OLR Bill Analysis

HB 6513

Emergency Certification

AN ACT MITIGATING ADVERSE TAX CONSEQUENCES RESULTING FROM EMPLOYEES WORKING REMOTELY DURING COVID-19, AND CONCERNING THE REMOVAL OF LIENS ON THE PROPERTY OF PUBLIC ASSISTANCE BENEFICIARIES AND A THREE-TIERED GRANTS IN LIEU OF TAXES PROGRAM.

TABLE OF CONTENTS:

§ 1 — TAXES AND REMOTE WORK DURING COVID-19

Specifies conditions under which certain residents who worked remotely from Connecticut for employers in other states must be allowed a Connecticut income tax credit for taxes paid to the other state for the 2020 tax year; prohibits DRS from considering the activities of employees who worked remotely in Connecticut due solely to COVID-19 in determining whether an employer has nexus with Connecticut for any state tax

Income Tax Credit for Taxes Paid to Other States

By law, Connecticut generally provides a resident taxpayer who works for an out-of-state employer a tax credit for qualifying income taxes he or she paid to the other state for services performed in that state.

For the 2020 tax year, the bill extends the tax credit to resident taxpayers who pay income taxes to another state while working remotely in Connecticut under the following circumstances:

1. the resident paid income tax to another state that uses a "convenience of the employer rule" (see BACKGROUND), including taxes paid for income earned while working remotely from Connecticut by necessity or

2. the resident paid income tax to another state under a law or rule requiring nonresident employees to pay nonresident income tax on income earned while working remotely from Connecticut due to COVID-19 if they were performing work within the other state immediately before March 11, 2020.

Under the bill, "convenience of the employer rule" means a law or rule that is substantially similar to Connecticut's existing "convenience of the employer rule" law, whether or not it is reciprocal. "COVID-19" means the respiratory disease designated by the World Health Organization (WHO) on February 11, 2020, and any related mutation of it that the WHO recognizes as a communicable respiratory disease.

Nexus for Connecticut Tax Purposes

The bill prohibits the Department of Revenue Services (DRS) from considering the activities of any employees who worked remotely from Connecticut during the 2020 tax year solely due to COVID-19 in determining whether an employer has nexus with Connecticut for any state tax. (Tax nexus refers to the amount and type of activity that must be present before a person or business is subject to a state's taxing authority. State law establishes rules for determining tax nexus, subject to federal constitutional restrictions.)

EFFECTIVE DATE: Upon passage

BACKGROUND

Convenience of the Employer Rule

The "convenience of the employer rule" (i.e., convenience rule) is a rule some states use for sourcing income earned by nonresidents who work for in-state employers at a location outside the state (e.g., from a home office). Under the convenience rule, a nonresident taxpayer's wage income is sourced to the employee's physical location if he or she is working remotely by necessity; alternatively, the income is sourced to the employer's location if the employee is working remotely for his or her convenience.

Five states (Arkansas, Delaware, Nebraska, New York, and Pennsylvania) apply the convenience rule; Connecticut applies it only if the taxpayer's resident state applies a similar rule for work performed for a Connecticut employer.

§§ 2-4 — LIMITING PUBLIC ASSISTANCE RECOVERIES OF REAL PROPERTY

Beginning in FY 22 and unless required by federal law: 1) prohibits the state from recovering cash and medical assistance from liens placed on real property and 2) requires the state to deem any certificate or lien previously filed on such properties released

In Connecticut, the state is entitled to recover public assistance provided by the Department of Social Services (DSS) under cash assistance (i.e., State-Administered General Assistance (SAGA), State Supplement Program (SSP), and Temporary Family Assistance (TFA), which replaced Aid to Families with Dependent Children (AFDC)) and medical assistance (i.e., Medicaid).

Under current law, the state generally has a claim against any kind of property or interest in any property acquired by a public assistance recipient, or their parents if the recipient was a child. These state claims have priority over most other unsecured claims. The state's primary collection mechanisms are to place liens on windfalls, such as inheritances and lawsuits, and recover from estates after the recipient dies.

Beginning July 1, 2021, the bill prohibits the state from recovering cash and medical assistance from liens placed on real property, unless required to do so by federal law. In addition, the bill requires the state to deem any certificate or lien previously filed on such properties released if the recoveries of such assistance are not required under federal law. Generally, federal law requires recovery of certain

Medicaid payments (see BACKGROUND).

The bill additionally prohibits the state from recovering payments for actions brought by current or former tenants or occupants against owners or lessors of residential premises or manufactured mobile home parks (i.e., tenant-landlord actions). It also makes several technical and conforming changes.

EFFECTIVE DATE: July 1, 2021

Acceptance of Mortgage Notes & Deeds (§ 2)

Current law authorizes the Department of Administrative Services (DAS) commissioner to accept mortgage notes and deeds for payment of claims due for welfare (i.e., cash) assistance or institutional care. The bill limits the claims the commissioner may accept to those due for institutional care or state medical assistance, to the extent required by federal law.

Eligibility of Homeowners & Real Property Liens (§ 3)

The law prohibits deeming an individual or his or her dependents ineligible for assistance under the SSP, Medicaid, TFA, SAGA, or SNAP programs for owning an interest in his or her home, provided the property's equity does not exceed program asset limits. Under current law, the DSS commissioner may place a lien against any property to secure the state's claim for public assistance it has paid or will pay under these programs (CGS § 17b-79). The bill prohibits the placing of liens on real property for cash assistance or medical assistance programs, unless required by federal law.

Beginning July 1, 2021, the bill prohibits the commissioner from placing these liens on real property to recover cash assistance or medical assistance, unless required by federal law. It also requires the state to deem any certificate or lien previously filed on such property released if the recovery of such assistance is not required under federal law.

Liens on Real Property Windfalls (§ 4)

The law gives the state a claim that has priority over all other unsecured claims when a recipient of aid under the SSP, Medicaid, AFDC, TFA provided to anyone over age 18, or SAGA program acquires property of any kind or interest in such property. This includes windfalls such as lottery winnings, proceeds from a lawsuit, and inheritances.

By law, the state's claim against the windfall from a lawsuit or inheritance generally equals the lesser of the amount of assistance paid or 50% of the windfall proceeds. For windfalls other than from a lawsuit or inheritance (e.g., lottery win), the state's claim is for the lesser of 100% of the proceeds or the full amount of assistance provided (CGS §§ 17b-93, -94). The bill prohibits the state from applying liens on real property to enforce its claim beyond the amount required to be recovered under federal law.

Current law prohibits the state from recovering certain payments (e.g., housing relocation assistance). The bill additionally prohibits the state from recovering payments for actions brought by current or former tenants or occupants against owners or lessors of residential premises or manufactured mobile home parks (i.e., tenant-landlord actions). The bill specifies that these exemptions do not apply to recoveries required under federal law.

Beginning July 1, 2021, the bill prohibits the state from recovering cash assistance or medical assistance from a lien filed on any real property, unless required by federal law. It requires the state to deem any lien on real property filed under CGS § 17b-93 before July 1, 2021, on such property, estate, or claim of any kind released, provided the assistance recovery is not required under federal law.

BACKGROUND

Medicaid Recoveries Under Federal Law

When Medicaid began in 1965, states had the option to recover certain Medicaid costs spent on recipients age 65 or older after they died. This changed in 1993 when Congress passed the Medicaid Estate Recovery Program as part of an omnibus budget bill (§ 5112). The program generally requires states to recover Medicaid long-term care and related costs (i.e., for nursing facility services, home and community-based services, and related hospital and prescription drug services) from the estates of deceased recipients who incurred these costs from the age of 55 and older. The 1993 federal law also gave states the option to recover all other Medicaid expenses provided to these individuals, except Medicare cost-sharing paid on behalf of Medicare Savings Program beneficiaries.

However, Congress retained the existing prohibition on estate recovery in cases where there is a surviving spouse, a child under the age of 21, or a child of any age who is blind or disabled (although the law allows recovery in some circumstances after the spouse dies or non-disabled child reaches age 21). In the cases of property, the law also carved out other exceptions for adult children who have served as caretakers in the homes of the deceased; property owned jointly by siblings; and income-producing property, such as farms.

States must also establish procedures for deferring or fully or partially waiving estate recovery when it would cause an undue hardship to the recipient's heir or surviving relative.

Related Bills

HB 6319, favorably reported by the Human Services Committee, contains provisions requiring DAS to make a reasonable effort to inform next of kin in writing when a person supported or cared for by the state dies and leaves only a small personal estate, that the state intends to become the estate's legal representative to secure partial or full reimbursement of the state's claim.

sHB 6373, favorably reported by the Banking Committee, contains provisions requiring the state to provide notice and a hearing before placing liens on real property for repayment of assistance and specifying that the state's lien (1) has no effect unless it is properly recorded in the municipality where the land is located and (2) is subordinate to previously recorded interests.

§§ 5-8 — PAYMENT IN LIEU OF TAXES (PILOT) GRANTS

Establishes a minimum reimbursement rate for PILOT grants and a method for prorating the grants when appropriations are not enough to fund the full grant amounts; requires OPM to disburse from MRSA an amount sufficient to fund the prorated PILOT grants

Current Proration Method (§ 5)

Connecticut's PILOT program provides grants to (1) municipalities for state-owned property, municipally owned airports, and Indian reservation land, and (2) municipalities and taxing districts for private nonprofit college and hospital property. Existing law establishes reimbursement rates for PILOT-eligible property (e.g., 45% for most state-owned real property and 77% for nonprofit college and hospital property) and requires additional payments for municipalities that host specified properties or institutions.

Under current law, if the state's annual appropriation is not enough to fully fund the PILOTs, the grants must be reduced according to a formula that makes smaller reductions to the 35 municipalities and districts with the highest percentage of tax-exempt property on their grand lists. (The legislature superseded this requirement for FYs 20 and 21 and instead specified the PILOT grant amounts in the biennial budget act (PA 19-117, §§ 54 & 55).)

New Proration Method (§ 5)

Beginning in FY 22, the bill eliminates the above proration method and instead (1) establishes a new proration method for the grants that is based on each municipality's equalized net grand list (ENGL) per capita and whether the municipality is designated as an alliance district (see BACKGROUND) and (2) requires that municipalities and districts receive PILOT grants that equal or exceed the grants they received in FY 21.

Under the bill, the Office of Policy and Management (OPM) must list municipalities, boroughs, and districts based on their ENGL per capita, using grand list data for the fiscal year three years prior to the year in which the PILOT grant is to be paid (i.e., FY 19 ENGL data for grants paid in FY 22). Boroughs and districts receive the same ENGL per capita as the municipality in which they are located.

If the amount appropriated for PILOT grants is not enough to fully fund them, the bill requires that (1) municipalities (including boroughs) and districts be divided into three tiers based on their ENGL per capita and (2) each tier receive the grant percentage shown in Table 1. Any municipality designated as an alliance district must be classified as a tier one municipality.

Table 1: Prorated PILOT Grants Under the Bill

Tiers	*Percentage of PILOT Grant*
Tier One: ENGL per capita of less than $100,000 (includes any municipality designated as an alliance district)	50%
Tier Two: ENGL per capita of at least $100,000 but less than $200,000	40%
Tier Three: ENGL per capital exceeding $200,000	30%

Under the bill, if the annual appropriation is not enough to fund PILOT grants at the percentages shown in Table 1, then the grants to each municipality and district must be proportionately reduced. Conversely, if the annual appropriation exceeds the amount required to fund PILOT grants at these percentages, then the grants must be proportionately increased.

The bill also makes numerous technical and conforming changes and eliminates obsolete provisions.

PILOTs for Specified Municipalities and Properties (§§ 5 & 7)

Bridgeport. The bill requires that an additional $15 million PILOT grant be paid annually to Bridgeport. The grant must be (1) paid by September 30 each year from the state's PILOT appropriation and (2) in addition to the amount due to Bridgeport under the requirements described above.

U.S. Department of Veterans Affairs (VA) Connecticut Healthcare Systems Campuses. By law, the PILOT reimbursement rate for VA Connecticut Healthcare Systems campuses is 100%. Under current practice, these PILOT grants are paid in full and not subject to proration when the PILOT appropriation is not enough to fully fund the program. The bill conforms to this practice and retains the 100% reimbursement rate for these properties, excluding them from the prorated PILOT allocation formula described above.

CT Port Authority. The bill restores a provision that applied prior to FY 19 deeming the property and facilities owned by the Connecticut Port Authority to be state-owned real property for purposes of the PILOT program and requiring the state to provide a PILOT to the municipality in which such property and facilities are located.

MRSA and Select PILOT Account (§§ 6 & 8)

Beginning in FY 22, the bill requires OPM to disburse from the municipal revenue sharing account (MRSA) an amount sufficient to pay the prorated PILOT grants described above. The bill eliminates the select PILOT account, which under current law is a separate, nonlapsing General Fund account funded by disbursements from MRSA. Current law requires OPM to use funds directed to the select PILOT account from MRSA to pay a specified portion of the increased PILOT grants to municipalities and districts under the current proration method.

EFFECTIVE DATE: July 1, 2021

BACKGROUND

Alliance Districts

Alliance districts are the 30 school districts that have the lowest achievement, as rated by the state's accountability index, plus the three districts that were previously among the lowest 30 when the program started in FY 13 (CGS § 10-262u). For FYs 18-22, they are as follows: Ansonia, Bloomfield, Bridgeport, Bristol, Danbury, Derby, East Hartford, East Haven, East Windsor, Groton, Hamden, Hartford, Killingly, Manchester, Meriden, Middletown, Naugatuck, New Britain, New Haven, New London, Norwalk, Norwich, Putnam, Stamford, Thompson, Torrington, Vernon, Waterbury, West Haven, Winchester, Windham, Windsor, Windsor Locks.

ENGL

ENGL is an estimate of the market value of a municipality's taxable real and personal property, equalized based on a ratio of assessed value to market value calculated from real estate sales occurring within each municipality. When measured on a per-capita basis, it represents the amount of property wealth available in a municipality to support each resident. It is a factor used in state aid formulas for various wealth-based grants to municipalities, including Education Cost Sharing and school construction grants.

Table 2 groups municipalities according to their ENGL per capita for FY 18.

Table 2: ENGL Per Capita (FY 18)

ENGL Per Capita < $100,000					
Ansonia	East Haven	Mansfield	New Haven	Scotland	Waterbury
Bridgeport	Enfield	Meriden	New London	Sprague	West Haven
Derby	Griswold	Montville	Norwich	Sterling	Winchester
East Hartford	Hamden	Naugatuck	Plainfield	Torrington	Windham
	Hartford	New Britain	Plymouth	Vernon	
	Manchester				
ENGL Per Capita Between $100,000 and $200,000					
Andover	Canton	East Windsor	Litchfield	Plainville	Suffield
Ashford	Chaplin	Eastford	Marlborough	Pomfret	Thomaston
Barkhamsted	Cheshire	Ellington	Middlebury	Portland	Thompson
Beacon Falls	Chester	Franklin	Middlefield	Preston	Tolland
Berlin	Clinton	Glastonbury	Middletown	Prospect	Trumbull
Bethany	Colchester	Granby	Milford	Putnam	Union
Bethel	Colebrook	Groton	Monroe	Rocky Hill	Voluntown
Bethlehem	Columbia	Haddam	New Fairfield	Salem	Wallingford
Bloomfield	Coventry	Hampton	New Hartford	Seymour	Watertown
Bolton	Cromwell	Hartland	New Milford	Shelton	West Hartford
Bozrah	Danbury	Harwinton	Newington	Simsbury	Wethersfield
Branford	Deep River	Hebron	Newtown	Somers	Willington
Bristol	Durham	Killingly	North Branford	South Windsor	Windsor
Brookfield	East Granby	Killingworth	North Canaan	Southbury	Windsor Locks
Brooklyn	East Haddam	Lebanon	North Haven	Southington	Wolcott
Burlington	East Hampton	Ledyard	North Stonington	Stafford	Woodbridge
Canterbury	East Lyme	Lisbon	Oxford	Stratford	Woodbury

					Woodstock
ENGL Per Capita > $200,000					
Avon	Essex	Kent	Norwalk	Roxbury	Warren
Bridgewater	Fairfield	Lyme	Old Lyme	Salisbury	Washington
Canaan	Farmington	Madison	Old Saybrook	Sharon	Waterford
Cornwall	Goshen	Morris	Orange	Sherman	Westbrook
Darien	Greenwich	New Canaan	Redding	Stamford	Weston
Easton	Guilford	Norfolk	Ridgefield	Stonington	Westport
					Wilton