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## **OLR Bill Analysis**

### **sSB 843**

#### ***AN ACT CONCERNING REVENUE ITEMS TO IMPLEMENT THE BUDGET.***

#### **SUMMARY:**

This bill makes various changes to state and local taxes and fees.

Among the state tax provisions, the bill requires the Department of Revenue Services (DRS) commissioner to establish a tax amnesty program that runs from September 16, 2013 to November 15, 2013. It extends, for two additional years, the temporary (1) cap on the maximum insurance premium tax liability that an insurer may offset through tax credits and (2) 20% corporation income tax surcharge. It (1) increases the sales tax rate on certain digital products and computer and data processing services and (2) exempts certain vessels from the sales and use tax, and (3) reduces the sales and use tax rate on boats costing more than \$100,000.

The bill establishes a process to group electric company customers who have not chosen a competitive supplier (standard service customers) and have suppliers bid for the right to serve them. It also establishes a credit against the utility companies tax for gas companies equal to costs they incur in providing incentives for prospective customers who are more than 150 feet from existing mains to connect to the gas distribution system.

The bill changes amounts transferred to and from the General Fund. It eliminates the requirement that a portion of the sales, luxury, and real estate conveyance tax be allocated to the Municipal Revenue Sharing Account, thus requiring these funds to remain in the General Fund. It modifies certain annual transfers from the General Fund to the Special Transportation Fund (STF) and eliminates transfers from the Tobacco Settlement Fund to two research funds. It also transfers

certain amounts to the General Fund from the STF and other sources.

The bill modifies several existing tax credit programs. It (1) reduces the state earned income tax credit (EITC) against the personal income tax for the 2013 and 2014 tax years, (2) increases the total amount of business credits available under the Urban and Industrial Sites Reinvestment Program, and (3) makes business investments in neighborhood advocacy projects in certain designated areas eligible for a maximum 100% Neighborhood Assistance Act (NAA) tax credit.

As for local taxes, beginning in the 2018 assessment year, the bill exempts from property taxes the first \$20,000 of a motor vehicle's net assessed value. The exemption applies to people who own or lease cars, light duty trucks, pickup trucks, or motorcycles on the list the motor vehicles commissioner provides to municipalities.

Lastly, the bill increases several municipal fees, including those for (1) liquor permit, document, and map filings; (2) marriage licenses; and (3) burial and cremation permits.

EFFECTIVE DATE: July 1, 2013, unless otherwise noted below.

## **§ 1 — TAX AMNESTY PROGRAM**

The bill requires the DRS commissioner to establish a tax amnesty program for individuals, business, or other taxpayers that owe Connecticut state taxes (other than motor carrier road taxes) to DRS. The amnesty runs from September 16, 2013 to November 15, 2013 and covers any taxable period ending on or before November 30, 2012.

### ***Amnesty Conditions***

The DRS commissioner must prepare an amnesty application that requires applicants to specify the taxes and taxable periods for which they seek amnesty. The bill allows the commissioner to require that taxpayers file amnesty applications electronically.

If a taxpayer files the application during the amnesty period and pays all the taxes owed for the applicable tax periods, plus interest, the commissioner must waive applicable civil penalties and refrain from

seeking criminal prosecution for those periods. The commissioner may only grant amnesty to affected taxpayers (i.e., those who owe taxes for the applicable tax periods) who pay the taxes and interest that the commissioner determines they owe when they file their applications.

If the commissioner grants amnesty, the affected taxpayer relinquishes all unexpired administrative and judicial appeal rights as of the payment date. The bill bars taxpayers from receiving any refund or credit of amnesty tax payments. Failure to pay all amounts due invalidates the amnesty. A taxpayer is not entitled, by virtue of penalty waivers and interest reductions under the amnesty, to any refund or credit of previously paid amounts. The commissioner may not consider any request to cancel the unpaid portion of any erroneously or illegally assessed tax, penalty, or interest in connection with any amnesty application.

#### ***Interest Reduction***

If a taxpayer pays the taxes due by November 15, 2013, the bill reduces the interest rate on those taxes to one-fourth of the interest that the department's records show to be due and payable as of the application's filing. (The interest rate on overdue taxes is generally 1% per month.) Any tax due for the applicable tax periods that is paid after the filing deadline is subject to interest of 1% per month or part of a month from the date it was originally due to the payment date.

#### ***Amnesty Exclusions***

The bill bars any amnesty for those who:

1. are parties to any criminal investigation or criminal litigation pending on July 1, 2013 in any federal or Connecticut court,
2. are parties to a closing agreement with the DRS commissioner,
3. have made a compromise offer that has been accepted by the commissioner, or
4. are parties to a managed audit agreement.

***Penalty for Failing to File for Amnesty***

The bill imposes a penalty on any taxpayer who (1) owes any tax for the applicable tax periods for which a tax return was required, but not previously filed and (2) fails to file a timely amnesty application. The penalty (1) is equal to 25% of the tax owed and (2) may not be waived. It applies in addition to any other applicable interest and penalties under existing law.

***Implementation***

The bill gives the DRS commissioner authority to do anything necessary to implement the program in a timely fashion.

**§ 2 — BIOMEDICAL AND STEM CELL RESEARCH TRANSFERS**

The bill eliminates the following transfers from the Tobacco Settlement Fund: (1) \$4 million each fiscal year starting FY 14 to the Biomedical Research Trust Fund and (2) \$10 million in FY 14 and FY 15 to the Stem Cell Research Fund.

PA 12-1, December Special Session, eliminated the FY 13 transfer to the Stem Cell Research Fund and authorized up to \$10 million in state general obligation bonds for the same purpose.

**§ 3 — INSURANCE PREMIUM TAX CREDIT LIMIT**

The bill extends, for two additional years, the temporary cap on the maximum insurance premium tax liability that an insurer may offset through tax credits.

The caps are part of a structure that, under existing law, (1) classifies insurance premium tax credits into three types for calendar years 2011 and 2012, (2) specifies the order in which an insurer must apply the three credit types to offset liability (see BACKGROUND), and (3) establishes the maximum liability that an insurer can offset in those years by claiming one or more of these types of credits.

For 2012, the three credit types and the maximum tax reduction from each type are:

Type 1: digital animation credits, 55%

Type 2: insurance reinvestment fund credits, 70%

Type 3: all other credits, 30%

The bill extends the temporary cap to the 2013 and 2014 calendar years.

EFFECTIVE DATE: Upon passage and applicable to calendar years starting on or after January 1, 2013.

#### **§§ 4-5 — CORPORATION INCOME TAX SURCHARGE**

The bill extends the temporary 20% corporation income tax surcharge for two additional years, to the 2014 and 2015 income years. Companies must calculate their surcharges based on their tax liability, excluding any credits. As under current law, the surcharge for 2014 and 2015 applies to companies that have more than \$250 in corporation tax liability and either (1) have at least \$100 million in annual gross income in those years or (2) file combined or unitary returns, regardless of the amount of annual gross income.

EFFECTIVE DATE: Upon passage

#### **§§ 6-7 — SALES TAX EXTENDED TO DIGITAL PRODUCTS**

The bill imposes the 6.35% sales tax on sales of electronically transferred digital products. Currently, these products are taxed at a 1% rate as computer and data processing services. The bill imposes the 6.35% tax rate on transfers that gives the buyer a right or license to use, retain, or copy the product, which can be a digital audio-visual work or digital audio work, but not video programming services, including video on demand television services, broadcasting services, or content to provide such services.

The bill specifically exempts from the 6.35% rate electronically transferred digital products one business transfers to another (i.e., business to business transfers), thus continuing to subject these transfers to the current 1% tax.

EFFECTIVE DATE: July 1, 2013 and applicable to sales on or after

that date.

**§§ 8-9 — SALES TAX CHANGES ON COMPUTER AND DATA PROCESSING SERVICES**

The bill limits the 1% sales and use tax on computer and data processing services to such services (1) sold by a business to a business entity for use by that entity and (2) a business provides to itself. By limiting this tax to such transactions, it imposes the 6.35% rate on all other computer and data processing services.

**§§ 8-9 — SALES TAX AND USE TAX ON BOATS**

The bill (1) exempts from the sales and use tax boats docked in Connecticut for 60 days or less and (2) reduces, from 7% to 6.35%, the sales and use tax on boats costing more than \$100,000.

**§§ 8-9 & 28 — MUNICIPAL REVENUE SHARING ACCOUNT**

The bill eliminates laws requiring the DRS commissioner to deposit the following amounts into the Municipal Revenue Sharing Account, thus requiring these funds to go to the General Fund:

1. 1.57% of the revenue from the 6.35% sales and use tax on most taxable goods and services;
2. 1.43% of the revenue from the 7% sales and use tax on specified luxury items; and
3. 33% and 20%, respectively of the revenue from the state real estate conveyance tax on (a) sales of unimproved land and certain bank foreclosures and on the first \$800,000 of the sale price of residential property and (b) sales of nonresidential property and any amount of the sale price of a residential property that exceeds \$800,000.

Under current law, the Office of Policy and Management secretary must use the account to distribute (1) manufacturing transition grants to municipalities and (2) any remaining funds according to a specified municipal revenue sharing formula (see RELATED BILL).

**§§ 10-11 — NAA CREDITS FOR NEIGHBORHOOD ADVOCACY PROJECTS**

The bill makes businesses investing in certain neighborhood advocacy projects eligible for a NAA tax credit of up to 100% of the invested amount. Businesses qualify for this maximum credit if they invest in such projects in the state's 17 designated targeted investment communities (TICs) (see BACKGROUND). Neighborhood advocacy projects outside the TICs continue to qualify for a credit of up to 60% of the invested amount. As with other NAA-eligible projects, a business qualifies for a NAA tax credit if the host municipality approves the neighborhood advocacy project and the business invests at least \$250 in it.

Under current law, NAA tax credits are generally up to 60% of the investment, although businesses making certain energy conservation investments may qualify for up to 100% credits. Under current law, the credit equals 100% of the amount invested to conserve energy in properties owned by nonprofit organizations. The bill changes this flat rate to an amount that may be up to 100% of the investment.

By law, the annual limits on NAA credits are (1) \$150,000 per business (\$50,000 for investments in child care facilities) and (2) \$5 million for all businesses.

EFFECTIVE DATE: Upon passage

**§ 12 — EITC**

Current law establishes a refundable state EITC equal to 30% of the federal credit for the same tax year. The bill (1) reduces the EITC from 30% to 25% for the 2013 tax year, (2) increases it to 27.5% in the 2014 tax year, and (3) restores it to 30% for the subsequent tax years.

EFFECTIVE DATE: Upon passage and applicable to tax years beginning on or after January 1, 2013.

**§§ 13-14 & 26-27 — STF TRANSFERS**

As Table 1 shows, the bill modifies the amounts annually transferred to the STF from the revenue generated by the petroleum

products gross earnings tax and the General Fund. It also adds one-time transfers from the STF to the General Fund of (1) \$62.5 million for FY 14 and (2) \$3.4 million for FY 15.

**Table 1: STF Transfers**

FY	Transfers from Petroleum Products Gross Earnings Tax Revenues to STF			Annual Transfers from the General Fund to STF			One-Time Transfers from STF to the General Fund
	Current Law	Bill	Difference	Current Law	Bill	Difference	Bill
2014	\$222.7	\$380.7	\$158.0	\$172.8	0	(\$172.8)	\$62.5
2015	226.8	379.1	152.3	172.8	\$20.5	(152.3)	3.4
2016	231.4	377.3	145.9	172.8	152.8	(20.0)	0
2017 and thereafter	231.4	377.3	145.9	172.8	162.8	(10)	0

## **§ 15 — URBAN AND INDUSTRIAL SITES REINVESTMENT TAX CREDITS**

The bill increases the total amount of business tax credits available under the Urban and Industrial Sites Reinvestment Program by \$150 million, from \$650 million to \$800 million.

EFFECTIVE DATE: January 1, 2014

## **§ 16 — MOTOR VEHICLE PROPERTY TAX EXEMPTION**

Beginning July 1, 2019, the bill exempts from local property taxes the first \$20,000 of a motor vehicle's net assessed value (i.e., the vehicle's assessed value after subtracting all the property tax exemptions for which the vehicle's owner qualifies). The exemption applies to people who own or lease cars, light duty or pickup trucks, or motorcycles identified on the list the motor vehicles commissioner provides to town assessors for property taxation. People leasing vehicles qualify for the exemption if the (1) lease is for at least one year; (2) lease agreement assigns responsibility for property taxes to the lessee, whether or not the tax charge is separately stated in the agreement or on a bill or invoice received from the town or leasing company; and (3) leasing company is licensed by the state. (In practice, all companies leasing vehicles to people in Connecticut are licensed here because the Department of Motor Vehicles requires such a license before a lessee can register the leased vehicle in the state.)

EFFECTIVE DATE: October 1, 2013

## **§ 17 — NATURAL GAS CONVERSION CREDIT**

For calendar quarters beginning on or after July 1, 2014, the bill provides a credit against the utility companies tax for gas companies providing financial incentives for customers converting to natural gas. The credit equals the amount a company credits to customers meeting specified criteria, up to \$500. The total amount of tax credits available to all companies cannot exceed \$5 million per fiscal year, starting with FY 15.

A company qualifies for the credit for financial incentives extended to customers:

1. whose property, on July 1, 2013, is neither located on or within 150 feet of a gas distribution main, but is included in the company's Department of Energy and Environmental Protection -approved natural gas expansion plan and
2. who made a commitment, between July 1, 2013, and January 1, 2014, to convert to natural gas when it becomes available.

Companies qualify for credits for the incentives they give to customers beginning in calendar quarters on or after October 1, 2013.

To claim the credit, the company must establish, to the revenue service commissioner's satisfaction, that it has passed the credit on to each eligible customer on his or her monthly bill or invoice.

## **§ 18 — AUCTIONING STANDARD SERVICE CUSTOMERS**

### ***Current Law***

By law (CGS § 16-244c), electric companies must provide standard service to residential and small commercial customers who have not chosen a competitive supplier. There were approximately 818,000 standard service customers as of January 31, 2013, according to the Public Utilities Regulatory Authority (PURA). A PURA procurement officer procures power for these customers. In contrast, nearly half of residential customers and approximately 60% of small commercial

customers have chosen suppliers.

***Aggregation of Customers***

The bill requires the state to aggregate (group) residential and small commercial “standard offer” (i.e., standard service) customers who have not contracted with a supplier as of June 1, 2013, for the purpose of auctioning the right of suppliers to provide competitively-priced electric generation service to them. The bill implicitly requires suppliers bidding for the right to serve these customers to offer to pay the state a specified amount per customer for this privilege.

The bill allows a customer who has been aggregated and auctioned to an electric supplier to continue to choose to obtain service from any other licensed supplier at any time. It appears that a customer could return to standard service, although the bill does not specifically permit this.

***Request for Proposals***

The bill requires the PURA procurement manager to issue a request for proposals (RFP) to all licensed suppliers for bids to provide a full service contract to blocks of residential customers and small commercial customers. The bill does not define “full service contact” but it appears to mean that the winning supplier must provide electricity to meet the total demand of the customers it will serve.

The procurement manager must issue the initial RFP by July 1, 2013, and issue subsequent RFPs at least every three years or when there are at least 10,000 new residential and small commercial customers on the standard offer who are not served by suppliers.

The electric companies must provide relevant data the procurement manager requests to develop the RFP. This must at least include the (1) average per customer usage in each customer class for the previous 12-month period; (2) number of customers who are delinquent, have defaulted, or are in collections; and (3) net average number of customers who chose suppliers in the preceding 12-month period.

The procurement manager must establish the criteria for selecting

the successful bidders and publish the notice of the RFP to each licensed supplier. The bids must include the price per customer the supplier will offer for the right to supply electricity to (1) blocks of at least 100,000 customers and (2) each additional increment of at least 10,000 additional customers.

The bidders must offer to serve these customers for at least three years. They must offer a price that is at least 5% below the standard offer rate for the customer's class (there are several residential and small commercial rate classes) as of April 1, 2013. The price per customer (1) must be expressed in cost per kilowatt hour and (2) may include different rates for different customer classes and levels of usage. The supplier must offer this rate for at least 12 months from when its service begins.

The bid must include a schedule for determining rates for the subsequent two-year period. The bill does not address how rates would be set in this period.

The procurement manager may require suppliers to provide assurances that they will fulfill the contracts resulting from the auction. A winning supplier that fails to fulfill its contractual obligations is subject to (1) civil penalties (generally up to \$10,000 per violation); (2) the suspension or revocation of its license; or (3) a prohibition on accepting new customers, following a hearing that is conducted as a contested case.

The supplier or suppliers awarded a competitive supply contract as a result of the auction must remit the amount accepted as its per customer bid to the state for deposit into the General Fund within 30 days after the date of the award.

### ***Responsibilities of Electric Companies***

Each electric company must continue to serve any (1) residential or small commercial customer not transferred to a supplier as a result of the auction or (2) new residential or small commercial customer that does not select a supplier.

The bill does not address how the auction would interact with the current procurement for standard service customers. The procurement manager has already procured part of the electricity projected to be needed for standard service customers for the next two years.

EFFECTIVE DATE: Upon passage

## §§ 19-22 — MUNICIPAL FEE INCREASES

The bill increases several municipal fees, as shown in Table 2 below.

**Table 2: Proposed Municipal Fee Increases**

CGS §	Fee	Current Fee	Proposed Fee
30-53	Liquor Permit Filing	\$2.00	\$20.00
7-34a	Miscellaneous Document Filing	5.00	10.00
7-34a	Map Indexing	5.00	10.00
7-34a	Subdivision Map Indexing	15.00	20.00
7-34a	Notary Public: Oath and Commission Filing	10.00	20.00
7-34a	Notary Public: Character Certification	2.00	5.00
7-73	Marriage License Fee	30.00 (Municipality keeps \$11.00 and the state receives \$19.00)	50.00 ((\$25.00 for the municipality and \$25.00 for the state)
7-73	Burial or Burial Transit Removal/Disinterment Permit	3.00	10.00
19a-323	Cremation Permit	3.00	10.00

### ***Marriage License Fee***

Under current law, the \$30 marriage license fee consists of a (1) \$10 fee, retained by the municipality and (2) \$20 surcharge, split between the municipality (\$1) and the state (\$19). The bill increases the (1) municipal fee from \$10 to \$20 and (2) surcharge from \$20 to \$30. It also increases the municipal share of the surcharge from \$1 to \$5 and the state share from \$19 to \$25. Thus, the bill increases the total amount retained by the (1) municipality from \$11 to \$25 and (2) state from \$19 to \$25.

Under current law, the state's share of the marriage license surcharge (\$19) is credited to an account used to fund (1) shelter services for victims of domestic violence and (2) rape crisis services. The bill continues to credit \$19 to this account, but credits the

additional \$6 to the General Fund. It does this by specifying that 76% of the state's share (\$19) be credited to the account.

### **§§ 23-25 — TRANSFERS TO THE GENERAL FUND**

The bill transfers the following amounts to the General Fund:

1. \$30 million in FY 14 from the Connecticut Resources Recovery Authority and
2. \$3.4 million in FY 14 and \$3.5 million in FY 15 from the public, educational, governmental programming and education technology investment account.

### **BACKGROUND**

#### ***Order of Applying Insurance Premium Tax Credits***

The law specifies the order in which an insurer must apply the three credit types to offset liability, as shown in Table 3.

**Table 3: Application of Insurance Premium Tax Credits**

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

#### ***Targeted Investment Communities (TIC)***

The bill makes businesses eligible for up to a 100% tax credit for investing in neighborhood advocacy projects in TICs, which are the 17 municipalities with enterprise zones. The TIC designation qualifies economic development projects in these municipalities for financing and tax incentives. The TICs are: Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham.

***Related Bill***

sSB 842, reported favorably by the Finance, Revenue and Bonding Committee, earmarks a portion of the bonds authorized for FYs 14 and 15 under the Local Capital Improvement Program for manufacturing transition and municipal revenue sharing grants for municipalities.

**COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 31 Nay 17 (04/19/2013)