STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION

2800 BERLIN TURNPIKE, P.O. BOX 317546 NEWINGTON, CONNECTICUT 06131-7546

Public Hearing – March 3, 2021
Transportation Committee

Testimony Submitted by Commissioner Joseph Giulietti
Department of Transportation

Raised H.B. 6484 – AN ACT CONCERNING RECOMMENDATIONS BY THE DEPARTMENT OF TRANSPORTATION.

The Department of Transportation (CTDOT) is pleased to support Raised H.B. 6484, An Act Concerning Recommendations by the Department of Transportation. The bill represents ongoing efforts to streamline, modernize, and create efficiencies within the agency and its transportation programs.

Section 1: Revisions to State Properties Review Board (SPRB) Review.
This proposal seeks to increase the minimum value requiring SPRB approval from values exceeding $5,000 to values exceeding $10,000 of real property. The minimum value limit hasn't been increased since 2004 and in the past 16 years, property values have increased such that an acquisition under $10,000 now involve straightforward and uncomplicated valuations.

This change will reduce the time associated with property acquisitions valued under $10,000 for highway, and mass transit projects by an average of one month. It will also decrease the Department's project delivery time and the time a property owner must wait to be paid after an agreement is reached. Increasing this value to $10,000 would also be consistent with the value recognized by Federal Regulations on real property acquisitions (49 CFR Part 24, Section 24.102(c)(2)(ii)).

Sections 2- 4: Overweight vehicle travel on bridges.
These sections clarify and strengthen language regarding overweight vehicle travel across bridges or structures posted for a restricted weight by amending three sections of statute.

Section 2 proposes changes to CGS 13a-151, "Violation of load capacity of bridge. Liability for damages to vehicle not in violation" to eliminate the reference to a "maximum safe load" which is a nebulous value due to the inclusion of a Factor of Safety included in load rating calculations when done in accordance with Design Code. "Maximum safe load" is replaced with "posted weight limit", which is not a contestable value, and allows for better enforcement.

Changes in section 3 are proposed to CGS 14-298a. "Operation of motor vehicle exceeding posted clearance or load prohibited" to clarify that the load prohibition portion of this statute specifically refers to when structures are posted for a weight limit. Current references to "posted clearance or load" do not lead to a clear understating that it is a reference to a posted weight limit. One could infer that it is referencing the height of a load or even prohibiting a certain type of load rather than it being a weight restriction reference. **The proposed changes will make the distinction that, in addition to not being allowed to operate at a height in excess of a posted clearance, no vehicle can cross a bridge or structure**

when its weight exceeds a posted weight limit. It will also clarify that exceeding a posted weight limit is a finable offense.

There is consensus among the State Police Traffic Services Unit and the Department of Motor Vehicles Commercial Vehicle Operations Unit that language in CGS14-298a is unclear and confusing - specifically with regard to whether or not vehicles in excess of a posted weight limit sign are truly prohibited from using the bridge or structure.

Together, these revisions will help provide further deterrent to vehicles crossing bridges in violation of posted weight limits.

Sections 5 & 6: Consultant Selection Submittal Dates and Evaluations.
The proposal (1) shifts the annual submittal date for consultants seeking to do business with the Department from November 15th to October 15th; and (2) changes the frequency of consultant evaluations by the Department from every six months to once a year.

Changing the yearly submittal date for consultant prequalification applications from November 15th to October 15th will provide the Department's Technical Qualification Panel (Chief Engineer, Engineering Administrator, Construction Administration and other engineering managers) more time to perform the thorough and comprehensive reviews required for these applications. Each year, CTDOT receives approximately 130 prequalification applications from architectural and engineering consultant firms interested in providing professional services to the Department in 11 predetermined categories. Moving the application deadline to October 15th will provide staff the needed time to thoroughly evaluate submittals while also performing their regular job duties. The Department will proactively notify the consultant community of the revised application due date through our website, email blasts, and communication to professional organizations.

Revising the frequency of consultant evaluations from six-month intervals to at least once a year will provide efficiencies within the Department and result in more valuable evaluations. Some consultant contracts may not have had much progress in six months and therefore not provide enough data or information to thoroughly evaluate progress. A full year of consultant performance will result in more meaningful evaluations. Further, it will be more efficient for the Department by reducing almost 250 evaluations each six-month period. Conversations with the consultant community have been favorable to this change.

Sections 7&8: Eliminating Duplicative and Outdated State Bus Contracting.
This proposal seeks to clarify that there is no requirement for a certificate under CGS 13b-80 when a bus company is operating bus service under a contract with the Department authorized under CGS 13b-34.

Currently, the statutes provide two avenues for fixed bus service in the State:

- **CGS 13b-34** permits the Department to contract for bus service directly with private providers when there is a need for service; and
- **CGS 13b-80** allows private operator to operate bus routes without financial support from the State after making the requisite showing of a need for the service in order to obtain a certificate of public convenience and necessity ("certificate") from the Department.

A recent court ruling produced unintended consequences that require these two statutes be read together. The result would require the Department to issue a certificate for each of the approximately 200 routes operated under contract in the State. Additionally, every time a change is made to the route

in order to address changing demographics, employment centers, and other community and economic development, an amendment to the certificate would be required.

This proposal would allow the Department to quickly adapt and respond to changes in its transit service needs. Not only is it highly inefficient and duplicative to require a certificate under 13b-80 when the Department has already determined there is a need for subsidized, contractual service under 13b-34; it will also take countless hours of staff time to issue these certificates for each individual transit route. This proposed amendment would allow the Department to continue to contract for subsidized routes without having to issue a certificate under 13b-80 for each contract route.

Certificate authority under section 13b-80 would remain in place for private carriers that wish to operate routes using their own resources and without a state subsidy contract.

It is important to note that the transit districts which provide bus service are already expressly exempt from complying with 13b-80. In particular, CGS Section 7-273b(g) states that "[w]henever any transit district is formed under the provisions of [Chapter 103a], no provision of chapters 244 [Motor buses, including 13b-80], 244a, 244b, 277, 281 and 285 shall apply to the operation of transit systems by such district."

The Department knows of no state or transit district in the country that procures its transit services by any other means than through a contract.

Section 9: Alternative Project Delivery.
The Department continues to require the use of consultants to support our use of alternative contracting project delivery methods (e.g. construction-manager-at-risk and design-build). This proposal would allow CTDOT to utilize their services past the January 1, 2022 deadline in CGS 13a-95(b)(2).

Section 10: Reduce or eliminate waiting period for new taxi applicants.
This section would remove the three-month waiting period before a complete taxi application can be noticed for a hearing. It will streamline the application process and remove unnecessary barriers to enter the taxi industry.

TNCs (Transportation Network Companies – Uber, Lyft) have fundamentally changed the industry and the proposal will help to even the playing field and assist smaller entities by reducing the timeline and carrying costs related to the delay.

Section 11: Stagnant Livery Permits.
This proposal seeks to streamline the revocation process of stagnant livery permits and will assist the Department's Regulatory and Compliance unit expediently revoke livery permits that have been stagnant, by removing the hearing component from the process.

Currently, the Regulatory and Compliance Unit sends a notice, performs an inspection, and then sends a file to the Department's Administrative Law Unit for a hearing in order to revoke a stagnant livery permit. This process can take up to three months and the permit holder rarely, if ever, shows up to the hearing. Unlike many state permits or certificates, a livery permit does not renew from year to year which has created a backlog of stagnant permits in the database requiring revocation. The removal of the hearing component from the process will save significant time and resources by enabling the Department to clean-up this backlog, as well free-up the hearing calendar for more pressing issues like new permits and certificates, or citations relating to safety or non-compliance.

The changes proposed would only apply to permits that meet the following conditions:

1. a physical inspection of the headquarters address on file with the Department reveals that no operations are currently located there;
2. a notice regarding noncompliance and the commencement of a permit revocation process sent to the permit holder's address on file with the Department is returned as undeliverable, or is delivered and no response from the permit holder is received by the Department; and
3. no vehicles are registered in the name of the permit holder.

Section 12: Hearing Requirements for new Household Goods Carriers (HHG).
This proposal would streamline the application process and remove barriers to enter the HHG industry by (1) removing the hearing requirement for new HHG applications; and (2) removing the traffic and roadway criteria from the HHG certificate requirement.

The hearing requirement in CGS 13b-389, in this case is duplicative as the criteria used to judge an applicant is laid out in CGS 13b-392. If the applicant successfully meets the criteria, they receive a certificate. A hearing will review the information collected during the application process and would consider any objections. However, as competition is explicitly removed from consideration of granting or denying an HHG certificate, there are rarely any objections, and the application is granted after a brief mandatory hearing. Shortening the application timeline by removing the hearing requirement, will also reduce HHG carrying costs. For example, HHG carriers need to have insurance in place, a location for business operations, and vehicles registered at the time of the application. The mandatory hearing could occur months after the application is submitted therefore, they carry all the costs associated with operating but without the actual authority to operate.

The removal of a roadway sufficiency analysis from the application process will further streamline the application process. This analysis is an outdated requirement used prior to deregulation when an application most likely was reviewed by a traffic division to see if the local roads could handle the truck traffic. Today our roads are far better equipped to handle the capacity. As a regular course of business, the Department is constantly reviewing the safety and adequacy of roadways; therefore, the traffic and roadway analysis is no longer needed as part of this application process.

Section 13: Smoking on Rail Platforms and Bus Shelters.
This section would clarify that smoking is prohibited on both enclosed and non-enclosed rail platforms and bus shelters.

Current statute prohibits smoking on "partially enclosed shelters on a rail platform or bus shelter". This proposal expands the prohibition to cover areas within these transportation facilities that are in open air areas. CTDOT and the Metro North Railroad Police Department have been fielding numerous commuter complaints regarding smoking on rail platforms and seek this change to simply clarify that smoking is prohibited on any rail platform or bus shelter – enclosed or open air.

Section 14: Middletown Railroad Crossing.
This section would modify Special Act 91-32 language for use of an active public railroad crossing on Portland Street in Middletown from emergency vehicles and pedestrian traffic only, to all vehicle and pedestrian traffic.

Special Act 91-32 originally designated the Portland Street railroad crossing in Middletown to only allow access for emergency vehicles and pedestrians; therefore, limiting access to and from the neighborhood via the Miller Street access point on Route 9 southbound. The access point, however, does not provide proper acceleration/deceleration lanes, forcing residents, including school busses, to exit/enter highspeed traffic from a stop.

Section 15: Contract Amendment Record Retention.
CGS 4e-30 authorizes a state contracting agency to audit the records of a contractor or any subcontractor related to its performance under any negotiated contract or subcontract and establishes a three-year record retention period for contractors and subcontractors under negotiated contracts. This proposal seeks to clarify that an *amendment* to a negotiated contract is individually subject to the 4e-30 record retention requirement, rather than being treated as an extension of the original contract and its record retention period.

The Department enters into many long-term contracts, including those with Amtrak (National Railroad Passenger Corporation) for rail operations and access pursuant to the federal Passenger Rail Infrastructure Investment Act of 2008, as amended ("PRIIA"). CTDOT often enters into amendments to extend the terms of Amtrak contracts and will incorporate any updated requirements under Connecticut law or PRIIA. Long-term contracts with partners and operators are common in the rail industry.

As interpreted, 4e-30 requires the retention period of duration of a contract plus three (3) years. This becomes an ever-expanding obligation and incredibly burdensome to contractors (including CTDOT's rail operators) when an agency extends a contract's term via an amendment.

As 4e-30 does not explicitly speak to amendments that include an extension of the contract term, the requirement to retain records has been interpreted to extend back to start of the original contract through duration of all extensions by amendment, requiring the Department's rail contractors to maintain records potentially for decades.

The Department seeks to add explicit, clarifying language to 4e-30 to "reset the clock" on the record retention period <u>specifically for amendments to a contract</u>, so that each amendment is treated individually as its own "negotiated contract" per 4e-30, with its own record retention period, rather than being interpreted as part of the original contract. For the purposes of record retention, records related to performance under the amendment would be subject to 4e-30 stated period of duration of the amendment plus three (3) years.

Without this clarification, rail contractors will not agree to long-term, extendable contracts with CTDOT as they will be subject to a constantly increasing record retention whenever a term extension occurs. For example, Amtrak will agree to a total contract term no longer than five (5) years, in order to set its retention obligation for all records related to rail operations for an eight (8) year period. Otherwise, a contractor's record retention obligation under 4e-30, dating back to the start of the contract through duration plus three years, will constantly be increasing in total duration as they enter into term extensions via amendments.

This will result in the need for CTDOT to enter into more original contracts more frequently, versus amendments that extend term of existing contracts. This will dramatically increase the number of contracts that CTDOT will have to prepare, re-negotiate and process and the staff time dedicated to completing such activities. This will present an administrative burden and shift staff time away from other important agency work serving public transportation.

Section 16 & 17: Seatbelt Use in the Back Seat of Motor Vehicles.
This proposal would require all passengers in a motor vehicle to wear seatbelts.

CGS 14-100a(c)(1) requires only the operator and front seat passengers of motor vehicles to wear seat belts. Currently, passengers in the back seat or subsequent seating positions behind the front seat can ride unrestrained unless they are under the age of 16 or covered under the child safety seat component of this statute.

According to the National Highway Traffic Safety Administration (NHTSA) report # DOT HS 808 945 on the effectiveness of seatbelts:

- In all crashes, back seat lap/shoulder belts are 44% effective in reducing fatalities when compared to unrestrained back seat occupants.
- In all crashes, back seat lap/shoulder belts are 15% effective in reducing fatalities when compared to back seat lap belts.
- Lap/shoulder belts are 29% effective in reducing fatalities when compared to unrestrained occupants in frontal crashes.

Back seat outboard belts are highly effective in reducing fatalities when compared to unrestrained occupants in passenger vans and SUVs. Lap belts are 63% effective and lap/shoulder belts are 73% effective. Belts are so effective in these vehicles because they eliminate the risk of ejection.

Section 18: Revisions to Signage on Limited Access Highways.
This proposal would streamline and modernize two existing sign programs into one combined program - the Specific Service Sign program - following MUTCD (Manual on Uniform Traffic Control Devices) federal standards.

Section 3 of Public Act 19-178 required the Department to examine and recommend changes to the standards and regulation of advertising of local businesses on signs installed on limited access highway indicating attractions and services of lodging, food, information and fuel. The Department currently manages two separate traveler information sign programs on Freeways and Expressways:

- the Specific Information Signs on Limited Access Highways Program (Food, Gas, Lodging and Camping logo signs); and
- the Tourist Attractions Guide Sign Program for Limited Access Highways Program.

Under federal law, these two programs are to be one standard program known as Specific Service Signs established by the MUTCD. The MUTCD is a federal manual that stipulates standards and provides recommendations and guidance for traffic control devices including signs for uniformity across the nation. These changes allow the State the ability to modernize the Specific Service Sign program and the associated State Regulations for consistency with the MUTCD and other states practices. If this is not enacted in law this session, the State will continue to violate federal program requirements contained in the MUTCD.

Section 19: Freight Rail Material Program Efficiencies.
This proposal would streamline program administration and the handling of materials under the freight rail material program by establishing a materials pick-up location.

Distribution of surplus rail and other track-related materials to Connecticut's Freight Railroad Operators will be facilitated by designating a location for surplus materials pick-up under this proposal. As it stands today, Metro North Railroad is required to deliver the surplus materials and each disbursement of salvage rail material requires an agreement be in place with the Freight Railroad. This exposes the State to delivery charges that could exceed $500,000 yearly and puts a strain on manpower resources.

The changes proposed maintains the original intent of the legislation, which provides surplus material to freight providers state-wide and prioritizes the use of surplus material on freight-only lines owned by the state. The costs for the material pick-up would be bore by freight operators and the State would get salvage credit for any unclaimed material. It also provides a safer and more convenient way for freight operators to inspect the surplus material without having to bring the materials onto active track.

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Proposed S.B. 920 - AN ACT CONCERNING PUBLIC PRIVATE PARTNERSHIPS.

The Department of Transportation (DOT) offers the following testimony in support of SB 920 An Act Concerning Public Private Partnerships.

The Public-Private Partnership (P3) language which passed in 2011 was seen as an opportunity for the State to work with private entities to pursue state projects. Since 2011, the State has been unsuccessful in taking advantage of such agreements due to restrictive requirements, including inflexible payment terms. The bill amends the current P3 statutes to enhance the State's ability to utilize P3 agreements in designing, developing, financing, constructing, operating, and maintaining projects.

The bill broadens the definition of the types of projects eligible for a P3, eliminates the requirement that the State portion of a P3 not exceed 25% of the cost of the project, and allows availability payments, which can be an attractive financing and project payment mechanism for projects which, for reasons related to policy, public perception and/or profitability are not feasible for advisable under a user-fee based concession.

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H.B. 6486 - AN ACT CONCERNING AUTOMATED DRIVING SYSTEM EQUIPPED VEHICLES.

The Department of Transportation (DOT) is strongly supports H.B. 6484, An Act Concerning Automated Driving System Equipped Vehicles and offers the following comments.

This proposal will update Connecticut's existing automated vehicle statute, CGS 13a-260, to better reflect national best practices implemented in other states for the safe testing and operation of automated driving systems on public roadways. In addition, these changes will remove barriers to the automated driving industry and provide a more flexible framework for the industry to do business in Connecticut.

Specifically, the bill proposes to:

- Define standardized terms and other key terms related to automated driving systems (ADS) and ADS-equipped vehicles;
- Require DOT, in consultation with sister agencies, to update and publish statewide guidelines and requirements for testing and operating ADS-equipped vehicles highways in Connecticut;
- Outline high-level vehicle safety, permitting, registration, title, insurance and emissions requirements for ADS-equipped vehicles;
- Outline testing and operational requirements for ADS-equipped vehicles;
- Establish criteria for assessing and enforcing compliance with applicable traffic and motor vehicle laws when an ADS-equipped vehicle is testing or operating on highways in Connecticut; and
- Establish crash protocols for ADS-equipped vehicles.

For further information or questions, please contact Anne Kleza (anne.kleza@ct.gov) or Pam Sucato (pamela.sucato@ct.gov) at the Department of Transportation, (860) 594-3013.