
OLR Bill Analysis

sHB 6362 (as amended by House "A")*

AN ACT CONCERNING THE TRANSPARENCY AND ACCESSIBILITY OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES.

SUMMARY:

PA 12-92 requires that, on and after July 1, 2013, state agency regulations be available to the public on the secretary of the state's and regulating agency's Internet websites, rather than published in the *Connecticut Law Journal*. It establishes the same requirement for notices of proposed regulations and their accompanying documents.

This bill modifies several of the provisions in PA 12-92. It delays, from July 1, 2013 until a date no later than October 1, 2014, a requirement that online regulations posted by the secretary of the state be the "official version" of the regulations of state agencies for "all purposes, including all legal and administrative proceedings." It requires the Commission on Official Legal Publications (COLP) to continue publishing regulations in the *Connecticut Law Journal* until this time.

The bill names the electronic regulations compilation as the "eRegulations System" and requires (1) agencies, and not the secretary, to post to the system notices of proposed regulations and regulation-related documents and (2) the secretary to post the final regulations. It eliminates requirements for agencies to post regulations and regulation-related documents (e.g., notices of a proposed action) on their own websites.

The bill eliminates several provisions that require a regulation to be submitted in hard copy. However, it requires the secretary, by January 1, 2014, to develop and implement a plan to maintain at her office a paper copy of all regulations posted on the eRegulations System.

The bill revises the requirements for selecting the legislative Regulation Review Committee's co-chairpersons to conform the law to practice. It also requires that several manuals published by the Department of Social Services (DSS) be posted on the eRegulations System. Lastly, it repeals requirements, due to take effect on July 1, 2013, that agencies (1) post all manuals and guidance documents online and (2) post on their websites policies that are implemented before being adopted in regulation form (§ 12, effective upon passage).

The bill also makes numerous technical and conforming changes.

*House Amendment "A" (1) adds provisions on hyperlinking by agencies and a plan by the secretary for maintaining hard copies; (2) eliminates a provision that removed from the official regulation-making record tape recordings and stenographic records and instead requires that they be posted online only if the secretary confirms that it would not violate federal or state law; and (3) allows the Regulation Review Committee 45, rather than 60, days to review certain technical changes to DSS's Uniform Policy Manual.

EFFECTIVE DATE: Various, see below

§§ 1-4 & 8 — EREGULATIONS SYSTEM

§§ 1 & 8 — *Official Version of State Agency Regulations*

PA 12-92 requires the secretary of the state, beginning July 1, 2013, to post online a compilation of all effective state agency regulations, including emergency regulations, adopted on and after October 27, 1970. It (1) requires that the compilation be easily accessible to, and searchable by, the public and (2) designates it as the "official version" of the regulations of state agencies for "all purposes, including all legal and administrative proceedings."

The bill delays the date on which the electronic regulations compilation (which the bill names as the "eRegulations System") becomes the official version until the time that the secretary certifies, in writing, that the system is technologically sufficient for this purpose. Under the bill, this certification must be (1) made by the secretary by

October 1, 2014 and (2) published on the secretary's website and in the *Connecticut Law Journal*.

The bill retains PA 12-92's requirement that, beginning July 1, 2013, existing regulations be posted online, but it specifies that these regulations will be unofficial until the secretary makes the above certification. However, it retains a requirement that regulations noticed on and after July 1, 2013 be posted online in order to be enforceable.

By law, certain regulations that are incorporated by reference into another regulation may be omitted from publication (1) in the *Connecticut Law Journal*, until July 1, 2013, and (2) on the eRegulations System on and after July 1, 2013. Under current law, in both instances, a notice must be published (in the journal or on the system, as appropriate) that identifies an omitted regulation, its subject matter, and information on where one can learn more about the regulation. The bill delays, from July 1, 2013 until October 1, 2014, the requirement that this notice be published on the eRegulations System, thus eliminating the publication of this notice for this 15-month period.

The bill requires COLP, within available appropriations, to provide any assistance requested by the secretary in the creation of the eRegulations System. This assistance includes providing the secretary with all effective regulations for posting online.

EFFECTIVE DATE: July 1, 2013

§ 1 — *Publication in the Connecticut Law Journal*

Under current law, COLP's publication of regulations in the *Connecticut Law Journal* ceases on July 1, 2013. The bill requires that, until the secretary certifies that the eRegulations System is ready to be the official version, (1) COLP continue publishing regulations in the journal and (2) the secretary forward an electronic copy of each certified regulation to COLP. Additionally, the bill designates the COLP-published regulations as the official version until this time.

Under provisions in current law that are repealed effective July 1, 2013, COLP must follow several requirements when publishing

regulations. For example, it must publish (1) in the *Connecticut Law Journal*, a monthly update of approved regulations and (2) a semiannual compilation of all adopted state agency regulations. A regulation or notice of a regulation's adoption must also appear in the journal in order to be enforceable.

The bill does not specify requirements for COLP's publication of regulations on and after July 1, 2013, and it eliminates COLP's ability to omit certain regulations from publication on and after this date (see above). Additionally, even though COLP must publish the official version of the regulations, they do not have to appear in the *Connecticut Law Journal* to be enforceable if they are noticed on and after July 1, 2013. Conversely, although the eRegulations System is not the official version until certified by the secretary of the state, regulations noticed on and after July 1, 2013 must be posted on the eRegulations System in order to be enforceable.

EFFECTIVE DATE: July 1, 2013

§ 3 — Notices of Proposed Regulations

Under PA 12-92, agencies must, beginning July 1, 2013, (1) post on their websites notices of proposed regulations and regulation-related documents and (2) submit these notices and documents to the secretary of the state for posting on the online compilation. The bill eliminates these requirements and instead requires agencies to post these notices and, on and after October 1, 2014, the regulation-related documents, on the eRegulations System. It thus delays, from July 1, 2013 until October 1, 2014, the requirement that the regulation-related documents be posted online.

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 any such proposed technical amendments or repeals on the eRegulations System, rather than its own website.

By law, any agency that fails to post notice of intent to adopt required regulations by the applicable deadline must explain its reasons in an electronic statement to the governor, legislative committee of cognizance of the regulation's subject matter, and Legislative Regulation Review Committee. The bill requires that, on and after October 1, 2014, the agency also post this statement on the eRegulations System.

EFFECTIVE DATE: July 1, 2013 and applicable to regulations noticed on and after that date.

§ 4 — Official Regulation-Making Record

The law requires agencies to create an official regulation-making record that includes, among other things, the notice of intent to adopt regulations, written analyses upon which the regulation is based, submissions and comments received by the agency, and official documents related to the regulation.

The bill requires that agencies post this record on the eRegulations System, rather than maintain it as current law requires. It prohibits posting of audio recordings of hearings on the system unless the secretary confirms that posting them would not violate any state or federal law regarding accessibility for people with disabilities. The bill requires agencies to maintain audio recordings that are not posted on the eRegulations System and make them available to the public upon request.

EFFECTIVE DATE: October 1, 2014 and applicable to regulations noticed on and after that date.

§ 1 — Hyperlink on Agency Websites

The bill requires each state agency and quasi-public agency with regulatory authority to post on its website a conspicuous link to the eRegulations System and, if practicable, link to the specific regulatory provisions that concern the agency or quasi-public agency's particular programs.

EFFECTIVE DATE: July 1, 2013

§§ 5-7 — REGULATION ADOPTION

By law, proposed regulations must be approved by the attorney general for legal sufficiency before being submitted to the Regulation Review Committee for approval. The bill specifies that this requirement also applies to proposed regulations that are re-submitted to the committee. It also requires that (1) proposed regulations be submitted electronically to the attorney general and (2) the attorney general's approval be provided to the agency electronically and submitted by the agency electronically to the Regulation Review Committee. Under current law, the attorney general's approval is indicated on the original of the proposed regulation, which is then submitted to the committee. The bill retains current law's requirement that the agency submit the original of the proposed regulation to the committee.

By law, once the committee approves a regulation, the agency must submit it to the secretary of the state. Effective July 1, 2013, current law requires agencies to submit one certified and one electronic copy of an approved regulation 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 instead requires that, for regulations noticed on and after October 1, 2014, (1) agencies submit only a certified electronic copy to the secretary and (2) the department head's statement be filed electronically.

EFFECTIVE DATE: July 1, 2014 and applicable to regulations noticed on and after that date, except that the provision on filing with the secretary is effective October 1, 2014 and applicable to regulations noticed on and after that date.

§ 6 — Regulation Review Committee Co-Chairpersons

The bill conforms the law to current practice by revising the procedures for selecting the co-chairpersons of the legislature's Regulation Review Committee. It requires that (1) the committee's co-chairpersons be from different political parties, (2) the House chair and Senate chair alternate between political parties in successive terms, and (3) the co-chairpersons be appointed by either the Senate president pro

tempore or minority leader or the House speaker or minority leader, as appropriate. Current law requires the committee to elect its co-chairpersons, one from the House and one from the Senate.

EFFECTIVE DATE: July 1, 2014

§§ 9-11 — DEPARTMENT OF SOCIAL SERVICES

§§ 9 & 10 — eRegulations Posting Requirements

The bill eliminates, effective October 1, 2014, requirements that DSS (1) distribute its medical services and public assistance manuals to its regional and subregional offices, town halls, and legal assistance programs and (2) post the manuals and any updates to them on its website (which it must do beginning July 1, 2013). It instead requires DSS to post these manuals and updates on the eRegulations System.

By law, DSS must adopt as regulations policies necessary to conform to certain federal or joint federal and state program requirements. The law allows the department to operate under such policies while in the process of adopting them in regulation form. Under current law, DSS must publish a notice of intent to adopt the regulations in the *Connecticut Law Journal* and, effective July 1, 2013, post the policies on its website and electronically submit them to the secretary of the state for online posting. The bill, effective October 1, 2014, eliminates these requirements and instead requires DSS, like other agencies, to post them on the eRegulations System. However, for other agencies, this change is effective July 1, 2013.

By law, DSS, instead of submitting these proposed regulations to the Regulation Review Committee, may submit a notice to the committee (1) explaining why it will not meet the submission deadline, and (2) stating when it will submit them. The bill requires this notice to be electronic.

The bill also eliminates DSS's community services policy manual and instead requires the newly-formed Department of Aging to adopt (and post to the eRegulations System) regulations to carry out the purposes of the federal Older Americans Act of 1965. This provision

conforms to the transfer of DSS's Aging Services Division to the Department of Aging, as both the manual and the act address services for older adults. The bill extends to the Department of Aging (1) DSS's authority to operate under a policy before adopting it in regulation and (2) the requirements DSS must follow when doing this (see above).

EFFECTIVE DATE: October 1, 2014 and applicable to regulations noticed on and after that date.

§ 11 — DSS Uniform Policy Manual

The bill requires DSS to make technical and structural changes to its Uniform Policy Manual so that it conforms to the numbering, organization, form, and style of state agency regulations. The bill allows DSS to make these changes without following the law's requirements concerning regulation-making proceedings.

DSS must submit the changes to the Regulation Review Committee for review. The bill (1) limits the committee's review to confirming that the changes are technical and structural and (2) deems the changes approved if the committee does not act within 45 days of the submission.

Upon the committee's approval, DSS must transfer a certified electronic copy of the changes to the secretary of the state for posting on the eRegulations System. The bill deems the corresponding sections of the Uniform Policy Manual as superseded once she does this.

EFFECTIVE DATE: July 1, 2013

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 11 Nay 3 (03/15/2013)

Appropriations Committee

Joint Favorable

Yea 47 Nay 1 (04/30/2013)

