from all other state money, and the full faith and credit of the state is pledged for their safekeeping. The bill specifies that any private gift or contribution intended for coordinated emergency recovery must not be put in the General Fund and cannot be considered General Fund appropriation.

The state treasurer or her designee must disburse CERF funds to the foundation upon (1) the declaration of an eligible incident and (2) receipt of the certification that the foundation is ready, willing, and able to accept funds and carry out coordinated emergency recovery.

Monthly, beginning by January 1, 2014, the state treasurer must

submit a report to the governor and attorney general on CERF's financial condition. The report must include (1) an estimate of the fund's value on the report date, (2) the effect of disbursements and scheduled disbursements on its value, and (3) an estimate of the monthly administrative costs necessary to operate the fund.

Victims' Relief and Assistance

CERF must provide victims' relief and assistance to individuals, municipalities, nonprofit organizations, and other eligible recipients affected by an eligible incident. The bill defines "victims' relief" as direct financial payments to individuals the board determines are most affected by an eligible incident. It defines "assistance" as money payable by the CT CARE foundation, other than victims' relief, to help affected individuals and municipalities.

Procedural Issues

Upon the declaration of each eligible incident, the board must establish the following three funds to provide victims' relief and assistance, but may also establish other funds it deems necessary or desirable to provide coordinated emergency recovery:

1. a victim's relief fund to provide victims' relief in accordance with the formula adopted by the board under the bill;
2. an individual assistance fund to provide needs-based assistance to affected individuals; and
3. a public assistance fund to provide local emergency funding to affected municipalities, nonprofit organizations, and other eligible recipients.

These funds must contain money disbursed to the foundation by the state treasurer. If the money in any of the funds, other than the victims' relief fund, is insufficient to provide full assistance, the board may, at its discretion, provide assistance on a pro rata basis. Any victims' relief or assistance provided under the bill is deemed unavailable for repaying assistance given by the Federal Emergency Management

Agency.

Permanent Endowment Funds

The bill allows the board to establish permanent endowment funds, including a permanently unrestricted fund to pay the foundation’s operating expenses. The board must administer the endowment funds, which must be held in a trust fund with a bank or trust company separate and apart from all other foundation funds and accounts. Any endowment fund eligible gifts must be deposited in the endowment fund, as must any interest or other income earned on the fund’ investments pending application or transfer or use of earnings on the principal for the fund’s purposes.

The bill defines an “endowment fund eligible gift” as a private gift made for the foundation’s benefit, which (1) has been specifically designated for deposit in an endowment fund or (2) explicitly or implicitly by the terms of the gift, the foundation may and does deposit or permit to be deposited in an endowment fund.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute

Yea 15 Nay 9 (03/21/2013)