

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-274—sHB 6362

*Government Administration and Elections Committee
Appropriations Committee*

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

SUMMARY: PA 12-92 required 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 established the same requirement for notices of proposed regulations and their accompanying documents.

This act 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 act names the electronic regulations compilation 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., notice of a proposed action) on their own websites.

The act generally eliminates provisions that require a regulation to be submitted in hard copy at various stages of the regulation adoption process. 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 act revises the requirements for selecting the Regulation Review Committee’s co-chairpersons to conform law to current 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, which were 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 act also makes numerous technical and conforming changes.

EFFECTIVE DATE: Various, see below

§§ 1-4 & 8 — EREGULATIONS SYSTEM

§§ 1-2 & 8 — *Official Version of State Agency Regulations*

OLR PUBLIC ACT SUMMARY

PA 12-92 required 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) required that the compilation be easily accessible to, and searchable by, the public and (2) designated it as the “official version” of the regulations of state agencies for “all purposes, including all legal and administrative proceedings.”

The act delays the date on which the electronic regulations compilation (which the act names 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 act, 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 act retains PA 12-92’s requirement that, beginning July 1, 2013, the secretary post existing regulations online, but it specifies that these regulations are unofficial until she 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 prior law, in both instances, a notice had to be published (in the journal or on the system, as appropriate) that identified an omitted regulation, its subject matter, and information on where one could learn more about the regulation. The act delays, from July 1, 2013 until October 1, 2014, the requirement that this notice be published on the eRegulations System, thus eliminating its publication for this 15-month period.

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

Under provisions in prior law that were repealed, effective July 1, 2013, by PA 12-92, COLP had to follow several requirements when publishing regulations. For example, it had to 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 also had to appear in the journal to be enforceable.

The act does not specify requirements for COLP’s publication of regulations

OLR PUBLIC ACT SUMMARY

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 under the act 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 (see above).

EFFECTIVE DATE: July 1, 2013

§ 3 — Notices of Proposed Regulations

Under PA 12-92, agencies had to, 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 act 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 (e.g., a change to the agency's name) or (2) a repeal of a regulation if the authorizing statute is repealed. The act 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, and Regulation Review Committee. The act 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, (1) the notice of intent to adopt regulations, (2) written analyses upon which the regulation is based, (3) submissions and comments received by the agency, and (4) official documents related to the regulation.

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

OLR PUBLIC ACT SUMMARY

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

§ 1 — Hyperlink on Agency Websites

The act 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, a 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 act specifies that this requirement also applies to proposed regulations that are resubmitted 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 prior law, the attorney general's approval was indicated on the original of the proposed regulation, which was then submitted to the committee. The act retains existing 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, the law requires agencies to submit one certified and one electronic copy of an approved regulation to the secretary along with a statement from the agency head certifying that the electronic version is a true and accurate copy of the approved regulation. The act 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 agency 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 act conforms law to current practice by revising the procedures for selecting the co-chairpersons of the 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. Prior law required the committee to elect its House and Senate co-chairpersons.

EFFECTIVE DATE: July 1, 2014

§§ 9-11 — DSS MANUALS AND POLICIES

§§ 9 & 10 — *eRegulations Posting Requirements*

The act 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. 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 existing 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 act, effective October 1, 2014, eliminates these requirements and instead requires DSS, like other agencies, to post the policies 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 act requires this notice to be electronic.

The act 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 act 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 act 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 act 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 act (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 after 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 act deems the corresponding sections of the Uniform Policy Manual as superseded once she does this.

OLR PUBLIC ACT SUMMARY

EFFECTIVE DATE: July 1, 2013

BACKGROUND

Related Act

PA 13-247 (§§ 26-36 & 388) makes identical changes concerning e-regulations.

OLR Tracking: TA:KS:PF:RO