



General Assembly

Amendment

January Session, 2015

LCO No. 8967



Offered by:
SEN. FASANO, 34th Dist.

To: Subst. Senate Bill No. 1096 File No. 715 Cal. No. 397

"AN ACT CONCERNING CHARTER SCHOOLS."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective October 1, 2015*) Notwithstanding the
4 provisions of sections 4-37f to 4-37k, inclusive, of the general statutes,
5 as amended by this act, any foundation that is or has been established
6 for The University of Connecticut shall be considered a public agency,
7 as defined in section 1-200 of the general statutes, for purposes of the
8 Freedom of Information Act, as defined in section 1-200 of the general
9 statutes.

10 Sec. 502. Section 4-37e of the general statutes is repealed and the
11 following is substituted in lieu thereof (*Effective October 1, 2015*):

12 As used in this section, [and] sections 4-37f to [4-37j] 4-37k,
13 inclusive, as amended by this act, and section 501 of this act:

14 (1) "State agency" means each state board, authority, commission,

15 department, office, institution, council or other agency of the state
16 including, but not limited to, each constituent unit and each public
17 institution of higher education.

18 (2) "Foundation" means an organization, fund or any other legal
19 entity which is (A) exempt from taxation pursuant to Section 501(c)(3)
20 of the Internal Revenue Code of 1986, or any subsequent
21 corresponding internal revenue code of the United States, as from time
22 to time amended, and (B) established for the principal purpose of
23 receiving or using private funds for charitable, scientific, cultural,
24 educational or related purposes that support or improve a state agency
25 or for coordinated emergency recovery purposes. [Such] Except as
26 provided in section 501 of this act, such an organization, fund or other
27 legal entity shall not be deemed to be a state agency or a public agency,
28 as defined in section 1-200.

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

33 (4) "Constituent unit" means a constituent unit as defined in section
34 10a-1.

35 (5) "Public institution of higher education" [means a public college
36 or university in the state system of higher education or The University
37 of Connecticut School of Law] has the same meaning as provided in
38 section 10a-173.

39 (6) "Coordinated emergency recovery" means the support and
40 improvement of state services affected by a natural disaster, act of
41 domestic terrorism, catastrophic event or other unforeseen emergency,
42 including, but not limited to, services provided by the Department of
43 Emergency Services and Public Protection and the Office of Victim
44 Services.

45 Sec. 503. Section 4-37f of the general statutes is repealed and the

46 following is substituted in lieu thereof (*Effective October 1, 2015*):

47 (a) The executive authority of each state agency for which a
48 foundation is established shall [in accordance with a policy adopted
49 by the board of trustees of the constituent unit for each state agency
50 which is a constituent unit or which is a public institution of higher
51 education under the jurisdiction of the constituent unit, ensure that, or
52 the executive authority of each state agency for which a foundation is
53 established for the principal purpose of coordinated emergency
54 recovery shall] ensure that the following requirements are complied
55 with:

56 (1) The foundation shall have a governing board to oversee its
57 operation;

58 (2) If the state agency is a constituent unit, the following persons
59 shall serve as nonvoting members of the governing board of the
60 foundation unless the bylaws of the foundation provide that they be
61 voting members: The executive authority of the constituent unit, or his
62 designee, a student enrolled at an institution under the jurisdiction of
63 the constituent unit, who shall be elected by the students enrolled at
64 the institutions under the jurisdiction of the constituent unit, and a
65 member of the faculty of any such institution, who shall be elected by
66 the faculty of the institutions under the jurisdiction of the constituent
67 unit. Elections pursuant to this subdivision shall be conducted in
68 accordance with procedures for such elections established by the board
69 of trustees of the constituent unit;

70 (3) If the constituent unit is the [Board of Trustees of the
71 Community-Technical Colleges or the Board of Trustees of] regional
72 community-technical colleges, the Connecticut State University System
73 or The University of Connecticut, the purposes of the foundation shall
74 be limited to providing funding for (A) scholarships or other direct
75 student financial aid, and (B) programs, services or activities at one or
76 more of the institutions within its jurisdiction;

77 (4) If the state agency is a public institution of higher education, the
78 following persons shall serve as nonvoting members of the governing
79 board of the foundation unless the bylaws of the foundation provide
80 that they be voting members: The executive authority of the
81 institution, or his designee, a student enrolled at the institution, who
82 shall be elected by the students enrolled in the institution and a
83 member of the faculty of the institution, who shall be elected by the
84 faculty of the institution. Elections pursuant to this subdivision shall be
85 conducted in accordance with procedures for such elections
86 established by the board of trustees of the constituent unit which has
87 jurisdiction over the institution;

88 (5) The governing board of the foundation shall annually file with
89 the state agency an updated list of the members and officers of such
90 board;

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

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

95 (8) A foundation which has in any of its fiscal years receipts and
96 earnings from investments totaling one hundred thousand dollars per
97 year or more, or a foundation established for the principal purpose of
98 coordinated emergency recovery that operated in response to an
99 eligible incident, as defined in section 4-37r, during the fiscal year or
100 with funds that exceeded one hundred thousand dollars in the
101 aggregate, shall have completed on its behalf for such fiscal year a full
102 audit of the books and accounts of the foundation. A foundation which
103 has receipts and earnings from investments totaling less than one
104 hundred thousand dollars in each fiscal year during any three of its
105 consecutive fiscal years beginning October 1, 1986, shall have
106 completed on its behalf for the third fiscal year in any such three-year
107 period a full audit of the books and accounts of the foundation, unless
108 such foundation was established for the principal purpose of

109 coordinated emergency recovery and had completed on its behalf such
110 an audit for any year in any such three-year period. For each fiscal year
111 in which an audit is not required pursuant to this subdivision financial
112 statements shall be provided by the foundation to the executive
113 authority of the state agency. Each audit under this subdivision shall
114 be conducted (A) by an independent certified public accountant or, if
115 requested by the state agency with the consent of the foundation, by
116 the Auditors of Public Accounts, and (B) in accordance with generally
117 accepted auditing standards. The audit report shall include financial
118 statements, a management letter and an audit opinion which address
119 the conformance of the operating procedures of the foundation with
120 the provisions of sections 4-37e to 4-37i, inclusive, as amended by this
121 act, and recommend any corrective actions needed to ensure such
122 conformance. Each audit report shall disclose the receipt or use by the
123 foundation of any public funds in violation of said sections or any
124 other provision of the general statutes. The foundation shall provide a
125 copy of each audit report completed pursuant to this subdivision to the
126 executive authority of the state agency and the Attorney General. Each
127 financial statement required under this subdivision shall include, for
128 the fiscal year to which the statement applies, the total receipts and
129 earnings from investments of the foundation and the amount and
130 purpose of each receipt of funds by the state agency from the
131 foundation. As used in this subdivision, "fiscal year" means any
132 twelve-month period adopted by a foundation as its accounting year;

133 (9) There shall be a written agreement between the state agency and
134 the foundation which (A) addresses any use by the foundation of the
135 agency's facilities and resources including, but not limited to, office
136 space, storage space, office furniture and equipment, utilities,
137 photocopying services, computer systems and the maintenance by the
138 state agency of the books and records of the foundation, provided any
139 such books and records maintained by the state agency shall not be
140 deemed to be public records and shall not be subject to disclosure
141 pursuant to the provisions of section 1-210, as amended by this act,
142 except any such books and records maintained by The University of

143 Connecticut shall be subject to disclosure pursuant to the provisions of
144 section 1-210, as amended by this act, (B) provides that the state agency
145 shall have no liability for the obligations, acts or omissions of the
146 foundation, (C) requires the foundation to reimburse the state agency
147 for expenses the agency incurs as a result of foundation operations, if
148 the agency would not have otherwise incurred such expenses, (D) in
149 the case of foundations established for a constituent unit of the state
150 system of higher education or for a public institution of higher
151 education, requires the foundation to establish and adhere to an
152 investment policy and a spending policy that are consistent with
153 sections 45a-535 to 45a-535i, inclusive, [and] (E) provides that if the
154 foundation ceases to exist or ceases to be a foundation, as defined in
155 section 4-37e, as amended by this act, (i) the foundation shall be
156 prohibited from using the name of the state agency, (ii) the records of
157 the foundation, or copies of such records, shall be made available to
158 and may be retained by the state agency, provided any such records or
159 copies which are retained by [the] a state agency other than The
160 University of Connecticut shall not be deemed to be public records and
161 shall not be subject to disclosure pursuant to the provisions of section
162 1-210, as amended by this act, and (iii) there are procedures for the
163 disposition of the financial and other assets of the foundation, and (F)
164 in the case of a foundation established for The University of
165 Connecticut, prohibits the foundation from receiving any funds from
166 The University of Connecticut. If the state agency is a constituent unit,
167 the board of trustees of the constituent unit shall approve such
168 agreement. If the state agency is a public institution of higher
169 education, the board of trustees of the constituent unit which has
170 jurisdiction over the institution shall approve such agreement; and

171 (10) If the foundation is established for the principal purpose of
172 coordinated emergency recovery, the Department of Emergency
173 Services and Public Protection shall be deemed the state agency for
174 purposes of this section, and the deputy commissioner of said
175 department with jurisdiction over the Division of Emergency
176 Management and Homeland Security shall be deemed the executive

177 authority for purposes of this section.

178 (b) In the case of a foundation established for The University of
179 Connecticut, the Board of Trustees for The University of Connecticut
180 shall adopt a policy to implement the provisions of subsection (a) of
181 this section.

182 Sec. 504. Section 4-37k of the general statutes is repealed and the
183 following is substituted in lieu thereof (*Effective October 1, 2015*):

184 Notwithstanding any other provision of the general statutes, an
185 agreement between a state agency and a foundation, as defined in
186 section 4-37e, as amended by this act, shall not be deemed to be a
187 contract for the performance of a governmental function within the
188 meaning of section 1-218 unless such contract is between The
189 University of Connecticut and such a foundation.

190 Sec. 505. Subsection (b) of section 1-210 of the general statutes is
191 amended by adding subdivision (28) as follows (*Effective October 1,*
192 *2015*):

193 (NEW) (28) Records containing personally identifiable information
194 of a contributor or prospective contributor of a bona fide and lawful
195 charitable contribution to any foundation, as defined in section 4-37e,
196 as amended by this act, that is or has been established for The
197 University of Connecticut.

198 Sec. 506. Section 4-37h of the general statutes is repealed and the
199 following is substituted in lieu thereof (*Effective October 1, 2015*):

200 Any person soliciting funds or any other thing of value for donation
201 to a foundation by a person, firm, corporation or other entity shall, at
202 the time of such solicitation or in any receipt for or other written
203 confirmation of such donation, clearly and conspicuously disclose to
204 the person, firm, corporation or other entity that (1) the funds or other
205 things of value donated are to be provided to the foundation, and
206 [that] (2) the person, firm, corporation or other entity may request in

207 writing that its identity be confidential, and upon such request, the
 208 identity of the person, firm, corporation or other entity shall not be
 209 publicly disclosed, except in the case of a donation to a foundation
 210 established for The University of Connecticut, the personally
 211 identifiable information of a contributor or prospective contributor
 212 shall be exempt from disclosure pursuant to subdivision (28) of
 213 subsection (b) of section 1-210, as amended by this act, without the
 214 need for such a request."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	October 1, 2015	New section
Sec. 502	October 1, 2015	4-37e
Sec. 503	October 1, 2015	4-37f
Sec. 504	October 1, 2015	4-37k
Sec. 505	October 1, 2015	1-210(b)
Sec. 506	October 1, 2015	4-37h