

SUMMARY OF 2003 PUBLIC ACTS PART I OF II

Connecticut General Assembly

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NOTICE TO USERS

This publication, *Summary of 2003 Public Acts, Part I*, summarizes all public acts passed by the January 6, 2003 Special Session and the 2003 Regular Session of the Connecticut General Assembly. Special acts are not summarized.

The acts from the 2003 June 30 Special Session, 2003 September 8 Special Session, and any subsequent special sessions are summarized in a separate publication, Part II.

It is important to note that special session acts may have changed provisions of the acts in this book. See the summaries of the special session acts in Part II for a description of those changes.

Use of this Book

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The office strongly discourages using the summaries as a substitute for the public acts. The summaries are meant to be handy reference tools, not substitutes for the text. The public acts are available in public libraries and can be purchased from the secretary of the state. They are also available online from The Connecticut General Assembly's Website (<http://www.cga.state.ct.us>).

Organization of the Book

Bills sent directly to the floor without committee action (emergency certification) are placed in chapters according to subject matter. Emergency certified bills relating to the budget are placed in the "Emergency Certified Budget Acts" chapter. Within each chapter, summaries are arranged in order by public act number.

A table on penalties, appearing on the next page, describes the fines and prison sentences for various types of offenses. In the back of the volume is a list of acts by public act number.

TABLE ON PENALTIES

Crimes

The law authorizes courts to impose fines, imprisonment, or both when sentencing a convicted criminal. They must specify the period of incarceration for anyone so sentenced. The prison terms below represent the range within which a judge must set the sentence. The judge also sets the exact amount of a fine, up to the established limits listed below. Some crimes have a mandatory minimum sentence or a minimum sentence higher than the minimum term specified in the table. Repeated offenses may result in a higher maximum than specified here.

Classification of Crime	Imprisonment	Fine
Capital felony	execution or life	—
Class A felony (murder)	25 to 60 years	up to \$20,000
Class A felony	10 to 25 years	up to 20,000
Class B felony	1 to 20 years	up to 15,000
Class C felony	1 to 10 years	up to 10,000
Class D felony	1 to 5 years	up to 5,000
Class A misdemeanor	up to 1 year	up to 2,000
Class B misdemeanor	up to 6 months	up to 1,000
Class C misdemeanor	up to 3 months	up to 500

Violations

CGS § 53a-43 of the Penal Code authorizes the Superior Court to fix fines for violations up to a maximum of \$500 unless the amount of the fine is specified in the statute establishing the violation. CGS § 54-195 on criminal procedure requires the court to impose a fine of up to \$100 on anyone convicted of violating any statute without a specified penalty.

A violation is not a crime; thus a violator does not have a criminal record. Most statutory violations are subject to Infractions Bureau procedures which allow the accused to pay the fine by mail without making a court appearance. As with an infraction,

the bureau will enter a *nolo contendere* (no contest) plea on behalf of anyone who pays a fine in this way. The plea is inadmissible in any criminal or civil court proceeding against the accused.

Infractions

Infractions are punishable by fines, usually set by Superior Court judges, of between \$35 and \$90, plus an additional fee based on the amount of the fine and a \$20 or \$35 surcharge. In some instances, there can be an additional \$15 cost. In addition, certain motor vehicle infractions are subject to a Transportation Fund surcharge of 50% of the fine. Finally, certain infractions committed in designated construction, utility work, and school zones or when a driver fails to yield to a bicyclist have additional fees equal to 100% of the basic infraction fine. This means some violators could have to pay \$376, although most have to pay less than that and many pay less than \$100. Parking tickets and seat belt violations can be less than \$35. An infraction is not a crime; thus, violators do not have criminal records and can pay the fine by mail without making a court appearance.

Larceny

There are six different classifications of larceny, generally depending on the value of the property illegally obtained.

Degree of Larceny	Amount of Property Involved	Classification
First Degree	Over \$10,000	Class B felony
Second Degree	Over 5,000	Class C felony
Third Degree	Over 1,000	Class D felony
Fourth Degree	Over 500	Class A misdemeanor
Fifth Degree	Over 250	Class B misdemeanor
Sixth Degree	\$250 or less	Class C misdemeanor

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CRIMES AND OFFENSES

Las Vegas nights exemption repealed:
(03-1).....8

GAMBLING

Las Vegas nights authority repealed:
(03-1)..... 8

SPECIAL REVENUE, DIVISION OF

Las Vegas nights permit application process,
repealed:
(03-1)8

PA 03-1, January 6 Special Session—HB 7501
Emergency Certification

AN ACT REPEALING LAS VEGAS NIGHT GAMES

SUMMARY: This act makes Las Vegas nights illegal by repealing the statutes that allowed (1) charitable, civic, and other organizations to hold such events as fundraisers and (2) high school-sponsored Las Vegas nights. It repeals statutes governing these games, including the Division of Special Revenue's (DSR) permit application process, conditions on operating the games, and reporting requirements. It also makes conforming changes.

The act terminates all Las Vegas night permits and registrations on January 7, 2003. It requires DSR to refund fees for any terminated permit or registration.

The act changes the definition of gambling, which applies to the crime of illegal gambling, by (1) eliminating the exemption for Las Vegas night activities and (2) explicitly including casino gambling such as blackjack, poker, craps, roulette, and slot machines.

The act eliminates a provision that allows a permittee conducting a bazaar to award cash prizes of up to \$25 in a "money-wheel" game.

EFFECTIVE DATE: Upon passage

LAS VEGAS NIGHTS

The act bans organizations from operating Las Vegas night games of chance as fund-raising events. Under prior law, any charitable, civic, educational, fraternal, veterans' or religious organization; volunteer fire department; grange; or political party or town committee could promote and operate such games of chance after obtaining a permit. The sponsoring organization had to have (1) been actively functioning as a nonprofit organization in Connecticut for at least two years and (2) applied for a permit to the police chief or the first selectman (if the town has no police department) of the town where the event was to be held.

The act bans high school-sponsored Las Vegas nights. Under prior law, high schools could sponsor Las Vegas nights in connection with proms or graduation activities for their seniors and juniors and guests at least age 16, under the following circumstances:

1. the games were operated in connection with the prom or graduation activities;
2. a maximum of two of these events were held each year for the same students;
3. parents, teachers, or administrators supervised the event and operated the games;
4. the event was not advertised or open to the public;
5. there was no charge beyond a nominal admission fee to pay for equipment or refreshments;
6. wagering anything of value was prohibited (although door prizes were allowed); and
7. no alcohol was served.

GAMBLING, GAMBLING PREMISES, AND GAMBLING DEVICES

The act changes the definition of gambling by (1) eliminating the exemption for Las Vegas night activities and (2) explicitly including casino gambling such as blackjack, poker, craps, roulette, and slot machines. This definition applies to the crime of illegal gambling, a class B misdemeanor (see Table on Penalties). As under existing law, the definition includes risking money, credit, deposit, or other things of value for gain contingent in whole or part on lot, chance, or operation of a gambling device. As under existing law, it does not include legal contests of skill, speed, strength, or endurance in which awards are made only to entrants or owners of entries; legal business transactions valid under contract law; certain legally authorized games such as bingo, sealed tickets, bazaars, and raffles that qualified organizations may conduct; lotteries or contests conducted by or under authority of a state or U.S. possession; and other acts or transactions expressly authorized by law.

The act eliminates the exemption for Las Vegas nights for purposes of (1) the statute making gambling premises a nuisance subject to abatement and punishment as a class A misdemeanor or class D felony and (2) the penalty for knowingly owning, manufacturing, possessing, buying, selling, renting, leasing, storing, repairing, or transporting gambling devices or offering or soliciting an interest in them. (The penalty is as a class A misdemeanor.)

SEALED TICKET PERMITS AND BAZAARS

The act repeals DSR's authority to issue permits to sell sealed tickets to anyone with a Las Vegas night permit and removes Las Vegas nights from the list of events where sealed tickets can be sold. (Sealed tickets are cards with tabs that, when pulled, reveal images, symbols, or numbers that entitle the holder to a prize if they match a designated winning combination.) The act does not otherwise change the law regarding selling sealed tickets.

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-77—SB 4

*Select Committee on Aging
Insurance and Real Estate Committee*

**AN ACT CONCERNING THE EXTENSION
OF GROUP HEALTH INSURANCE
BENEFITS FOR INDIVIDUALS AGE
SIXTY-TWO AND OVER**

SUMMARY: This act requires group health insurance plans to give people who terminate their employment, take a leave of absence, or reduce their hours because they become eligible to receive social security benefits an option to continue their coverage under the group plan. It requires this coverage to continue for the employee and his dependents until midnight of the day preceding his eligibility for Medicare. Prior law required only an 18-month extension for any kind of employment termination, leave of absence, or reduction in hours. Under federal law, people can retire with a reduced social security benefit at age 62, but they are not eligible for Medicare until age 65, unless they are disabled.

This change does not apply to employers who self-insure their health benefits.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Federal Social Security and Medicare Law

Traditionally, people could receive (1) full social security benefits and Medicare at age 65 or (2) reduced benefits (but not Medicare) at age 62. A federal law pushed the age for receiving full benefits beyond 65 in a series of steps for people born after 1937. Those born in 1960 or later will be able to receive full social security benefits at age 67. But the federal law left the reduced benefits at age 62 and the Medicare eligibility age of 65 intact (42 U.S.C. § 416).

PA 03-92—sSB 442

*Select Committee on Aging
Public Health Committee
Human Services Committee*

**AN ACT CONCERNING NURSING HOME
INSPECTIONS**

SUMMARY: This act prohibits prior disclosure when the Department of Public Health (DPH) will conduct dual nursing home inspections. It also requires the inspections to be conducted randomly as to date and time of day. The law requires DPH, whenever possible, to conduct state and federal inspections at the same time (1) when required for state licensing and federal Medicaid or Medicare certification and (2) in at least 70% of the facilities.

EFFECTIVE DATE: Upon passage

BACKGROUND

Federal Inspection Schedules

To receive federal Medicare or Medicaid reimbursement, nursing homes must become federally certified and periodically undergo federally mandated inspections. In Connecticut, DPH conducts these inspections under a contract with the federal Centers for Medicare and Medicaid Services. They must take place, on average, every 12 months, and inspections cannot be more than 15 months apart. Federal law prohibits advance notice of the inspection to the nursing home and imposes civil penalties on violators. Federal regulations require that the surveys be unannounced (42 U.S.C. § 1395i-3(g)(2) and 42 C.F.R. §§ 488.307 and 488.308).

State Requirements

By law, DPH must renew nursing home licenses every two years after an unscheduled inspection and the nursing home's submission of evidence that it is in compliance with state law and other required information. The law generally prohibits DPH employees, Department of Social Services employees, and regional long-term care ombudsmen from notifying a nursing home that an inspection or other investigation is being considered or is about to take place. If they give such notice in any case where the law does not specifically require it, they are guilty of a class B misdemeanor and can be dismissed, suspended, or demoted (see Table on Penalties).

PA 03-116—sHB 6507

*Select Committee on Aging
Public Health Committee
Human Services Committee*

**AN ACT IMPROVING PHARMACY CARE
TO RESIDENTS OF LONG-TERM CARE
FACILITIES**

Facilities that violate this requirement are subject to a \$30,000 fine for each incident of noncompliance. The DSS commissioner can deduct the fine from a facility's Medicaid reimbursement. Fines collected must be deposited in the General Fund and credited to the Medicaid account.

SUMMARY: This act requires the Department of Social Services (DSS) commissioner annually to update and expand the list of drugs included in the Nursing Home Drug Return Program beginning by June 30, 2003. It requires the list to include the 50 drugs with the highest average wholesale price that meet the program's requirements. DSS must do this in consultation with the Pharmacy Review Panel, which advises DSS on the operation of its pharmacy benefit programs, including cost savings initiatives.

The act also allows the commissioner, within available appropriations, to reimburse pharmacies or pharmacists for services they provide to residents in long-term care facilities, (including nursing homes, rest homes, residential care homes, residential facilities for people with mental retardation, and facilities served by assisted living services agencies). It allows these payments in addition to other reimbursements and dispensing fees already allowed under the state's medical assistance programs, if the pharmacy services improve the residents' quality of care and save the state money, as determined by the commissioner. These services may include emergency and delivery services for all medications, including intravenous therapy, 24 hours a day, seven days a week.

EFFECTIVE DATE: Upon passage for the drug return program provisions and July 1, 2003 for the pharmacy service reimbursements.

BACKGROUND

Nursing Home Drug Return Program

Under this program, nursing homes must return certain unused prescriptions (individually packaged unit dose medications for about 50 of the most commonly used drugs) for their Medicaid residents to the pharmacies that dispense them. The pharmacies may return the drugs to stock (in new packages) and resell them before they expire. DSS must reimburse pharmacies for processing each returned medication (currently \$5).

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-232—sHB 6696
Appropriations Committee

AN ACT CONCERNING THE REEMPLOYMENT OF RETIRED TEACHERS, THE PURCHASE OF ADDITIONAL CREDITED SERVICE IN THE TEACHERS' RETIREMENT SYSTEM, THE EXCESS EARNINGS ACCOUNT, CREDIT FOR SERVICE WITH CERTAIN BARGAINING ORGANIZATIONS, AND PAYMENT FOR ADDITIONAL CREDITED SERVICE PURCHASED BY BOARDS OF EDUCATION, AND MAKING CHANGES TO THE TEACHERS' RETIREMENT SYSTEM

SUMMARY: This act:

1. increases contributions by the state and active and retired teachers towards retired teachers' health coverage;
2. bars the state from passing any laws to diminish specified retirement benefits for teachers who are or become vested in the Teachers' Retirement System (TRS) on or after October 1, 2003;
3. liberalizes earning limits for retired teachers who return to the classroom temporarily;
4. allows retired teachers to earn more than the limit while continuing to collect retirement benefits for up to two years if they are reemployed in shortage areas identified by the education commissioner;
5. requires local boards to offer reemployed shortage area teachers the same health insurance benefits the school system provides for its active teachers;
6. eliminates a reemployment option that allowed retirees to stop receiving benefits and, after six months of reemployment, resume making TRS pension contributions and accumulating service credit;
7. allows teachers to purchase additional credited service in the TRS before, instead of only when, they retire;
8. establishes payment dates and interest charges for additional credited service purchased on behalf of a member by a board of education under an early

- retirement incentive program;
9. allows an elected teachers' representative in a statewide, national, or international teachers' union to receive TRS credit for such service even if the organization is not affiliated with a local union representing Connecticut teachers, if the Teachers' Retirement Board (TRB) receives the full actuarial cost of the service;
10. renames the TRS excess earnings account, which pays TRS' annual cost of living adjustments, the "cost of living adjustment reserve account"; and
11. makes technical and conforming changes and updates obsolete language.

EFFECTIVE DATE: Upon passage for changes in early retirement incentive plan service purchase procedures; July 1, 2003 for reemployment, excess earnings account name, union representative, and technical changes; October 1, 2003 for the ban on laws diminishing vested teachers' retirement benefits; July 1, 2004 for the increase in active teachers' contributions for retiree health coverage and conforming sections; October 1, 2004 for changes in members' credited service purchase procedures; and July 1, 2005 for the increased state and retiree contributions to retired teachers' health insurance.

CONTRIBUTIONS FOR RETIRED TEACHERS' HEALTH COVERAGE (§§ 7-13)

TRB maintains basic and various optional state health coverage plans for retired TRS members eligible for Medicare Part A and their eligible survivors and dependents. Retired teachers not eligible for Medicare must continue to be covered by the active teacher health plan maintained by their last employing board of education. TRB pays a subsidy to local boards for this coverage. The subsidy amount is frozen at the amount the state paid in FY 2000.

Part of cost of the state health plans for retired teachers, as well as subsidies for local coverage, are paid from the retired teachers' health insurance premium account within the Teachers' Retirement Fund. The account is funded by contributions from active teachers and the state. This act increases the state's and the active teachers' contributions to the account as well as required premium copayments for retired teachers covered by the state plans.

Starting July 1, 2004, it increases active teachers' contributions from 1% to 1.25% of salary. Since the act does not change teachers' 6% pension contribution (known as "regular contribution"), the increase in the health contribution boosts active teachers' total mandatory TRS contributions from 7% to 7.25% of salary.

Starting July 1, 2005, the act increases the state contribution from 25% to one-third of the (1) cost of the state's basic retiree plan or the rate in effect for FY 1998, whichever is greater and (2) state subsidies to local boards of education. Also starting July 1, 2005, the act increases retirees' premium copayment for coverage under the state plans from 25% to one-third of the basic plan premium. As under prior law, retired teachers choosing optional state plans must also pay the difference in the premium between the basic and optional plans.

Finally, the act conforms the law to practice by specifying the mandatory contribution rates for regular and health contributions in effect in prior years and makes other changes to incorporate the increase in the mandatory contribution rate.

BAN ON DIMINISHING CERTAIN TRS BENEFITS (§ 5)

The act prohibits the state from passing any law that diminishes specific retirement benefits (1) in effect on October 1, 2003, for active members vested in TRS as of that date or (2) for members not yet vested on October 1, 2003, in effect on the date they either vest or accumulate 10 years of credited service, whichever occurs later. It also extends the ban to diminishing any enhancements in the specified benefits enacted after October 1, 2003.

The prohibition applies to statutory TRS retirement provisions concerning credited service; retirement and survivors' benefits eligibility; benefit formulas, payment schedules, and cost of living allowances; death and survivors' benefits; and disability benefits. It does not apply to retired teachers' health coverage and health coverage contributions or to annual state contributions to the Teachers' Retirement Fund.

REEMPLOYMENT OF RETIRED TEACHERS (§ 1)

Reemployment for Less Than a School Year

The act allows a retired teacher receiving TRS benefits to earn more from temporary (less than a full school year) teaching in a Connecticut public school without jeopardizing his monthly TRS benefit. Under prior law, a reemployed retired teacher could earn only up to 45% of the entry-level salary for a teacher assigned to the same subject area. The act increases the earnings limit to 45% of the position maximum.

It conforms the law to practice by specifying that any teacher who earns more than the limit must repay the excess to the TRB and reduces reporting requirements for employers by requiring them to send notice of the teacher's reemployment to TRB twice a year, on the last day of January and June, instead of every month.

Reemployment for a Full School Year

Prior law allowed retired teachers to be reemployed for a full school year by a local board of education or a higher education constituent unit if TRB authorized it after the local school board or the Board of Governors of Higher Education (BOG) certified that reemployment was in the school system's or unit's best interests. In such a case, the retiree's TRS benefits were suspended once he exceeded the 45% earnings limit.

The act instead allows a local board of education or a higher education constituent unit to reemploy a retired teacher for a full school year, and allows the teacher to earn more than the 45% limit while continuing to receive his TRS benefit, but only in a position the education commissioner designates as a subject shortage area for that year. (Since the education commissioner's shortage area designations do not apply to higher education, it appears that the act bars higher education constituent units from reemploying TRS retirees.) The act eliminates the requirement that the local board of education or the BOG certify to TRB that a retiree's reemployment is in the school system's or constituent unit's best interest.

The act allows the shortage area reemployment to be extended for a second year, with prior approval from the TRB. The act is ambiguous about whether TRB approval is also required for the initial year of reemployment. To obtain approval, the employer must submit a

written request to TRB that includes the retired teacher's assignment, its anticipated duration, and the teacher's expected rehire date.

Once TRB approves the retired teacher's reemployment, the act requires the local board to offer him the same health insurance benefits the school system provides its active teachers. As long as the teacher works for the system, the act bars him from receiving benefits under the state health plans for retired teachers or state-subsidized benefits under the health plan maintained by his last employing board of education.

The act eliminates provisions:

1. requiring TRB to terminate retirement benefits on the first day of the month after a retired teacher is reemployed for a full school year;
2. giving long-term reemployed teachers an option, after six months of continuous reemployment, to resume making contributions to TRS;
3. requiring such a teacher to contribute, and his employer to deduct, 6% of his salary (rather than 7% as for other TRS members) during his reemployment;
4. requiring the teacher, upon his subsequent retirement, to receive an additional annuity equal to three times the amount of the benefit derived from his reemployment contributions, plus interest; and
5. allowing retired teachers to be reemployed at constituent units of higher education under these provisions.

The act grandfathers reemployed teachers who are making contributions under the law as of June 30, 2003 (the day before the new provisions become effective), allowing them to continue to do so under the prior law's reemployment provisions listed above. But, to conform to its increase in the total mandatory TRS contribution from 7% to 7.25% of salary, the act changes the TRS contribution fraction for the grandfathered reemployed teachers from 6/7ths to 24/29ths of the normal amount. The changed fraction does not change the actual contribution rate for these teachers.

SERVICE PURCHASES

Purchase Timing and Procedures (§ 2)

The act also allows TRS members to pay for all kinds of qualifying service purchases before they retire rather than only when they retire.

Under the act, the amount the member must pay for the service must be based on actuarial factors, rather than actuarial tables, TRB adopts. The act requires the factors to consider the member's (1) age at the time of purchase, (2) actual and projected salary, and (3) the earliest date he would be eligible for a normal (unreduced) retirement benefit. As under prior law, the act requires members to pay the present value of 50% of the actuarial value of the increased benefits resulting from the purchase.

Payments for Additional Service Under Early Retirement Incentive Programs (§ 6)

The law allows local school boards to establish early retirement incentive plans for their teachers by buying up to five years of additional credited service for each participating teacher. The local board must pay the TRB the full actuarial value of the increased benefits for each participant. The act imposes the same payment requirements for such purchases as already apply to local boards' payment of regular TRS salary deductions. These are so that local school boards transmit teacher salary deductions electronically by the 5th of the month after they are withheld and, if they are more than one month late in transmitting the funds, that they pay 9% annual interest.

The act allows boards to pay for additional service under an early retirement plan in equal annual installments, including interest. The maximum number of installments is three times the number of additional years of service the local board is buying.

The act requires TRB to add any late payments and outstanding obligations from a prior year's early retirement purchases, and all late payments of monthly mandatory TRS employer contributions, to the cost of the new early retirement plan.

CREDIT FOR SERVICE WITH A TEACHERS' COLLECTIVE BARGAINING REPRESENTATIVE (§ 14)

By law, a TRS member elected to a full or part-time position with a statewide, national, or international union affiliated with a local union that is a collective bargaining representative for Connecticut teachers can continue in TRS and receive credit for the union service if he or the union pays TRB for its full actuarial cost. This act eliminates the requirement that, to be eligible for this continuation provision, the service be

with a statewide, national, or international union affiliated with a state local.

EXCESS EARNINGS ACCOUNT NAME (§§ 3,4)

The act renames the TRS excess earnings account, which is the account from which annual cost of living adjustments are paid. The new name is the “cost of living adjustment reserve account.” The change has no substantive effect.

OTHER CHANGES (§ 8)

TRS retirement benefits must continue until the retired member dies. By law, if when the member dies, 25% of his total TRS benefits received are less than his accumulated contributions, plus interest, his beneficiary receives a lump sum payment equal to the difference. The act specifies that the member’s accumulated contributions include both pre-July 1, 1989 1% contributions and voluntary contributions, if any. In addition, it limits the credited interest added to the member’s aggregate contributions and used to calculate the lump sum benefit to that accrued up to the date the member began to receive benefits.

BACKGROUND

Subject Shortage Areas

The education commissioner identified the following subjects in the following grades as shortage areas for the 2003-04 school year:

- Music, PreK-12
 - Bilingual education, PreK-12
 - Special education, 1-12
 - Mathematics, 7-12
 - Technology education, PreK-12
 - Spanish, 7-12
 - Remedial reading and language arts, 1-12
 - Speech and language pathologist
 - School psychologist
-

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-16—SB 888

Banks Committee

**AN ACT CONCERNING CREDIT UNION
SHARED SERVICE CENTERS**

SUMMARY: This act expands the definition of a credit union branch to include offices (1) established by out-of-state and federal credit unions or (2) operated as “shared service centers.” The act defines a shared service center as a branch established by any combination of (1) Connecticut credit unions; (2) out-of-state, federally or state-chartered credit unions; or (3) federal credit unions, that provide credit union members with the same services they could receive at their own credit union’s main office.

EFFECTIVE DATE: October 1, 2003

PA 03-23—HB 5123

Banks Committee

**AN ACT CONCERNING PAYMENT OF
SECONDARY MORTGAGE LOAN
PROCEEDS BY WIRE TRANSFER**

SUMMARY: This act extends to secondary mortgage lenders sending loan proceeds by wire transfer a provision requiring lenders, including first mortgage lenders, to transfer those proceeds to the bank holding the mortgagee's attorney's account in a timely manner, but no later than the scheduled date and time of the mortgage closing. For a mortgage refinancing where the three-day right-of-rescission period has ended, existing law, unchanged by the act, requires the transfer to be made in a timely manner, but no later than the disbursement date. The act limits the wire transfer requirements applicable to second mortgage loans only to loans for financing the mortgagee's purchase or initial construction of his principal dwelling.

The act authorizes the banking commissioner to suspend, revoke, or refuse to renew secondary mortgage lenders' licenses, as he already can for first mortgage lenders, if they fail to comply with the wire transfer requirements.

EFFECTIVE DATE: October 1, 2003

PA 03-24—sHB 5371

Banks Committee

**AN ACT CONCERNING ELIGIBILITY
FOR MORTGAGE FINANCING FOR
INDIVIDUALS SERVING IN THE
MILITARY RESERVES OR THE
NATIONAL GUARD**

SUMMARY: This act requires financial institutions and federal banks to maintain on file for two years and two months the mortgage application of a U.S. armed forces reserve or National Guard member who is called into active duty after submitting the application but before a determination on it. The bank or institution must do this if, within 30 days after being called into active duty, the member submits a written statement (1) indicating that he has been called into active duty and (2) requesting that his application be kept on file.

If an applicant returns from active duty within two years after submitting a mortgage application and, within 60 days after discharge from active duty, submits a written statement that his income, assets, debts, or employment have not materially changed, the act requires the financial institution or federal bank to finish processing his loan application in accordance with the same terms and conditions it made available to the applicant when he submitted the application. The bill also requires the financial institution or federal bank to offer the applicant any different terms and conditions it is offering to the public when the applicant returns from active duty.

The act applies to applications for home purchase loans, home improvement loans, and other mortgage loans on one-to-four family, owner-occupied, residential real property.

EFFECTIVE DATE: July 1, 2003

PA 03-35—sSB 890

Banks Committee

**AN ACT CONCERNING DIRECTORS OF
CREDIT UNIONS**

SUMMARY: This act eliminates directors emeritus and advisory directors of Connecticut credit unions from the definition of a Connecticut credit union “director,” which prior

law defined as a member of a credit union's governing board. It creates a new title of "appointed director" for directors emeritus and advisory directors, and specifies that such people may neither receive compensation nor serve on the governing board.

Prior law allowed advisory directors to be in a credit union's field of membership, and thus credit union members, by virtue of their role as advisory directors, regardless of eligibility for membership. The act eliminates this provision, enabling a person outside the credit union's field of membership to serve as advisory director but not allowing him to be a credit union member. It requires a credit union's directors, upon election by its organizers, to appoint appointed directors as part of completing the credit union's organizational process.

EFFECTIVE DATE: October 1, 2003

PA 03-61—sSB 984

Banks Committee

AN ACT CONCERNING DEPARTMENT OF BANKING LICENSEES

SUMMARY: This act (1) makes it clear that a prohibition on charging excessive prepayment penalties applies specifically to secondary mortgage lenders; (2) for purposes of calculating a secondary mortgage lender's liability for imposing excessive prepaid finance charges, adopts a general definition of prepaid finance charges that, among other things, incorporates items specified in federal regulations; (3) updates bonding requirements under the Money Transmission Act; and (4) requires the notice that lenders send notifying borrowers of their right to cancel certain insurance products purchased during the high-cost home loan process to be in at least 12-point type and mailed separately. The act also deletes obsolete language and makes technical changes.

EFFECTIVE DATE: October 1, 2003

PREPAID FINANCE CHARGES

The act replaces a list of specific prepaid finance charges with the general statutory definition of prepaid finance charges. The definition includes charges specified in federal regulations, plus fees and commissions relating to the lender's sale of certain insurance and other products during the mortgage process, in computing the liability of a secondary mortgage

lender who fails to comply with the statutory limitation on such charges.

MONEY TRANSMITTERS

The act makes it clear that entities exempt from the Money Transmission Act are not subject to the act's prohibition on unlicensed people issuing or selling Connecticut payment instruments or engaging in money transmission activities. It applies requirements regarding conduct of business (such as holding sale proceeds and liability for loss) by a licensee's agent or subagent to people and entities otherwise exempt from the act. These include banks, credit unions, and the U.S. Postal Service. The act also expands the exemption to include Connecticut banks.

The act allows the bond required of licensees to be any form of surety bond rather than only a corporate surety bond and requires the attorney general rather than the banking commissioner to approve its form. It clarifies that the bond covers claims arising during the period that the license is in full force and effect and for two years after it has been surrendered, revoked, or suspended, or has expired. Prior law stated only that the bond remains in place for two years after the licensee stops doing business in Connecticut. If a license is surrendered, revoked, suspended, or has expired, the act allows the commissioner to lower the bond's required principal sum from the statutorily specified levels (which are \$300,000, \$500,000, or \$1 million, depending on level of business) based on the licensee's level of business and outstanding Connecticut payment instruments.

CONNECTICUT ABUSIVE HOME LOAN LENDING PRACTICES ACT

The law already requires lenders making high-cost home loans to send notice to borrowers who buy credit life, accident, health, disability, or unemployment insurance products from them of their right to cancel the insurance product at any time and receive a refund of any unearned premiums paid. The act requires the notice, starting October 1, 2003, to be in at least 12-point type and to be sent separately.

PA 03-84—sSB 982

Banks Committee

Government Administration and Elections Committee

**AN ACT CONCERNING THE
COMMISSIONER OF BANKING AND
DEPARTMENT OF BANKING
EMPLOYEES**

SUMMARY: This act bars the banking commissioner from being an employee, officer, or director of a holding company with a capital stock Connecticut bank as a wholly owned subsidiary. He is already prohibited from holding these positions at several other types of financial institutions. But the act allows him to have an indirect financial interest in (1) a federal bank; (2) a federal credit union; (3) an out-of-state bank; (4) an out-of-state credit union; (5) a holding company with a capital stock Connecticut bank as a wholly-owned subsidiary; or (6) any person or entity subject to the commissioner's general supervision, as long as he does not control the securities in his portfolio that give rise to his ownership or beneficial interest (e.g., stocks in his pension fund portfolio). Under the act, the commissioner's spouse's and resident dependent children's interests are considered the same as the commissioner's interests.

The law already subjects the commissioner's staff to the same restrictions as the commissioner regarding relationships and transactions with financial institutions. The act adds holding companies with capital stock Connecticut banks as wholly owned subsidiaries to the list of restricted institutions that apply to the staff.

The act also makes minor technical changes.
EFFECTIVE DATE: Upon passage

PA 03-105—sHB 6502

Banks Committee

General Law Committee

Judiciary Committee

**AN ACT CONCERNING CERTAIN
PURCHASES OF MERCHANDISE UNDER
THE RETAIL INSTALLMENT SALES
FINANCING ACT**

SUMMARY: This act requires retail installment sales contracts for the sale of merchandise on a deferred payment schedule to contain an explanation, in at least 10-point bold type, of the consequences of the buyer's failure to make the

first or future deferred installment payments under the contract in a timely manner. The explanation must include a clear statement of whether failure to make payments will cause the seller to charge interest for the entire deferral period and, if so, what the interest rate is. The act specifies that the deferred payment schedule is effective only if the contract contains the required provisions and the buyer acknowledges in writing on the contract that he has been informed of the consequences of failing to make payments in a timely manner.

EFFECTIVE DATE: October 1, 2003

PA 03-153—sSB 983

Banks Committee

Judiciary Committee

**AN ACT CONCERNING FOREIGN BANKS
AND RECEIVERSHIPS AND
CONSERVATORSHIPS FOR
CONNECTICUT BANKS AND
CONNECTICUT CREDIT UNIONS**

SUMMARY: This act makes several changes to the laws concerning foreign banks and bank and credit union receivers and conservators. It allows a person other than the banking commissioner to serve as a receiver or conservator under certain circumstances. If the commissioner does serve as receiver or conservator, the act allows him to sell, assign, compromise, or otherwise dispose of a bank or credit union's debts and property up to \$50,000 without the court's approval. It also requires the commissioner to pay the liquidators of a foreign bank's other United States offices, if any, after he takes what is necessary to satisfy the bank's Connecticut debts and before he returns remaining sums to the foreign bank's principal office, domiciliary liquidator, or receiver.

EFFECTIVE DATE: Upon passage

RECEIVERS AND CONSERVATORS

By law, the Superior Court may appoint as a receiver or conservator for a Connecticut bank or credit union the banking commissioner or, upon the commissioner's request, the Federal Deposit Insurance Corporation or the National Credit Union Administration. The act allows the court to appoint another competent person if extraordinary circumstances exist. It authorizes a receiver or conservator, on the bank or credit union's behalf and subject to the appointing

court's approval, if required, to (1) dispose of property by means other than sale; (2) sell, assign, or otherwise dispose of bad debt; and (3) compromise all doubtful claims. Prior law always required the court's approval for the sale of property or the compromise of bad debt.

Under the act, if the court appoints the commissioner as receiver or conservator, he does not need the court's approval to (1) sell, assign, compromise, or otherwise dispose of the bank or credit union's bad or doubtful debts up to \$50,000; (2) compromise any non-deposit claim against the bank or credit union when the amount proposed to be paid in compromise is \$50,000 or less, except that he must get the court's approval for any claim in the bank or credit union's favor against a director, trustee, or other officer for breach or neglect of official duty; or (3) sell or otherwise dispose of any of the bank's or credit union's personal property up to \$50,000 in value. The act considers the value of personal property to be the market value for a single class of a security, a commodity, or other property or claim with a readily discernable market value. It considers the value of other property or bad or doubtful debt to be its current value as the commissioner, in good faith, determines.

The law requires receivers to convert into money all bank or credit union assets that come into their possession. For that purpose, prior law allowed them to sell and dispose of the assets, properly convey them, and compromise all doubtful claims for or against the bank or credit union, except that they had to get special authority and approval from the court for any claim in the bank or credit union's favor against a director, trustee, or other officer for breach or neglect of official duty. The act eliminates that provision and instead requires receivers to convert assets into money by selling, disposing of, or compromising property, debts, and claims.

FOREIGN BANKS

The act limits the claims of foreign banks' creditors that the commissioner can accept for payment out of the foreign bank's Connecticut business and property. Under prior law, the commissioner accepted claims arising out of transactions the creditors entered into with the foreign bank's Connecticut branches and agencies. The act restricts these to claims arising out of transactions the creditors entered into with the foreign bank's Connecticut branches and agencies that still exist as those branches' and agencies' liabilities are reflected in their books

when the commissioner takes possession of the foreign bank's business and property.

The law requires the commissioner, upon the Hartford Superior Court's order, to turn over to the foreign bank's principal office, domiciliary liquidator, or receiver the assets remaining after the accepted claims, interest, and liquidation expenses have been paid in full. The act requires the commissioner first to pay from the remaining assets to the foreign bank's other United States offices that are being liquidated, upon their liquidators' request, amounts they demonstrate are needed to pay claims they accept and expenses they incur in the liquidating process. After the commissioner makes these payments, if any, he must turn over the remaining assets to the foreign bank's principal office, domiciliary liquidator, or receiver.

The law allows a party to a qualified financial contract with a foreign bank that has a Connecticut branch or agency to retain its collateral if the contract was repudiated or terminated and apply the collateral to satisfy any claims it secured. The act expands that provision to allow parties to qualified financial contracts whose state branch or agency the commissioner is liquidating to retain their collateral if the contract is repudiated, terminated, or liquidated. The act specifies that nothing in the law governing liquidating the business and property of foreign banks with Connecticut branches or agencies should be construed as adversely affecting a valid lien or perfected security interest of a federal reserve bank or the U.S. Treasury Department in a foreign bank's business or property in Connecticut.

PA 03-196—sSB 985

Banks Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING BANK AND CREDIT UNION TRANSACTIONS

SUMMARY: This act sets the fee for bank and credit union examinations at their actual cost and expands the banking commissioner's authority over financial institutions' conversions. It modifies the statutes concerning bank branch establishment, operation, consolidation, and relocation. It creates new provisions addressing a credit union's sale of its assets and requires credit unions to apply to the commissioner before establishing mobile branches. The act also eliminates a requirement that the recipient of

a bounced check make his request for payment by certified mail.

The act increases collateral requirements for certain public depositories and defines a "share account holder" as a person maintaining a share account at a Connecticut, federal, or out-of-state credit union. It also deletes obsolete language in the bank and credit union statutes and makes minor and technical changes.

EFFECTIVE DATE: July 1, 2003, except for the provision on bounced checks, which takes effect October 1, 2003.

FEES

Examination Fees

The act specifies that the fee is the actual cost, as the commissioner determines, for the examination of (1) a Connecticut bank organized to function solely in a fiduciary capacity or (2) an out-of-state branch of a Connecticut bank or credit union or a Connecticut branch of an out-of-state bank or credit union.

The act allows the commissioner to share the examination fee with other banking regulators in accordance with agreements he makes with them when (1) a Connecticut bank relocates a branch or limited branch established outside Connecticut to another location outside the state; (2) an out-of-state bank merges or consolidates with a bank, acquires a bank's assets, or establishes a de novo branch in Connecticut; (3) a Connecticut bank merges or consolidates with an out-of-state bank where the resulting institution is a bank; or (4) a Connecticut bank acquires an out-of-state bank's branch, a significant part of its assets, or at least 10% of its stock. The act also allows the commissioner to share the fee with other credit union regulators in accordance with agreements he makes with them for the examination and supervision of a Connecticut credit union's out-of-state branches and a state-chartered out-of-state credit union's Connecticut branches.

Acquisition Fee

The act extends the \$2,500 fee for acquiring another institution's assets to cover state and federal credit unions and eliminates this fee for assumption of a bank's liabilities.

CONVERSIONS

The law requires a converting mutual institution's eligible account holders to receive subscription rights to buy the converted institution's capital stock. The act specifies that the commissioner's regulations dealing with these conversions must identify which account holders are eligible for the subscription rights. It also requires the converting institution to offer subscription rights to account holders before offering them to the community or the general public. Prior law only required subscription rights to be offered to account holders before the general public and did not address the community.

The act allows, rather than requires, the commissioner to approve conversions that meet specified criteria under the law, and it precludes him from approving conversions that do not meet these criteria. It clarifies that the documents a converting bank must file when converting to an uninsured bank include a proposed amended certificate of incorporation. Prior law only referred to a proposed certificate of incorporation.

BRANCHES

Prior law required branches to maintain minimum banking hours of 9 a.m. to 3 p.m., Monday through Friday. The act eliminates the specific hours requirement and simply requires branches to be open for banking business Monday through Friday.

The act defines branch consolidation as combining within the same neighborhood, without substantially affecting the nature of the business or customers served, (1) two or more branches into a single branch, (2) one or more branches and one or more limited branches into a single branch or limited branch, (3) two or more limited branches into a single branch, or (4) one or more branches or limited branches into a main office.

The law requires the commissioner to consider several factors when deciding whether to allow a bank to establish a new branch. Under the act, the commissioner also must determine whether establishment of the branch is consistent with safe and sound banking practices in general, without reference to the town or surrounding area. The act allows a Connecticut bank, for up to three years after the commissioner issued its final certificate of authority, to establish a branch or limited branch if it was approved as part of the

bank's original application for organization. Unless the commissioner requires approval, the bank only has to give him 30 days prior notice that it is establishing the branch or limited branch.

The act eliminates the need for a Connecticut bank to obtain the commissioner's approval before relocating a branch or limited branch in or out of the state. Instead, it requires the bank to provide 30 days prior written notice to the commissioner and notice to customers. Prior law required banks to get the commissioner's approval and did not require them to notify customers. The act also allows a Connecticut bank to consolidate a branch, limited branch, or main office in or out of the state with 30 days prior notice to the commissioner, and notice to customers, in accordance with the commissioner's requirements. It specifies that the commissioner's approval for a Connecticut bank's sale of a branch, limited branch, or mobile branch established outside the state is not required under the statutes dealing with branches if it is required under the statutes addressing sale of assets.

SALE OF ASSETS

Banks

The act broadens banks' options for disposing of their assets by changing the terms "sale" and "purchase" to "transfer" and "acquisition" to cover activities such as assignment, transfer, and exchange. It specifies that the statutory provisions dealing with the sale of assets do not apply to a Connecticut bank's liquidation of its retail deposits in connection with its conversion to an uninsured bank. Prior law prohibited a bank or out-of-state bank from purchasing or otherwise acquiring a Connecticut bank's or credit union's assets and business from that institution's receiver without the commissioner's approval. The act applies the ban only to acquisitions of all or a significant part of a Connecticut bank's or credit union's assets or business from the institution's receiver.

Credit Unions

The act allows credit unions to transfer, rather than just sell, all or a significant part of their assets or business, with the commissioner's approval, to a bank or Connecticut or federal credit union. The law already required a

transferring credit union and its acquirer to file with the commissioner a written agreement setting out the transaction's terms and conditions; the act requires the agreement also to contain such other information as the commissioner requires. Prior law required the agreement to be approved and executed by a majority of the governing board of both the transferring credit union and the acquirer, but the act specifies that if the acquirer does not have a governing board, someone the acquirer authorizes to execute the agreement on his behalf can do so.

The act allows the commissioner to require a transferring credit union to obtain authorization for the transfer by the affirmative vote of at least a majority of its members. Prior law required a credit union to get authorization for the sale by the affirmative vote of at least two-thirds of its voting members. If a Connecticut credit union transfers all of its assets and business, the act requires it to comply with existing laws regarding termination and dissolution. Prior law required it to engage in a detailed process, including (1) sending notice to all share account holders and publishing the notice in the newspaper, (2) liquidating its affairs, (3) enforcing a time-limit on share account holders' claims, and (4) distributing any surplus among eligible parties.

The act prohibits a Connecticut credit union from acquiring all or a significant part of a federal credit union's assets or business without the commissioner's approval. Such a credit union must file with the commissioner (1) an application that includes a copy of the notice, application, or other information that it filed with the credit union in connection with the acquisition and (2) any additional information he requires.

INTERSTATE BANKING

The act allows the commissioner to waive the statutory provisions governing out-of-state banks acquiring a bank's assets from its receiver.

PUBLIC DEPOSITS

The act increases collateral requirements for certain public depositories (institutions allowed to hold public funds). The law requires most institutions to hold an amount equal to between 10% and 120% of their public deposits, depending on their risk-based capital ratio. The

act specifies that a qualified public depository that is an uninsured bank must maintain, apart from its other assets, an amount equal to 120% of all public deposits it holds. It requires a qualified public depository that is subject to a cease and desist order, or that enters into a stipulation and agreement or letter of understanding and agreement with a bank or credit union supervisor, to maintain, apart from its other assets, 120% of all public deposits it holds, or a greater percentage if the depository and public depositor so agree.

CREDIT UNION BRANCHES

Disapproval of Applications

The act eliminates a provision allowing the commissioner to disapprove a Connecticut credit union's application to establish a branch if allowing the branch would result in an impermissible overlap with the field of membership of other local credit unions. Instead, the act allows him to disapprove the application if establishing the proposed branch would result in an oversaturation of credit unions in the town where the branch will be located.

Mobile Branches

The act requires Connecticut credit unions to file an application with the commissioner listing each predetermined location before establishing a mobile branch in or out of the state. It defines a "mobile branch" as a Connecticut credit union office where credit union business is conducted that actually moves or is transported to one or more specific locations in accordance with a predetermined schedule. The commissioner may disapprove the application within 30 days after it is filed. The commissioner can disapprove an application for the same reasons he can disapprove an application to establish a regular branch. The act requires a mobile branch to be conspicuously identified as a branch of a Connecticut credit union.

The act requires a Connecticut credit union that proposes to close a mobile branch to notify the commissioner of the proposed closing no later than 30 days before the proposed closing date. The notice must include a detailed statement of the reasons for the decision to close the mobile branch. A Connecticut credit union must also notify the commissioner before closing a predetermined location of a mobile branch.

Out-of-State, State-Chartered Credit Unions

The act allows the commissioner to enter into agreements with federal credit union regulators, as he already can with other state regulators, concerning the examination or supervision of out-of-state, state-chartered credit unions with branches in Connecticut.

The act allows an out-of-state, state-chartered credit union, with the commissioner's prior written approval, to expand its field of membership to add members in Connecticut. The out-of-state credit union may expand its field of membership as long as the laws of the state in which it is organized allow a Connecticut credit union to expand its field of membership in that state, under conditions no more restrictive than those the commissioner imposes in Connecticut, and the proposed field of membership has been approved by that state.

The act prohibits the commissioner from approving an expansion unless he determines that (1) the out-of-state credit union is organized under laws similar to Connecticut's credit union laws, (2) the credit union is financially solvent, (3) the credit union has share insurance as required by the Federal Credit Union Act, (4) an official from the state where it was organized effectively examines and supervises the credit union, and (5) the public interest in the probable benefits to members of the group proposed to be included in the out-of-state credit union's field of membership clearly outweighs any potential harm to Connecticut credit unions and their members.

BAD CHECKS

The act gives the recipient of a dishonored check the option to make his written demand for payment on the check by first class or regular mail, as long as he includes an affidavit of service by mail. Prior law required him to send the demand by first class and certified mail, return receipt requested, with delivery restricted to the person who wrote the check. Either way he sends the demand, it must be sent on or after the date the payee received notice that the check had bounced. The act requires the affidavit of service by mail, if the recipient chooses to use first class or regular mail, to follow a form substantially similar to that provided in the act.

CREDIT UNION MERGER EFFECTIVE DATES

The law requires merging credit unions to file several documents in an application with the commissioner, including a merger agreement. The act allows the merger agreement to specify the proposed merger's effective date, which cannot be earlier than the date the parties file the agreement and the commissioner's approval in the secretary of the state's office. If the merger agreement does not contain an effective date, the act states that the merger is effective on the date the parties file the agreement and approval with the secretary.

RELEASE OF MORTGAGE

The act allows an institutional payor's attorney or duly authorized officer, in addition to a title insurance company's attorney or officer, to execute and record an affidavit on a mortgagor's behalf if a mortgagee fails to execute and deliver a release of mortgage to the mortgagor within 60 days after receiving the mortgagor's payment of the loan balance. It defines an institutional payor as any bank or lending institution that, as part of making a new mortgage loan, pays off the previous mortgage loan.

PA 03-226—sHB 6498

Banks Committee
Appropriations Committee

AN ACT CONCERNING STATE SUPPORT OF COMMUNITY BANKS AND COMMUNITY CREDIT UNIONS

SUMMARY: This act allows the state treasurer to establish a program under which she may, based on cash availability, make available up to \$100 million for investment in community banks and community credit unions. The act defines a "community bank" as a bank domiciled in Connecticut with assets of up to \$500 million, and a "community credit union" as a Connecticut credit union with assets between \$10 million and \$500 million and membership limited to people in a well-defined community, neighborhood, or rural district. The act specifies that these investment funds come from the state's operating cash that the treasurer manages.

The act requires the treasurer to establish (1) a schedule for making the investments and (2) a competitive bidding procedure under which

banks and credit unions can compete for investment-related services. It authorizes her to establish capital standards for banks and credit unions that wish to participate in the program and to adopt implementing regulations.

EFFECTIVE DATE: October 1, 2003

PA 03-259—sSB 1035

Banks Committee
Judiciary Committee

AN ACT CONCERNING WHITE COLLAR CRIME ENFORCEMENT, THE CONNECTICUT UNIFORM SECURITIES ACT AND CORPORATE FRAUD ACCOUNTABILITY AND VOLUNTEER FIREFIGHTERS AND MEMBERS OF VOLUNTEER AMBULANCE SERVICES OR COMPANIES

SUMMARY: This act makes several changes to banking and criminal laws regarding white-collar crime enforcement and increases penalties for bribery, hindering prosecution, and related crimes. It increases the fines for certain banking and accounting law violations and the offense levels for specific white-collar crimes. It conditions financial institutions' ability to effect certain transactions in part on whether they have adequate anti-money laundering programs, policies, and procedures and a record of compliance with anti-money laundering laws and regulations. The act requires all Connecticut banks, Connecticut credit unions, and broker-dealers to comply with the applicable provisions of the federal Currency and Foreign Transactions Reporting Act (31 USC 5311, *et seq.*). It also contains provisions limiting a loan obligor's liabilities or imputing them to others.

The act allows the banking commissioner to revoke, deny, suspend, restrict, or condition a broker-dealer or investment adviser applicant's registration or activities if he has engaged in fraudulent securities or commodities practices. It also permits the commissioner to order a person who violated the Uniform Securities Act, whose sale or offer to sell securities would violate the Uniform Securities Act, or who engaged in a dishonest or unethical practice in the securities or commodities business both to make restitution and to disgorge sums obtained by the violation or bad practice.

The act creates specific whistleblower protections for employees who assist in investigations or proceedings regarding certain

state and federal white-collar crime laws. It prohibits accountants from altering, destroying, or concealing documents from the end of the fiscal year in which they concluded the audit until seven years after the audit's conclusion. The act deems a violation of its provisions regarding state investigations, accountants, and certification of financial statements to be an unfair or deceptive trade practice.

The act also prohibits employers from firing or discriminating against volunteer firefighters or volunteer ambulance workers because they were late to, or absent from, work as a result of responding to a fire or ambulance call.

EFFECTIVE DATE: October 1, 2003, except for the section on volunteer first responders, which took effect upon passage.

VIOLATIONS OF BANKING LAWS (§§ 1-3)

Penalties

The act increases the maximum civil penalty the banking commissioner may impose on someone who (1) the commissioner finds, after a hearing, has violated a banking law, regulation, rule, or order or (2) does not request a hearing on his violation within the time specified or fails to appear at the hearing. For violations of the Connecticut Abusive Home Loan Lending Practices Act, the act increases the maximum penalty from \$15,000 to \$100,000. For violations of other banking laws, it increases the maximum penalty from \$7,500 to \$100,000.

If the commissioner believes that a person has violated, is violating, or is about to violate a banking law, regulation, rule, or order, the law allows him to (1) bring an action in Hartford Superior Court to enjoin the act or practice, (2) seek a court order for a penalty, or (3) apply to the Hartford Superior Court for an order of restitution. The act increases from \$7,500 to \$100,000 per violation the penalty that the commissioner may request from the court. It also specifies that the penalty may be imposed on anyone who violates a banking law, regulation, rule, or order, not just an order issued by the commissioner, as under prior law.

Prior law limited the penalty the commissioner could impose on a Connecticut bank's, credit union's, or credit union service organization's officer, director, manager, or general partner to \$1,000, unless the violation, breach, unsafe or unsound practice, or misuse of position (1) was part of a pattern of misconduct; (2) caused or is likely to cause a material loss to

a bank, Connecticut or federal credit union, or credit union service organization; (3) resulted in an officer's, director's, manager's, or general partner's pecuniary gain; (4) was a violation of provisions prohibiting false or misleading statements; or (5) was a violation of the Connecticut Abusive Home Loan Lending Practices Act. The act raises the limit to \$10,000 and also exempts from the limit false entries, statements, or reports; derogatory statements; or other prohibited activities of Banking Department licensees. And it expands these provisions to cover all related persons and Connecticut holding companies.

Related Persons

The act broadens who is subject to removal from office for violations of the banking laws. By law, the commissioner can remove from office an officer or director of a Connecticut bank or credit union, and a director, officer, manager, or general partner of a Connecticut credit union service organization. The act extends this authority to apply to a "related person" of any of these entities. It defines a related person as a director, officer, employee, independent contractor, manager, or general partner. The act also adds "Connecticut holding companies" to the list of financial institutions against whose employees the commissioner may take action for violating banking laws. It defines a Connecticut holding company as a holding company that holds a Connecticut bank as a subsidiary.

The act prohibits a related person who has been removed or suspended from office by an order because he violated banking laws from beginning or continuing as a related person of any bank, federal or state credit union, Banking Department licensee, or holding company while the order is in effect, without the commissioner's written consent. It also specifies that the resignation, termination of employment, or separation (including a separation caused by an institution closing) of any related person against whom the commissioner may issue an order does not affect the commissioner's authority to issue notice and proceed against the related person. However, he must send notice within six years after the person's resignation, termination of employment, or separation.

FALSE ENTRIES, DEROGATORY STATEMENTS, AND FALSE STATEMENTS OR REPORTS (§§ 4-6)

The act makes a person subject to the civil penalties described above if the commissioner, as the result of an investigation, finds that he has committed one of the following criminal acts:

1. false entries,
2. derogatory statements, or
3. false statements or reports.

It also requires the commissioner to refer to the chief state's attorney any evidence he finds of a criminal violation of these provisions.

CRIMINAL HISTORY RECORDS CHECKS (§§ 7, 32)

The act gives the commissioner the discretion to arrange for fingerprinting, or any other method of positive identification the State Police Bureau of Investigation requires, to be used in conducting a criminal history records check of (1) each organizer and prospective initial director, in connection with an application to organize a Connecticut bank and (2) a Connecticut bank's directors, upon their re-election, and new officers.

ANTI-MONEY LAUNDERING ACTIVITIES (§§ 8-16, 24-27, 29-31)

The act prohibits the commissioner from approving the following transactions if the relevant parties' proposed or existing anti-money laundering activity programs, policies, and procedures are inadequate, or if the parties lack a record of compliance with anti-money laundering laws and regulations:

1. mergers or consolidations of Connecticut banks;
2. a Connecticut bank or credit union's sale of all or a significant part of its assets to a bank;
3. a Connecticut credit union's sale of all or a significant part of its assets to a Connecticut or federal credit union;
4. a Connecticut bank's purchase of all or a significant part of the assets of a federal bank, federal credit union, or out-of-state credit union;
5. a Connecticut credit union's purchase of all or a significant part of a federal credit union's assets;
6. a Connecticut credit union's merger with a Connecticut, federal, or out-of-

state credit union; or

7. Connecticut or federal credit union's conversion into a mutual savings bank, mutual savings and loan association, or mutual community bank.

Similarly, it requires the commissioner to disapprove an offer, invitation, request, agreement, or acquisition of a bank's or holding company's voting securities if the acquiring person's anti-money laundering programs, policies, and procedures are inadequate and he does not have a record of complying with anti-money laundering laws and regulations.

The act also requires the commissioner to approve the following transactions if the relevant parties' proposed or existing anti-money laundering activity programs, policies, and procedures are adequate, and they have a record of compliance with anti-money laundering laws and regulations:

1. conversion of a mutual institution into another type of mutual institution, a mutual institution into a capital stock bank, a capital stock bank into another capital stock bank, or a capital stock institution into a mutual institution, if the converting institution meets existing conversion requirements;
2. a Connecticut credit union's conversion into a federal credit union; and
3. conversion of a federal or out-of-state credit union into a Connecticut credit union, if the commissioner finds that the converting credit union has complied with the other conversion requirements.

The commissioner also must issue a certificate of authority to operate as a Connecticut credit union to a converting federal or out-of-state credit union whose conversion he approves.

LOAN POLICIES (§ 17)

The act requires each Connecticut bank's governing board to adopt a loan policy, at least once a year, governing loans made under the banking loan statutes. It requires each Connecticut bank's governing board to develop and implement internal controls reasonably designed to ensure compliance with the policy. The policy must require written applications for all loans, and address (1) the categories and types of secured and unsecured loans the bank offers, (2) the manner in which loans will be made and approved, and (3) underwriting guidelines and collateral requirements. It must also address, in accordance with safety and soundness standards,

(1) acceptable standards for title review, title insurance, and appraiser qualifications; (2) policies for approving and selecting appraisers; (3) appraisal and evaluation standards; and (4) the bank's administration of the appraisal and evaluation process. The act requires the loan policy and loans made pursuant to it to be subject to the commissioner's examination of safe and sound banking practices.

The act requires each board to adopt a loan review policy designed to ensure that all material loans it makes are reviewed. The loan review policy must (1) establish appropriate standards, consistent with prudent risk management principles, for the review to address the bank's compliance with its loan policy and the need for plans to implement special collection, workout, divestiture, or other means to bring the bank's loans into compliance with its loan policy; (2) be appropriate to the bank's size, its financial condition, and the nature and scope of its activities; and (3) include standards for determining which loans are material for reviewing purposes. When adopting the materiality standards, the act requires the governing board to consider, where appropriate, adding standards based on the size of a loan in relation to the bank's total capital and reserves for loan and lease losses, and other factors that may present material risks to the bank. The commissioner may examine the loan review policy and any loans reviewed pursuant to it as part of his examination of safe and sound banking practices. At least semiannually, the act requires each board or a committee it designates to conduct an assessment of loan reviews and recite the results in the meeting's minutes.

LIMITATIONS ON OBLIGOR'S LIABILITIES (§ 18)

Partnership Liabilities

By law, the total unsecured liabilities of any one obligor of a bank cannot exceed 15% of the bank's equity capital and reserve for losses. The act eliminates a provision specifying that general partners' individual liabilities be included when computing a partnership's liabilities, and the partnership's liabilities be included when computing a general partner's individual liabilities. Instead, it contains new, broader provisions described below limiting an obligor's liabilities or imputing them to others.

Direct Benefit and Common Enterprise Tests

The act directs one obligor's liabilities to be attributed to another person and each such person to be deemed an obligor when the loan proceeds will be used for the other person's direct benefit, to the extent that the proceeds are to be so used. It considers loan proceeds to be used for another person's direct benefit, and attributable to that person, when the proceeds, or assets bought with the proceeds, are transferred to another person, except in a bona fide arm's length transaction where the proceeds are used to acquire property, goods, or services.

The act also attributes one obligor's liabilities to another person when a common enterprise is deemed to exist between the people. It deems a common enterprise to exist when each obligor has the same expected source of repayment for the loan, and neither obligor has another source of income from which the liability, along with the obligor's other liabilities, can be fully repaid. An employer will not be considered a source of repayment because of wages and salaries he pays to an employee unless the obligors are related through common control and "substantial financial interdependence" exists between or among them. Substantial financial interdependence exists when 50% or more of one obligor's annual gross receipts or expenditures come from transactions with the other obligor. Gross receipts and expenditures include gross revenues, expenses, intercompany loans, dividends, capital contributions, and similar receipts or payments.

A common enterprise also exists when:

1. (A) loans are made to obligors who are related directly or indirectly through common control, including where one obligor directly or indirectly controls another and (B) substantial financial interdependence exists between or among the obligors;
2. separate people borrow from a Connecticut bank to obtain a business enterprise, of which they will own more than 50% of the voting securities or voting interests, in which case a common enterprise is deemed to exist between the obligors for purposes of combining the acquisition loans; or
3. the commissioner determines, based on the facts and circumstances of particular transactions, that a common enterprise exists.

The act prohibits loans to an obligor and its subsidiary, or to different subsidiaries of an obligor, from being aggregated unless either the direct benefit or common enterprise test is met. A corporation or limited liability company is an obligor's subsidiary if the obligor owns or beneficially owns, directly or indirectly, more than 50% of the corporation's or company's voting securities or voting interests.

The act deems a loan to a partnership, joint venture, limited liability company, or association to be a loan to each member of that entity. But it exempts limited partners in limited partnerships and members of joint ventures, limited liability companies, or associations unless valid provisions of the partnership or membership agreement hold partners or members generally liable for the entity's debts or actions. The act does not attribute members' or partners' loans to the partnership, joint venture, limited liability company, or association unless either the direct benefit or the common enterprise test is met. It considers both tests met between a partner or member and the entity when a loan is made to the partner or member to buy an interest in the partnership, joint venture, limited liability company, or association. But loans to partners or members will not be attributed to the entity's other members unless either test is met.

Loans to Foreign Governments

The act requires loans to foreign governments and their agencies and instrumentalities to be aggregated only if the loans fail to meet either the means or purpose test when the loan is made. It considers the means test met if the obligor has resources or revenue of its own sufficient to meet its debt obligations. If the government's support, excluding a central government's guarantees of the obligor's debt, is greater than the obligor's annual revenues from other sources, the act presumes the means test has not been satisfied. The act considers the purpose test met if the loan's purpose is consistent with the obligor's general business purposes.

In order to show that the means and purpose tests have been satisfied, the act requires a Connecticut bank to retain in its files at least the following items:

1. a statement, along with supporting documentation, describing the borrowing entity's legal status and degree of financial and operational autonomy;

2. the borrowing entity's financial statements for at least three years before the date the bank made the loan or extension of credit, or for each year the borrowing entity has been in existence, if less than three;
3. financial statements for each year the loan is outstanding;
4. the bank's assessment of the obligor's means of servicing the loan, including (A) specific reasons supporting the assessment; (B) an analysis of the obligor's financial history; (C) the obligor's present and projected economic and financial performance; and (D) the significance of any financial support third parties, including the obligor's central government, provide to the obligor; and
5. a loan agreement or other written statement from the obligor clearly describing the loan's purpose. (The written representation will usually satisfy the purpose test, but when at the time it disburses the funds, the bank knows or has reason to know of information suggesting the obligor will use the proceeds in a manner inconsistent with the written representation, the bank may not accept the representation without making further inquiry.)

INSIDER LOANS (§ 19)

By state law, Connecticut banks are subject to federal regulations limiting insider loans and must comply with other federal regulations calling for public disclosure of insiders' indebtedness. The act expands these provisions to prohibit a Connecticut bank's or its affiliates' executive officers, directors, or principal shareholders from knowingly receiving, or knowingly permitting any of that person's related interests to receive, from a Connecticut bank, directly or indirectly, any extension of credit that violates the federal restrictions. It further prohibits an executive officer, director, employee, agent, or other person from participating in bank affairs that violate the federal restrictions.

UNIFORM SECURITIES ACT (§§ 20-21)

Denial, Suspension, or Revocation of Registration

The act increases from five to 10 years the look-back period for which the commissioner can revoke, deny, or suspend a registration, or by order restrict or impose conditions on an applicant or registrant's securities or investment advisory activities. Under prior law, the commissioner could revoke, deny, suspend, restrict, or condition an applicant or registrant's registration or activities if he was the subject of certain state, federal, or international sanctions that were effective at that time or were imposed within the previous five years. One of the sanctions is a cease and desist order entered by the U.S. Securities and Exchange Commission or the securities administrator of another state or Canadian province, and prior law prohibited the commissioner from instituting a revocation or suspension proceeding more than one year after the date of the sanction on which he relied. The act allows him to institute the proceeding for up to five years from the sanction date.

The act allows the commissioner to revoke, deny, suspend, restrict, or condition an applicant's registration or activities if he has engaged in fraudulent securities or commodities practices, in addition to the dishonest or unethical practices for which the commissioner may already take action. The act specifies that these fraudulent, dishonest, or unethical practices may include abusive sales practices in the applicant's, registrant's, or person's business dealings with current or prospective customers or clients.

Commissioner's Enforcement Powers

By law, if the commissioner finds, on investigation, that (1) anyone has violated, is violating, or is about to violate a provision of the Uniform Securities Act; (2) a person's further sale or offer to sell securities would constitute a violation of the Uniform Securities Act; or (3) anyone has engaged in a dishonest or unethical practice in the securities or commodities business, the commissioner may order that person to cease and desist from the violations, further sales or offers to sell, or further dishonest or unethical practice. If any other person is, was, or would be the cause of a violation of the Uniform Securities Act due to an act or omission the person knew or should have known would

contribute to the violation, the act allows the commissioner to order him to cease and desist from causing such violations.

The act allows the commissioner to order a person, or someone who directly or indirectly controls a person who has engaged in one of the three types of violations listed above both to make restitution and to disgorge sums obtained by the violation or bad practice. Prior law allowed the commissioner to order one or the other, but not both.

The law requires the commissioner to hold a hearing when, as the result of an investigation, he charges a person with violating the Uniform Securities Act, unless the person fails to appear at the hearing. The act increases from \$10,000 to \$100,000 the maximum fine the commissioner may impose if (1) he finds after the hearing that the person violated the Uniform Securities Act or (2) the person fails to appear at the hearing. It also increases from \$10,000 to \$100,000 per violation the fine that the commissioner may impose against anyone found to have violated the commissioner's orders.

CREDIT UNION GOVERNING BOARDS (§ 23)

The law requires Connecticut credit union directors to take and subscribe to an oath or affirmation regarding their duties and responsibilities. The act specifies that (1) each director must take or subscribe to the oath or affirmation upon election, (2) the oath or affirmation must be recorded in the governing board's minutes, and (3) the credit union must promptly file a copy of the minutes with the commissioner.

BANK DIRECTORS' OATH (§ 28)

The act requires each Connecticut bank director, upon election, to take and subscribe to an oath or affirmation that the director will (1) diligently and honestly perform his duties in administering the bank's affairs; (2) remain responsible for the performance of his duties, even if he delegates them; and (3) not knowingly or willfully permit the violation of a law or regulation applicable to Connecticut banks. The oath or affirmation must be recorded in the bank's minutes, and the bank must promptly file a copy of the minutes with the commissioner.

STATE INVESTIGATIONS (§ 33)

The act prohibits individuals and publicly held corporations from altering, falsifying, destroying, or concealing any record, document, or tangible object in order to impede, obstruct, or influence a state investigation relating to publicly held securities after a state investigation has begun, or after they have reasonable knowledge that a state investigation is likely to begin. These provisions are similar to those in existing law.

WHISTLEBLOWER PROTECTION (§ 34)

The act prohibits a publicly held corporation or its officers, employees, contractors, subcontractors, or agents from discharging, demoting, suspending, threatening, harassing, or discriminating against an employee in the terms and conditions of employment because of the employee's lawful act to (1) provide information, cause information to be provided, or otherwise assist in an investigation involving conduct the employee reasonably believes violates federal laws prohibiting frauds and swindles by mail; fraud by wire, radio, or television; bank fraud; or securities fraud; any SEC rule or regulation; or any federal or state law regarding fraud against shareholders, when the information or assistance is provided to, or the investigation conducted by, (A) a federal or state regulatory or law enforcement agency; (B) a member or committee of Congress or the General Assembly; or (C) a person with supervisory authority over the employee, or another person working for the employer with the authority to investigate, discover, or terminate misconduct or (2) file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed, with the employer's knowledge, relating to an alleged violation of federal laws prohibiting frauds and swindles by mail; fraud by wire, radio, or television; bank fraud; or securities fraud; any SEC rule or regulation; or any federal or state law regarding fraud against shareholders. The act's provisions generally parallel existing whistleblower protections under state law.

The act allows an employee alleging discharge or other discrimination in violation of the whistleblower protection to bring an action for damages and injunctive relief against the violator in Superior Court for up to one year after knowledge of the specific incident giving rise to the claim.

ACCOUNTANTS (§§ 35, 37, 43)

The act prohibits an accountant conducting an audit of a publicly held corporation from altering, destroying, or concealing any documents sent, received, or created in connection with the audit and containing conclusions, opinions, analyses, or financial data related to the audit from the end of the fiscal year in which he concluded the audit until seven years after the audit's conclusion. It also requires accounting licensees to keep for the same period work papers they prepare in the course of auditing a publicly held corporation.

The act prohibits a registered public accounting firm from violating a federal law restricting the activities accounting firms may perform for a securities issuer while they are conducting the issuer's audit. If a firm performs these activities while conducting the audit, the act subjects it to State Board of Accountancy penalties for conduct reflecting adversely on a licensee's fitness as a public accountant, such as revocation, suspension, or refusal to renew a certificate, license, or permit, or imposition of a civil penalty. The act increases the maximum civil penalty the board may impose from \$1,000 to \$50,000.

CERTIFICATION OF FINANCIAL STATEMENTS (§ 36)

Under federal law, chief executive officers (CEOs) and chief financial officers (CFOs) of publicly traded corporations must certify, in the manner set forth in federal law and by the U.S. Securities and Exchange Commission's rules and regulations, that the corporation's financial statements fairly present, in all material respects, the corporation's financial condition and the results of its operations. The act imposes a parallel state requirement for officers of a corporation organized under Connecticut laws or authorized to transact business in Connecticut. It allows a corporation's CEO or CFO who certifies the corporation's financial statement knowing that the statement does not fairly represent, in all material aspects, the corporation's financial condition and the results of its operations to be fined up to \$1 million or imprisoned up to 10 years, or both. It allows a CEO or CFO who willfully certifies the corporation's financial statement knowing that the statement does not fairly represent, in all material aspects, the corporation's financial condition and the results of its operations, to be

fined up to \$5 million or imprisoned up to 20 years, or both.

FRAUDULENT REPORT (§ 39)

The act creates a new crime of filing a fraudulent report. Under the act, a person is guilty of filing a fraudulent report if he knowingly or recklessly (1) files an accounting report that he knows contains a false statement of material fact or (2) omits a material fact on an accounting report. The act does not specify the penalty for a person found guilty of filing a fraudulent report, although he could be fined up to \$100 under a law calling for that punishment where the statutes do not identify a penalty.

STATE BOARD OF ACCOUNTANCY (§§ 40-42)

The act increases the State Board of Accountancy's size from seven to nine members. It increases the number of members who must hold current, valid licenses to practice public accountancy from four to five, and the number of public members from three to four. It increases from \$1,000 to \$50,000 the maximum civil penalty the board may impose on (1) a person found to have violated a public accountancy law or regulation or (2) a person who, without a valid license and permit, issues a report on another person's, firm's, organization's, or governmental unit's financial statements. The act also expands the grounds for which the board can take disciplinary action against an accountant to include (1) limitation of a licensee's right to practice before a state or federal agency; (2) revocation, limitation, or suspension of a licensee's right to practice before the Public Company Accounting Oversight Board under the federal Sarbanes-Oxley Act of 2002; or (3) state or federal agency or board actions to (A) suspend or bar a licensee from serving as a corporate officer or director, (B) require a licensee to disgorge funds, or (C) suspend or bar a licensee from association with a public accounting firm.

PENAL CODE RECLASSIFICATION (§§ 44 – 52)

The act reclassifies several crimes to increase the level of offense, as shown in Table 1.

Table 1: Penal Code Reclassification for Certain Crimes

<i>Criminal Offense</i>	<i>Prior Classification</i>	<i>New Classification</i>
Commercial bribery	Class A misdemeanor	Class D felony
Receiving a commercial bribe	Class A misdemeanor	Class D felony
Bribery	Class D felony	Class C felony
Bribe receiving	Class D felony	Class C felony
Bribery of a witness	Class D felony	Class C felony
Hindering prosecution in the second degree	Class D felony	Class C felony
Hindering prosecution in the third degree	Class A misdemeanor	Class D felony
Bribe receiving by a witness	Class D felony	Class C felony
Tampering with a witness	Class D felony	Class C felony

A class A misdemeanor is punishable by up to one year in prison, a fine up to \$2,000, or both. A class D felony is punishable by one to five years in prison, a fine up to \$5,000, or both. A class C felony is punishable by one to 10 years in prison, a fine up to \$10,000, or both. Reclassifying a crime as a felony rather than a misdemeanor has several consequences, including the violator's loss of voting privileges.

FIRST RESPONDERS (§ 53)

The act prohibits an employer, including the state and its subdivisions, from discharging or discriminating against an employee who is a volunteer firefighter or member of a volunteer ambulance company because the employee is late to, or absent from, work as a result of responding to an emergency call before or during work. It requires the employee, within 30 days after the act takes effect or the employee is certified as a volunteer firefighter or ambulance worker, whichever is later, to submit to his employer a written statement signed by the head of the fire department or ambulance company notifying the employer of the employee's status as a volunteer first responder.

The employee also must:

1. make every effort to notify his employer that he may be late or absent in order to respond to an emergency fire or ambulance call before or during his regular working hours;
2. if unable to notify his employer in advance, submit to the employer a written statement signed by the fire chief or the ambulance company's medical director or chief administrator explaining why the employee could not

- provide prior notification;
3. at the employer's request, submit a written statement from the fire chief or head of the volunteer ambulance company verifying that the employee responded to a fire or ambulance call and specifying the date, time, and duration of the response; and
 4. promptly notify the employer of any change to the employee's status as a volunteer firefighter or member of a volunteer ambulance company.

If an employee is fired or discriminated against in violation of these provisions, the act allows him to bring an action within one year of the violation in the Superior Court for the district where the violation allegedly occurred or the employer has its principal office for (1) reinstatement, (2) payment of back wages, and (3) reestablishment of employee benefits to which the employee would have been otherwise entitled. The court may award the prevailing party costs and reasonable attorney's fees.

PA 03-262—sSB 934

Banks Committee

Planning and Development Committee

Insurance and Real Estate Committee

Finance, Revenue and Bonding Committee

**AN ACT CONCERNING USE OF
CONSUMER COLLECTION AGENCIES
FOR MUNICIPAL PROPERTY TAX
COLLECTION AND THE PROPERTY TAX
ASSESSMENT LISTS FOR THE 2002
ASSESSMENT YEAR IN THE TOWNS OF
WARREN AND HARTLAND**

SUMMARY: This act allows consumer collection agencies to receive for payment, as well as collect, municipal property tax from a tax debtor on the municipality's behalf. Prior law prohibited them from receiving the tax.

The act requires consumer collection agencies receiving property tax on a municipality's behalf to have an insurance policy of at least \$2 million from an insurer authorized to do business in Connecticut, providing coverage against loss of money, securities, or other property, including loss arising from an employee's, officer's, or director's fraudulent or dishonest act. It specifies that the municipality is responsible for ensuring the agency's compliance with this provision.

The act permits a municipality that enters into an agreement with an agency also to require the agency to file with it a bond, in a form the municipality approves and in a sum up to the total amount of property tax the municipality has requested the agency to collect. The bond must (1) be written by a surety authorized to write bonds in Connecticut; (2) contain a provision requiring the surety to give the municipality written notice of the bond's cancellation by certified mail at least 30 days before the cancellation date; and (3) require the collection agency well, truly, and faithfully to account for all funds it collects and receives. If a municipality is injured by an agency's wrongful conversion of any property taxes it receives, the act allows the municipality to proceed on the bond against the principal, surety, or both to recover damages. It specifies that the bond proceeds, even if commingled with the agency's other assets, will be deemed as held in trust for the municipality's benefit in the event of the agency's bankruptcy and are immune from attachment by creditors and judgment creditors.

The act validates the Warren and Hartland assessment lists and abstracts and board of assessment appeals determinations with regard to their October 1, 2002 assessment lists and allows the towns to collect taxes based on them.

EFFECTIVE DATE: Upon passage

BACKGROUND

Related Acts

PA 03-256 and PA 03-269 contain the same validating provision as this act concerning Warren's and Hartland's property tax assessments.

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-42—SB 291

*Select Committee on Children
Human Services Committee*

**AN ACT ESTABLISHING A KINSHIP
FOSTER CARE PROGRAM**

SUMMARY: This act requires the Department of Children and Families (DCF) to tell a relative how to become licensed as a foster parent when it determines that it is in the child's best interests to place him in foster care with a relative. The act requires DCF to do so by establishing a kinship foster care program within available appropriations.

EFFECTIVE DATE: October 1, 2003

PA 03-52—sHB 6327

*Select Committee on Children
Judiciary Committee*

**AN ACT CONCERNING SUPERVISED
VISITATION BETWEEN PARENTS AND
CHILDREN**

SUMMARY: This act requires the chief court administrator to identify additional secure places where court-ordered supervised visits between children and family members can occur. He must prepare a list of all identified centers and make it available to the public for free. The list may include centers the Department of Children and Families establishes for supervised visitation for children in its custody.

EFFECTIVE DATE: October 1, 2003

PA 03-145—sSB 886

*Select Committee on Children
Appropriations Committee*

**AN ACT CONCERNING THE STATE
PREVENTION COUNCIL AND
INVESTMENT PRIORITIES**

SUMMARY: This act requires the State Prevention Council to determine long-term goals, strategies, and outcome measures to promote the health and well being of children and families. It must design a plan for inter- and intra-agency implementation of these goals and strategies and submit it to the Office of Policy and Management (OPM) secretary and the

Appropriations Committee by January 1, 2004.

The act sets out the following goals, to which the council can add others:

1. an increase in (a) healthy pregnant women and newborns; (b) the number of children who are ready for, and succeed in, school; (c) the number of youth who choose healthy behaviors and become successful working adults; and (d) access to health care and stable housing;
2. a decrease in (a) child abuse and neglect rates, (b) the number of children unsupervised after school, and (c) juvenile crime and suicide; and
3. cost-effective, research-based, early inter-vention strategies.

EFFECTIVE DATE: Upon passage

BACKGROUND

State Prevention Council

The council consists of the OPM secretary, who is the chairman, and the heads of state social services, child protection, health, and education agencies and the chief court administrator, or their designees. Its purpose is to establish a prevention framework for the state, recommend a statewide prevention plan, better coordinate prevention spending across state agencies, and increase fiscal accountability.

PA 03-206—sHB 5723

*Select Committee on Children
Education Committee
Appropriations Committee*

**AN ACT CONCERNING AFTER SCHOOL
PROGRAMS**

SUMMARY: This act requires the education commissioner to establish and appoint an after school committee, in consultation with the social services commissioner and Children's Commission executive director. The committee's members must include people who operate, or are experts in, after school programs; local elected officials; members of community agencies; business people; and professional educators.

The committee may report and make recommendations on some or all of these topics:

1. existing government and private resources to support after school programs,
2. ways to improve goal setting and coordination among state agencies to achieve efficiencies and encourage training and local technical assistance for after school programs,
3. best practices,
4. ways to encourage community-based providers,
5. professional development and joint training,
6. ways to address barriers to after school programs, and
7. a public and private governance structure that ensures after school programs are sustainable.

The committee must report its findings to the General Assembly by February 1, 2004. To support the committee, the act allows the education commissioner to seek and accept funds from private organizations that do not receive grants or other funds from the Education Department.

EFFECTIVE DATE: Upon passage

PA 03-243—sSB 936

*Select Committee on Children
Human Services Committee
Government Administration and Elections Committee
Judiciary Committee*

AN ACT CONCERNING INTERSTATE PLACEMENT OF CHILDREN AND VISITATION FOR CHILDREN IN THE CARE AND CUSTODY OF THE COMMISSIONER OF CHILDREN AND FAMILIES AND CHILD PLACEMENT CRIMINAL HISTORY RECORDS CHECKS

SUMMARY: This act (1) requires criminal history records checks for Department of Children and Families (DCF) job applicants and prospective foster parents, and makes other changes concerning background checks; (2) requires DCF to ensure that it provides children in its custody the opportunity to visit with their parents and certain siblings, unless a court orders otherwise; (3) requires DCF in certain circumstances to try to keep a foster child in the first location it placed him until he is adopted or a permanent home is found for him; and (4) makes several changes concerning out-of-state placement of children and youth and interstate

adoptions.

EFFECTIVE DATE: October 1, 2003

BACKGROUND CHECKS

DCF Employees

The act requires anyone applying for a job at DCF to state in writing whether he has ever been convicted of a crime or whether criminal charges are pending against him. It requires each applicant to submit to state and national criminal history record checks in accordance with Connecticut's uniform criminal history record check procedure. It also requires DCF to check its child abuse registry to see if the applicant is listed as a perpetrator of child abuse or neglect.

Foster Parents

The act specifically requires people applying to be foster parents and anyone age 16 or older who lives with them to submit to state and national criminal background checks conducted according to the state's uniform procedure. Prior law, while not explicitly requiring background checks, specified how DCF had to conduct them. (DCF regulations require denying licenses to prospective foster parents who have been convicted of specified crimes.) The act also specifies that when DCF checks applicants in the child abuse registry, it must find out if they are listed as perpetrators.

Child Day Care Providers

The law requires checking the child abuse registry for (1) prospective employees at a child day care center or group day care home, (2) applicants for a family day care license and their prospective employees, (3) employees at retail stores' supplementary child-care operations, and (4) individuals who provide child care for someone who receives a child care subsidy from the Department of Social Services. The act specifies that this check is to see if they are listed as perpetrators.

Child-Placing and Child-Caring Agencies

The act explicitly extends to child-placing (adoption) agencies applying for a DCF license, the requirement that anyone listed on the application submit to a state and national criminal record check. Previously, this requirement applied only to child-caring

agencies (foster care and other residential facilities).

VISITATION FACTORS

The act's parental and visitation requirements apply to children committed to DCF or placed in its custody under an order of temporary custody. The act delineates factors that DCF must consider in determining each child's visitation schedule, and it requires DCF to include information about these factors in each child's treatment plan. If DCF determines that visits, or the number, frequency, or length of visits the child's attorney or guardian ad litem requests, are not in the child's best interest, it must include its reasons for this decision in the treatment plan.

Parents

The act requires the DCF commissioner to ensure that visits between an affected child and his parents occur as frequently as reasonably possible, based on the child's best interests, including his age and developmental level. The visits must be sufficiently frequent and long to ensure continuation of the parent-child relationship.

Siblings

The act applies to children separated by DCF action from siblings with whom they have an existing relationship. It requires DCF to ensure that the siblings have access to, and the right to visit, each other while the affected child is in DCF custody, if DCF determines this is in the child's best interests. In determining the number, frequency, and duration of visits, the act requires DCF to consider the child's age, developmental level, and continuation of the sibling relationship.

CONTINUING FOSTER CHILD PLACEMENT

By law, when a child is removed from home and placed in DCF custody either voluntarily or due to abuse and neglect, a court must hold a hearing nine months after placement and annually thereafter to review the department's permanency plan for the child, or DCF can request a hearing to determine if it should continue to make reasonable efforts to reunite the child with his family. If a court finds at such a

hearing that continuing reunification efforts are not appropriate, DCF must either (1) seek to terminate the parents' rights to the child, which makes him available for adoption; (2) move to transfer guardianship of the child to another party; or (3) file a plan for permanent or long-term foster care for the child.

As part of this process, the act requires DCF, if the court finds reunification is not appropriate and DCF determines it is in the child's best interests, to try to keep the child in the first location it placed him until he is adopted or a permanent home is found for him.

The act allows the DCF commissioner to accept funds from any source for permanency planning and placement services.

OUT-OF-STATE PLACEMENTS

The act:

1. makes the state agency where prospective adoptive parents live responsible for providing federal adoption assistance subsidies when a private adoption agency places a Connecticut child there,
2. subjects youthful offenders placed out of state to the Interstate Compact for Adult Offender Supervision rather than the Interstate Compact on Juveniles, and
3. applies the Interstate Compact on the Placement of Children and state law governing placement of children from other states to children whose parents' rights have been terminated or who have been committed to DCF in abuse and neglect cases.

Interstate Adoption Subsidies

Children with special needs (e.g., a child who has or is at high risk of developing a physical or mental disability or presents racial, age, or other factors that make placement difficult) are eligible for state and federal (IV-E) adoption subsidies. By law, a child who lives in Connecticut when a special needs determination is made and is placed by DCF or a private child-placing agency remains eligible for the subsidy regardless of where their adoptive parents live.

The act reassigns the responsibility for providing the IV-E subsidy when a private agency places a Connecticut child out-of-state. Previously in these situations, DCF signed the assistance agreement and paid the subsidy.

Under the act, the agency in the state where the adoptive parents live must sign the assistance agreement and provide the subsidy. DCF remains responsible for paying the subsidy when it places the child with adoptive parents in another state or when a public agency in another state places a IV-E eligible child in Connecticut. And the sending state remains responsible for the subsidy in any special needs adoption that does not meet IV-E eligibility criteria.

BACKGROUND

Uniform State Background Check Procedure

CGS § 29-17 sets a uniform procedure for criminal background checks the statutes require. It requires the agency making the request to arrange for the individual's fingerprinting and forward the fingerprints to the State Police for the state check. If a national check is needed, the State Police sends the fingerprints to the FBI. The fee for the state check is \$25; the FBI charges \$24 for the national check.

DCF Visitation Policy

DCF policy states that visits between a child and his parents and other significant family members must be an integral part of treatment planning for the child. It requires social workers for foster children to support, as appropriate, the ongoing relationship between parent and child by encouraging planned contacts such as planned visits, telephone conversations, and correspondence. The social worker must ensure the child's visitation with parents and siblings follows the child's service plan (*DCF Policy Manual 36-55-1, et seq.*).

When siblings are placed in different foster care setting, DCF policy requires the development and immediate implementation of written visitation plans, unless a professional (e.g., psychologist or psychiatrist) states that visiting is not in the best interests of a sibling needing special care (*DCF Policy Manual 36-55-7*).

Related Act

PA 03-258 substantially revises the Interstate Compact for Juveniles and will become effective when 34 other states adopt it.

PA 03-251—sHB 6226

*Select Committee on Children
Human Services Committee
Appropriations Committee
Legislative Management Committee*

AN ACT CONCERNING THE CONNECTICUT JUVENILE TRAINING SCHOOL

SUMMARY: This act establishes standards that the Department of Children and Families (DCF) must meet in its operation of the Connecticut Juvenile Training School (CJTS) and requires the school's advisory group and its public safety committee to provide an on-going review of the school and recommend improvements.

EFFECTIVE DATE: July 1, 2003, except the advisory review and report provisions take effect upon passage.

STANDARDS FOR CJTS OPERATION

The act requires DCF to ensure that CJTS:

1. completes a written individual treatment plan and health, mental health, and educational assessments for each child within 30 days of admission;
2. gives each child the opportunity for at least one hour of physical activity each weekday and two hours a day on weekends;
3. trains all staff on their responsibilities as mandatory reporters of child abuse and neglect; and
4. follows state law governing the use of physical restraints, seclusion, and psycho-pharmacological agents.

ON-GOING ADVISORY COMMITTEE REVIEW

The act requires the CJTS advisory group established under the commissioner's general authority and the statutorily created CJTS public safety committee to provide an on going review of the school and recommend improvements. The review must include:

1. the number, age, ethnicity, and race of the residents, including the court locations sending them; the number sent from each location; and their offense;
2. the percentage needing substance abuse treatment and the interventions given them;

3. a review of the facilities' program and policies;
4. the educational and literacy programs available, the education level of the residents, the number requiring special education, school attendance requirements, and the number educated in the alternative school and the reasons for it;
5. the vocational training programs available and the number of students enrolled;
6. delinquency recidivism rates, including the number discharged to residential placements, number discharged due to expiration of their commitment, and the number returned to the CJTS;
7. each child's diagnosis after intake assessment;
8. the costs of operating the school, including staff costs and per resident cost; and
9. plans to reintegrate the children in their home communities.

DCF must staff the advisory group.

DCF COMMISSIONER'S REPORT

The act requires the DCF commissioner to report to the Children's, Human Services, and Judiciary committees by February 4, 2004 and annually thereafter. The report must summarize the information and recommendations from the on-going review and include other information the commissioner identifies as requiring immediate legislative action.

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-4—SB 848
Commerce Committee

AN ACT CONCERNING COLLECTION OF THE SALES TAX ON NEWSPAPERS

SUMMARY: PA 03-2 imposes the sales and use tax on newspapers and magazines sold on or after April 1, 2003. This act requires newspaper producers and wholesalers to collect the 6% sales tax when they transfer newspapers to vendors who do not sell any other taxable items. (PA 03-185 exempts newspapers from the sales and use tax starting July 1, 2003).

The act allows these vendors to pass the tax along to their customers by adding it to the retail sales price of the newspapers without remitting the amount to the state. Presumably the wholesalers and producers would remit the tax they must collect under the act to the state. The law requires all newspaper vendors to register with the Department of Revenue Services (DRS) and collect the tax directly from customers, unless a newspaper wholesaler makes an agreement with DRS to collect the tax on behalf of its newspaper vendors and remit the tax to the state (DRS Special Notice SN 2003(5)).

EFFECTIVE DATE: Upon passage and applicable to sales occurring on or after April 1, 2003.

PA 03-26—sHB 6396
Commerce Committee

AN ACT CONCERNING OBSOLETE DEFENSE DIVERSIFICATION REPORTS

SUMMARY: This act eliminates a requirement for the Department of Economic and Community Development (DECD) to report (1) the federal programs that provide financial assistance to defense firms for developing nonmilitary products and services and (2) those programs the Office of Policy and Management applied to for assistance. Prior law required DECD to include this information in its annual report to the auditors and several legislative committees on the businesses and organizations it financed during the year.

EFFECTIVE DATE: October 1, 2003

PA 03-93—SB 452
Commerce Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING FUNDING AND TECHNICAL ASSISTANCE TO LOW AND MODERATE INCOME INDIVIDUALS TO ESTABLISH BUSINESSES IN THE STATE

SUMMARY: This act expands the Community Economic Development Fund's (CEDF) authority to provide financing to low- and moderate-income people statewide for establishing, maintaining, and expanding businesses. CEDF is a nonprofit organization created under the statutes to help economically distressed neighborhoods develop businesses and create jobs. Under the act, people qualify for financial assistance if they earn no more than the state median income (currently \$75,400), as determined by the U.S. Department of Housing and Urban Development.

Prior law allowed CEDF to provide this and other types of financing to anyone regardless of income, but only in the state's designated targeted investment communities (TICs) and its 42 public investment communities (PICs). These designations serve to target state development dollars at economically distressed areas. While the act allows CEDF to extend financial assistance to low- and moderate-income people statewide, 70% of the total must still go to projects in TICs.

EFFECTIVE DATE: October 1, 2003

PA 03-197—sSB 164
Commerce Committee
Finance, Revenue and Bonding Committee
Legislative Management Committee

AN ACT CONCERNING EVALUATION OF THE EFFECTIVENESS OF ECONOMIC DEVELOPMENT PROGRAMS ADMINISTERED BY THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT AND THE CONNECTICUT DEVELOPMENT AUTHORITY

SUMMARY: This act changes the scope, reporting deadline, and distribution requirements for the annual reports the economic and community development commissioner must

prepare that evaluate how the state's economic development programs performed during the prior fiscal year.

Under prior law, the commissioner had to submit separate reports on the Department of Economic and Community Development's (DECD) programs and those of the quasi-public Connecticut Development Authority (CDA) and Connecticut Innovations, Inc. (CII). The act requires the commissioner to report only on DECD's programs. But it also expands the report's scope by requiring the commissioner to measure the extent to which DECD's programs benefited the economy and society. He must include this analysis in the report every other year, beginning January 1, 2004.

The act changes the annual deadline for submitting the evaluation report from October 1 to January 1, beginning in 2004. It also drops the requirement that DECD submit the report to the 27-member advisory Connecticut Economic Conference Board (CECB) for review and comments and the corresponding requirement that the board submit its comments to the Commerce, Appropriations, and Finance committees by the January 1 following the October 1 submission. The act instead requires the commissioner to submit the report directly to those committees.

The act requires the commissioner to post the report on DECD's web page within 30 days after he submits it to the legislative committees.

EFFECTIVE DATE: October 1, 2003

ECONOMIC BENEFIT

The act requires the commissioner to analyze how DECD's programs benefited the economy and include this evaluation in the program report every other year, beginning January 1, 2004. It specifies the economic and social criteria he must use to evaluate the programs.

The commissioner must determine the extent to which businesses, towns, and nonprofits receiving over \$1 million in funding have:

1. directly or indirectly increased property values in the towns where they are located,
2. helped to increase the total value of all goods and services made or delivered in the state,
3. contributed to an increase in the state's productivity,
4. enhanced other economic development

projects,

5. directly or indirectly created new jobs, and
6. stopped or decreased job loss.

The commissioner must also determine the extent to which DECD-funded organizations' employees participate in their employers' health plans and whether the organizations DECD funds offer unique economic, social, cultural, or aesthetic values to their host towns and the state. The act allows the commissioner to analyze the programs' benefits based on any other qualitative criteria DECD uses to provide financial and nonfinancial assistance.

BACKGROUND

Connecticut Economic Conference Board

The CECB helps the legislature and the governor evaluate the state economy's health and future. It has 27 members, including the governor; commissioners from six state agencies; the chairs and ranking members of the Commerce, Finance, Revenue and Bonding, and Education committees; and eight other legislative and executive appointees. The statutes require the board to prepare three annual reports, which evaluate state programs, the state's competitiveness, and the condition of the state's economic clusters.

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-11—sHB 5289

Education Committee

**AN ACT CONCERNING
PARAPROFESSIONALS**

SUMMARY: State law requires employers to pay all wages (1) weekly on a regular pay day and (2) no more than eight days after the end of the pay period the wages cover. This act allows local and regional boards of education and unions representing their paraprofessional employees to establish different wage payment schedules in their collective bargaining agreements. Boards and unions already had authority to establish different pay schedules for certified board employees, such as teachers and school administrators.

The act applies to employees who work for boards of education as instructional or administrative assistants in positions that do not require State Board of Education certificates.

EFFECTIVE DATE: July 1, 2003

PA 03-29—sSB 965

Education Committee

Government Administration and Elections Committee

**AN ACT CONCERNING CONNECTICUT
AVIATION PIONEER DAY**

SUMMARY: This act requires the governor annually to declare May 25 as Connecticut Aviation Pioneer Day to commemorate and honor Igor I. Sikorsky. It requires suitable exercises to be held in the State Capitol and other locations the governor designates.

EFFECTIVE DATE: Upon passage

PA 03-76—sHB 6691

Education Committee

**AN ACT CONCERNING TECHNICAL
REVISIONS TO THE EDUCATION
STATUTES**

SUMMARY: This act makes technical changes in laws dealing with elementary and secondary education.

EFFECTIVE DATE: Upon passage

PA 03-100—SB 966

Education Committee

Appropriations Committee

**AN ACT CONCERNING ADULT
EDUCATION**

SUMMARY: This act:

1. requires a student who receives an adult education diploma on or after July 1, 2004 to complete at least a one-half credit course in civics and American government;
2. eliminates a limit on the amount of state-reimbursable adult education expenses a local or regional board of education may devote to computer equipment;
3. eliminates two bonus provisions from the adult education grant reimbursement formula; and
4. makes a technical change.

EFFECTIVE DATE: July 1, 2003

CIVICS REQUIREMENT

Under the act, the required one-half credit in civics and American government is part of the minimum three credits in social studies already required for an adult education diploma. The new requirement matches the civics requirement for a regular high school diploma that applies starting with the class of 2004.

COMPUTER EQUIPMENT SPENDING LIMIT

State adult education grants reimburse local and regional boards of education for up to 65% of their eligible expenditures for adult education programs. The reimbursement depends mostly on each town's per capita property wealth. Among the reimbursable expenses are those for instructional material and equipment, including computer equipment. Under prior law, eligible spending on computers was limited to 5% of a board's total eligible adult education spending for the year. The act eliminates the 5% limit, giving boards discretion over how much of their reimbursable expenses to devote to computers.

FORMULA CHANGES

The act eliminates two bonus provisions in the adult education reimbursement formula.

One gave an extra 1.5 percentage-point bonus, up to the 65% maximum, to a local board if (1) it served at least 4,000 students enrolled for at least 12 hours in the fiscal year two years before the grant year and (2) the number of adult education students it served in that earlier year exceeded 15% of the town's population age 25 or over with no high school diploma according to the most recent census.

The other allowed a local board that served at least 2,000 students enrolled for at least 12 hours in the fiscal year two years before the grant year to receive the greater of (1) a grant based on its wealth ranking or (2) \$25 for each student served in the earlier year.

PA 03-168—sSB 1155

Education Committee

Human Services Committee

AN ACT CONCERNING THE FEDERAL NO CHILD LEFT BEHIND ACT AND TEACHER CERTIFICATION

SUMMARY: This act aligns state law with the testing requirements of the federal No Child Left Behind (NCLB) Act by establishing additional statewide mastery tests for public school students in grades 3, 5 and 7, starting in 2005-06. It also changes when students take state mastery tests in grades 4, 6, and 8. The act requires the Education Committee to evaluate state and local costs for implementing NCLB compared to the federal funds received for that purpose, and requires costs for conforming the state's mastery tests with NCLB requirements to be paid exclusively from federal funds the state and school districts receive under that law.

The act extends preferences for certain students in any attendance lottery conducted under the state's interdistrict school choice program to include those who would otherwise attend a school found to be "in need of improvement" under NCLB.

The act also:

1. overrides and delays implementation of various State Department of Education (SDE) teacher certification regulations and requirements and

2. extends to additional types of State Board of Education (SBE) credentials (a) restrictions on issuance or reissuance to applicants convicted of specified crimes and (b) requirements for child abuse reports and investigations involving credential holders.

EFFECTIVE DATE: July 1, 2003, except for provisions overriding SDE teacher certification regulations, which take effect on passage.

NO CHILD LEFT BEHIND PROVISIONS

Additional Tests

Beginning in the 2005-06 school year, the act requires each public school student to take statewide mastery tests in grades 3, 5, and 7 in addition to those they already must take in grades 4, 6, 8, and 10. Starting in 2005-06, the act requires tests in grades 3 to 8 to cover reading, writing, and math. Starting in 2007-08, tests in grades 5, 8, and 10 must also cover science. Prior law already required statewide mastery tests to cover math, reading, and language arts, while the 10th grade test already included science, although it was not previously required to do so by law. As under prior law, SBE must provide and supervise administration of all mastery tests.

The act requires the new testing to be implemented in accordance with P.L. 107-110, the NCLB Act. That law mandates the new tests and test content as a condition of states receiving federal education grants for low-income schools under Title I of the federal Elementary and Secondary Education Act. Starting July 1, 2003, the act requires that any state and local costs for aligning state mastery tests with the federal requirements be paid exclusively from federal NCLB Act funds the state and local school districts receive.

Testing Schedule

The act requires all mastery tests, both old and new, to be given in April, starting in 2005-06 for the reading, writing, and math tests in grades 3-8 and starting in 2007-08 for the science tests in grades 5, 8, and 10. While the 10th grade test is already given in the spring, the 4th, 6th, and 8th grade mastery tests have been given in October.

Education Committee Cost Study

The act requires the Education Committee to evaluate (1) the estimated additional cost to the state and local school districts of NCLB compliance over and above federal funds appropriated for the purpose and (2) estimated federal funds the state and local districts are to receive under NCLB. The committee must report its findings and any recommendations by February 1, 2004.

Open Choice Program Preference

The act adds to existing preferences for certain students in lotteries conducted when the number of students seeking to attend school in a particular district under the state's Open Choice attendance program exceeds the spaces available. By law, in such situations, the regional education service center (RESC) for the district involved must use a lottery designed to preserve or increase racial, ethnic, and economic diversity. Under prior law and the act, RESCs must give preference in conducting the lotteries to siblings of students already participating and to students who would otherwise attend a school that has lost its accreditation from the New England Association of Schools and Colleges. The act adds a preference for students attending schools determined to be "in need of improvement" under the school accountability requirements of NCLB.

TEACHER CERTIFICATION PROVISIONS

New Teacher Certification Regulations

The act forestalls SDE's implementation of new, comprehensive teacher certification regulations scheduled to take effect July 1, 2003 and requires the department to keep its previous regulations in effect until January 1, 2005. In general, the preempted regulations, adopted in 1998, require applicants for teaching certificates to demonstrate competence in specified areas rather than to complete specified courses.

Endorsements

The act overrides SDE's teacher certification regulations to allow teachers with elementary education or comprehensive special education endorsements to teach kindergarten as well as other grades. SDE regulations had restricted the former to grades 1 through 6 and

the latter to grades 1 through 12. (An endorsement specifies the subject and grades a certified public school teacher is qualified to teach.)

Teaching Experience

SDE regulations allow an applicant for a teaching certificate who has not completed a state-approved teacher preparation program to substitute 20 school months of appropriate full-time teaching experience in a state-approved private school. The act requires teaching experience in Department of Mental Retardation-approved Birth-to-Three programs to count towards this experience.

Reading Instruction Course Requirement

The act postpones, from July 1, 2003 to July 1, 2004, the implementation of a requirement that an applicant for an initial teaching certificate with either an early childhood through grade 3 or elementary endorsement complete a comprehensive reading instruction course of at least six semester hours.

SBE PERMITS AND AUTHORIZATIONS

Criminal Convictions

The act extends the existing ban on the SBE issuing or reissuing teaching certificates for applicants convicted of specified crimes to include issuing or reissuing educational permits and authorizations, such as those required for athletic coaches and substitute teachers. SBE may already revoke a permit or authorization based on convictions of the specified crimes.

The crimes are: (1) a capital felony; (2) arson murder; (3) any class A felony; (4) a class B felony, except first-degree larceny, computer crime, or vendor fraud; (5) risk of injury to a minor; (6) deprivation of a person's civil rights by a person wearing a mask or hood; (7) second-degree assault of an elderly, blind, disabled, pregnant, or mentally retarded person; (8) second-, third-, or fourth-degree sexual assault; (9) third-degree promoting prostitution; (10) substitution of children; (11) third-degree burglary with a firearm; (12) crimes involving child neglect; (13) first-degree stalking; (14) incest; (15) obscenity as to minors; (16) importing child pornography; (17) criminal use of a firearm or electronic defense weapon; (18) possession of a weapon on school grounds; and

(19) manufacture or sale of illegal drugs.

Child Abuse Reports and Investigations

By law, when a mandated child abuse reporter who is a school employee reports suspected child abuse to the Department of Children and Families (DCF) commissioner, he must also submit a copy of the written report to the head of the school or his designee. If the report concerns a certified school employee, the school head must send a copy to the education commissioner. This act also requires the school head to send a copy to the education commissioner if the report concerns a school employee who holds an SBE-issued authorization or permit.

By law, if the DCF commissioner's investigation leads her to the reasonable belief that an SBE-certified school staff member has abused a child, she has to notify and provide records of the investigation to the SBE. The act extends this requirement to include any such staff member who has an SBE-issued permit or authorization.

BACKGROUND

No Child Left Behind Act

The NCLB Act establishes an accountability system requiring schools to make annual progress toward having every student achieve academic standards established by the state and toward closing performance gaps between all students and certain subgroups of students by 2014. Student performance is measured by mandatory annual tests for students in grades 3 to 8 and grade 10. NCLB also requires states to identify schools and school districts making insufficient annual progress ("in need of improvement") and follow a step-by-step process for either improving or closing them.

PA 03-174—sSB 1093
Education Committee

AN ACT CONCERNING MINOR REVISIONS TO THE EDUCATION STATUTES

SUMMARY: This act makes a number of revisions in the education statutes. Among other things, it:

1. makes those teaching under durational shortage area permits (DSAPs) issued by the State Board of Education (SBE) members of teacher collective bargaining units;
2. allows school districts to include student scores on each part of the Connecticut Academic Performance Test (CAPT) on students' permanent records and transcripts;
3. prohibits schools from administering any state mastery examination or test required by the federal No Child Left Behind Act for students in grades seven through 12 before 9:00 a.m.;
4. requires the birth-to-three program to notify school boards of children in the program who will turn three during the next fiscal year;
5. allows priority school districts to charge students fees to participate in after-school programs funded by state extended school building hours grants; and
6. makes miscellaneous changes affecting, among others, summer school for sixth graders, information technology grants, and youth service bureaus.

EFFECTIVE DATE: July 1, 2003, except for the provision on the SBE report, which takes effect upon passage, and the provision regarding birth-to-three services, which takes effect on October 1, 2003.

DURATIONAL SHORTAGE AREA PERMIT HOLDERS

The act makes those teaching under DSAPs part of teachers' bargaining units, thus subjecting their wages, hours, and working conditions to mandatory collective bargaining. A DSAP is a temporary public school teaching credential SBE issues at the request of a local board of education that allows an uncertified person to teach a subject when no certified teacher is available. A DSAP is valid for one year and can be renewed twice, thus allowing its holder to teach for up to three years.

CAPT SCORES

The act allows school districts to include student scores on each part of the CAPT on students' permanent records and transcripts. In addition, it requires districts to note on the permanent record or transcript whenever a

student meets or exceeds the state's goal on any part of the CAPT and to issue a certificate of mastery for that part. Prior law required districts to include CAPT scores on records and transcripts and issue certificates of mastery only for students who met state goals on all parts of the CAPT.

BIRTH-TO-THREE SERVICES

The act requires the statewide birth-to-three program to include a system for annually notifying local and regional boards of education by January 1 of any child (1) living in the district, (2) participating in the statewide program, and (3) turning three years old during the next fiscal year.

AFTER-SCHOOL PROGRAMS

The act allows priority school districts receiving state funding for after-school academic enrichment, support, and recreational programs under the extended school building hours grant program to charge fees for students to participate in the grant-funded programs, as long as (1) the fees are calculated on a sliding scale based on ability to pay and (2) no fee exceeds 75% of the average cost of participation. It prohibits a school district from excluding a student from participating in an after-school program based on his inability to pay a fee.

PROFESSIONAL KNOWLEDGE CLINICAL ASSESSMENT

The act clarifies and extends the deadline for newly certified teachers to achieve a satisfactory evaluation on a professional knowledge clinical assessment from within two years after they begin teaching in a public school to (1) by the end of the second year of teaching in a public school if they were hired before January 1 or (2) by the end of the second full school year of teaching following the year they were hired if they were hired on or after January 1. It also allows the education commissioner to extend the time limit on a showing of good cause for up to two years. Prior law allowed him to extend it for one year.

COOPERATING AND BEGINNING TEACHERS

The act eliminates a provision specifying that a beginning teacher participating in the

beginning teacher support and assessment program does not have to be assessed by a certified teacher holding a certification endorsement in the same general subject area as the beginning teacher. Instead, it requires beginning teachers to be assessed by educators with teaching experience in the same general subject area, but does not require that the assessors hold an endorsement in that area.

DEFINITION OF A RACIAL MINORITY

The act defines the term "pupils and teachers of racial minorities," used in the statutes regarding plans to correct racial imbalance, as a student or teacher whose (1) race is defined as other than white or (2) ethnicity the federal Office of Management and Budget defines as Hispanic or Latino for use by the United States Department of Commerce's Census Bureau. Under prior law, the term meant racial ancestry other than white as determined by the Census Bureau.

EQUALIZED NET GRAND LIST

The act requires the Office of Policy and Management secretary to submit annual town equalized net grand list (ENGL) information to the education commissioner, as well as SBE. It also eliminates a requirement that the secretary send annually a copy of each town's preliminary ENGL information to SBE.

STUDENTS PLACED BY THE DEPARTMENT OF CHILDREN AND FAMILIES

The act gives school districts more time to submit reimbursement claims for state-placed children for whom no local board of education is responsible ("no-nexus" children). Prior law required them to submit claims by December 1, but allowed them to submit claims for additional children or costs by February 1. The act extends the latter deadline to March 1. Under prior law, the state had to pay 75% of the reimbursement in February and the balance in April. The act delays the balance payment requirement until May.

SUMMER SCHOOL FOR SIXTH GRADE STUDENTS

The act requires the cost for students to attend summer school if they fail to reach the statewide standard of remedial assistance on the

sixth grade mastery examination to be paid from within the state's available appropriations.

INFORMATION TECHNOLOGY GRANTS

The act allows the technology plan that school boards must maintain to be eligible for grants to improve information technology in their schools to have been developed or updated during the three years, rather than the two years, preceding their grant application.

YOUTH SERVICE BUREAUS

The act expands the youth service bureaus eligible for grants from the State Department of Education to include bureaus that (1) are eligible in FY 2002-03, rather than only those that were eligible in FY 2000-01, or (2) applied by June 30, 2003, rather than only those that applied by June 30, 2001, after receiving approval for their town's matching contribution. The grants are \$14,000 each, with any excess funds distributed among bureaus that received grants of more than \$15,000 in FY 1994-95.

STATE BOARD OF EDUCATION REPORT

The act eliminates a requirement that SBE submit an annual report of its activities to the governor and Education Committee. It still requires the board to submit a report on the condition and needs of public education.

PA 03-220—sHB 6426

Education Committee

Environment Committee

Appropriations Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING INDOOR AIR QUALITY IN SCHOOLS

SUMMARY: This act makes several changes to the school construction and board of education statutes to improve and protect indoor air quality in Connecticut schools. These changes include:

1. making school boards responsible for maintaining their facilities;
2. requiring local and regional school districts to implement an inspection and evaluation program, such as the U.S. Environmental Protection Agency's (EPA) Tools for Schools, for new building construction, extensions,

- renovations, and replacements;
3. allowing the education commissioner to approve school construction projects for certified school indoor air quality emergencies without putting them on the list for General Assembly approval;
4. requiring districts to conduct Phase I environmental site assessments of proposed school construction sites;
5. prohibiting the State Department of Education (SDE) from approving school construction projects or sites if certain conditions exist;
6. requiring operation and maintenance of heating, ventilating, and air conditioning (HVAC) systems in accordance with prevailing standards;
7. increasing the maximum square footage per pupil limit if necessary to accommodate an HVAC system; and
8. allowing local and regional boards of education to establish indoor air quality committees to increase staff and student awareness of indoor environmental quality.

EFFECTIVE DATE: July 1, 2003

FACILITY MAINTENANCE

The act (1) makes local and regional boards of education responsible for maintaining their facilities, (2) requires them to adopt and implement an indoor air quality program that provides for ongoing maintenance and facility reviews necessary to maintain and improve their facilities' indoor air quality, and (3) requires school boards annually to report to the education commissioner on their indoor air quality program as well as their school building program.

INSPECTION AND EVALUATION PROGRAMS

Before January 1, 2008 and every five years after that, the act requires local and regional boards of education to provide for a uniform inspection and evaluation program for the indoor air quality for every school building constructed, extended, renovated, or replaced on or after January 1, 2003. The program must include a review, inspection, or evaluation of:

1. the HVAC systems;
2. radon levels in the air and water;
3. potential for exposure to microbiological airborne particles, including fungi, mold, and bacteria;

4. chemical compounds of concern to indoor air quality, including volatile organic compounds;
5. pest infestation, including insects and rodents;
6. degree of pesticide usage;
7. the presence and plans for removing certain hazardous substances identified under federal law;
8. ventilation systems;
9. plumbing, including water distribution systems, drainage systems, and fixtures;
10. water leaks;
11. the facilities' overall cleanliness;
12. building structural elements, including roofing, basements, and slabs;
13. the use of space, particularly in areas designed to be unoccupied; and
14. the provision of indoor air quality maintenance training for building staff.

The act requires each school board conducting evaluations to make the results available for public inspection at a regularly scheduled board meeting.

CERTIFIED SCHOOL INDOOR AIR QUALITY EMERGENCIES

The act adds projects to remedy "certified school indoor air quality emergencies" to the list of school construction project grant applications that the commissioner can approve at any time without putting them on an annual school construction priority list for legislative approval. It defines a "certified school indoor air quality emergency" as a building condition that the Department of Public Health determines presents a substantial and imminent adverse health risk that requires remediation costing more than \$100,000. The commissioner may already approve applications for grants to remedy code violations and fire damage, replace roofs, or purchase and install portable classrooms without putting these projects on the list.

For projects approved to remedy certified indoor air quality emergencies, the act specifies that the school construction grant amount will be the eligible percentage of what the commissioner determines to be the project's eligible cost.

PHASE I ENVIRONMENTAL SITE ASSESSMENT

Before approving the architectural plans for school construction projects for new buildings, building extensions, or building replacements,

the act requires the school board and building committee to provide for a Phase I environmental site assessment in accordance with the American Society for Testing and Materials (ASTM) Standard #1527, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process. The cost of performing the assessment is eligible for reimbursement as part of the school construction project.

SDE APPROVAL

The act prohibits SDE from approving a school building project plan or site if:

1. the site is in an area of moderate or high radon potential, as indicated in the Department of Environmental Protection's Radon Potential Map, except where the plan incorporates construction techniques to mitigate radon levels in the facility's air;
2. the plans incorporate new roof construction or total replacement of an existing roof and do not provide (a) for a minimum roof pitch of one-half inch per foot; (b) for a minimum 20-year unlimited manufacturer's guarantee for water tightness covering the entire roofing system's material and workmanship; (c) for vapor retarders, insulation, bitumen, felts, membranes, flashings, metals, decks, or any other feature the roof design requires; and (d) that all manufacturer's material to be used meets the latest ASTM standards for individual roofing system components;
3. for major alterations, renovations, or extensions of a building to be used for public school purposes, the plans do not incorporate the Sheet Metal and Air Conditioning Contractors National Association's publication entitled "Indoor Air Quality Guidelines for Occupied Buildings Under Construction" or similar subsequent publications; and
4. for new building construction, extensions, renovations, or replacements, the plans do not include a strategy for training building maintenance staff responsible for the facility in the appropriate areas of plant operations, including HVAC systems, with specific indoor air quality training.

HVAC SYSTEMS

The act requires school boards to ensure that their HVAC systems are (1) maintained and operated in accordance with the prevailing maintenance standards, such as Standard 62, at the time the system was installed or renovated and (2) operated continuously during school activity hours, except (a) during scheduled maintenance and emergency repairs and (b) during periods when school officials can demonstrate to the school board's satisfaction that outdoor air is sufficient. It defines "Standard 62" as the American Society of Heating, Ventilating, and Air Conditioning Engineers Standard 62, entitled "Ventilation for Acceptable Indoor Air Quality," as referenced by the State Building Code. The act requires school boards to maintain their HVAC system maintenance records for at least five years.

SCHOOL CONSTRUCTION GRANT AMOUNT

The act specifies that the maximum square footage per pupil limit for a school building project the General Assembly authorizes after January 1, 2004 will be increased by up to 1% if needed to accommodate an HVAC system.

INDOOR AIR QUALITY COMMITTEE

The act allows school boards to establish an indoor air quality committee for each school district or facility to increase staff and student awareness of environmental facets affecting the health of school facility occupants, including air quality, water quality, and radon. These committees must include at least (1) one administrator, (2) one maintenance staff member, (3) one teacher, (4) one school health staff member, (5) one parent of a student, and (6) two members-at-large from the school district. The act prohibits any school board, superintendent, or school administrator from preventing a school safety committee established under existing law from addressing indoor air quality issues affecting the health of school facility occupants.

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-27—sHB 6400

Energy and Technology Committee

AN ACT CONCERNING REGISTRATION OF NATURAL GAS SELLERS

SUMMARY: By law, retail sellers of natural gas, other than utilities, must register with the Department of Public Utility Control (DPUC). This act specifies that the registration period is annual, from October 1 to the following September 30. By law, the seller must annually provide DPUC with updated information the department requires. The act specifies that the seller must provide DPUC with this information by July 15. By law, the seller must maintain a bond or other security in the form and amount specified by DPUC. The act requires that the seller maintain this security for at least the period specified by DPUC.

By law, the registrant must also (1) have a contract with one or more gas suppliers, (2) comply with the National Labor Relations Act and Connecticut Unfair Trade Practices Act, (3) agree to cooperate with DPUC and other gas industry entities in the case of an emergency, and (4) pay an annual registration fee. Under the act, if a seller fails to comply with any of these requirements, DPUC must notify it that its registration expires on September 30 and that it will no longer be allowed to sell gas.

The act also requires a registrant to notify DPUC at least 10 days before changing its corporate structure.

EFFECTIVE DATE: July 1, 2003

PA 03-47—sHB 6399

Energy and Technology Committee

AN ACT CONCERNING THE FILING OF INFORMATION REGARDING AMORTIZATION AGREEMENTS

SUMMARY: This act makes residential electric company customers who use electricity for heating eligible for a delinquency forgiveness program currently open to gas heating customers. The act establishes eligibility criteria, describes the circumstances under which the electric company must forgive part of the delinquency, allows the companies to terminate service outside of the heating season for failure to comply with the amortization agreement, and

requires the companies to submit implementation plans to the Department of Public Utility Control (DPUC).

EFFECTIVE DATE: October 1, 2003

ELIGIBILITY CRITERIA

An electric company must require a customer who seeks to participate in the program to:

1. apply and be eligible for benefits under the Connecticut Energy Assistance Program (CEAP) or the State Appropriated Fuel Assistance (SAFA) program;
2. authorize the electric company to send a copy of his monthly bill directly to any energy assistance agency for payment; and
3. enter into, and comply with, an amortization agreement consistent with DPUC's policies and decisions which reduce the customer's bill by the amount of benefits the company reasonably expects to receive from CEAP, SAFA, or other energy assistance programs.

DELINQUENCY FORGIVENESS

The company must budget a customer's payments over a 12-month period, including an affordable additional amount to pay for any arrearage. The payment plan must be designed so that the customer will not lose any energy assistance benefits. At the customer's request, different terms can apply. When a customer authorizes the company to bill an energy assistance agency directly, the agency must pay the company directly.

If the customer meets these requirements either from the time his account becomes delinquent or from November 1 to April 30, the company must forgive an amount equal to his heating payments plus the amount paid by CEAP and SAFA between November 1 and April 30. The company must forgive an additional amount equal to the customer's payment plus any payments made on his behalf if he continues to comply with the payment plan from April 30 to October 31. The benefits provided under the act cannot result in a credit balance in the customer's account. Customers cannot be denied benefits due to company errors.

TERMINATION PROVISIONS

If the customer fails to comply with the amortization agreement and related requirements of a DPUC decision issued in place of the agreement, the company can terminate his service. However, the termination cannot occur between November 1 and April 15 and must follow all applicable regulations. The law already prohibits electric and gas utilities from terminating service for poor, unemployed, and seriously ill customers during this period.

IMPLEMENTATION PLANS

Each electric company must submit an amortization program implementation plan to DPUC by July 1 annually. The plan must include information on amortization agreements, counseling, reinstatement of eligibility, rate effects, and other information DPUC considers relevant. DPUC, in consultation with the Office of Policy and Management and after holding a hearing, must approve or modify the plans within 90 days of receiving them. If DPUC does not act, the plan is considered approved, although DPUC can give itself another 30 days to act.

DPUC must allow the companies to recover the amount forgiven for customer accounts from ratepayers as an operating expense. The recovery cannot include the amount that the company can already collect as an uncollectible expense. DPUC may deny all or part of this recovery if it determines that the company has been imprudent, inefficient, or acted in violation of statutes or regulations regarding amortization agreements.

offer service”) to such customers and increases the maximum rate that they can charge for the service.

The act modifies the requirement that utilities provide default service to such customers after the standard offer service requirement ends. It establishes separate pricing rules for such service provided to (1) small and medium-sized customers (named “standard service”) and (2) large customers (“last resort service”). It requires utilities to procure power for standard service in a way that mitigates rapid changes in electricity prices.

The act entitles utilities to a fee for procuring power for transitional standard offer service. It also entitles them to their actual administrative costs in providing the services the act mandates, as well as the back-up service they are required to provide by law to customers whose supplier fails them.

Under the act, the Department of Public Utility Control (DPUC) can require a utility to offer, through a competitive supplier, one or more alternatives to transitional standard offer service and standard service, including an alternative that includes more renewable energy than is required by law and one that promotes energy conservation.

The law requires electric suppliers to obtain part of their power from renewable resources. This provision is known as the “renewable portfolio standard” (RPS). The act (1) reduces the total amount of renewable power suppliers must obtain, (2) modifies what counts as renewable resources and where it can be produced, and (3) extends the modified RPS to apply to utilities in the service they provide to customers who do not choose suppliers. The act extends to utilities other environmental provisions that currently apply to suppliers.

The act eliminates certain supplier licensing requirements and makes others a requirement for maintaining, rather than obtaining, a license. It requires aggregators (entities that group customers to make them more attractive to suppliers) to be registered rather than licensed.

The act requires utilities to provide DPUC with information regarding the economic and environmental characteristics of their power. It provides for several other consumer information and education programs, including one to provide consumers information regarding suppliers, and a restart of DPUC’s education program.

It expands the systems benefits charge on electric bills to (1) cover costs associated with

PA 03-135—sSB 733

Energy and Technology Committee

Environment Committee

Finance, Revenue and Bonding Committee

Appropriations Committee

AN ACT CONCERNING REVISIONS TO THE ELECTRIC RESTRUCTURING LEGISLATION

SUMMARY: This act revises the electric restructuring law, particularly those provisions requiring electric utilities to provide service to customers who do not choose a competitive supplier. It extends, for three years, the requirement that the utilities provide standard offer service (renamed “transitional standard

workers at nuclear power plants in the state dislocated as a result of the state's restructuring law, (2) provide for assistance to surviving spouses of dislocated utility workers, (3) cover a broader range of educational costs, and (4) cover the costs of DPUC-approved temporary generation facilities. It reallocates the "adder" (the difference between the utilities' cost of standard offer service and its price). It modifies the approval process for utility conservation plans and ways consumers can authorize a utility to release information about them to a supplier. It requires DPUC to study the status of competition in the electric market and to adopt implementing regulations and standards for interconnecting generation facilities with the transmission grid.

The act allows (1) DPUC to issue a request for proposals if it determines that the construction of new temporary generation facilities would reduce federally mandated transmission costs and (2) the costs of these facilities to be recovered in the systems benefits charge component of electric bills.

The act limits cable TV companies to a five-year franchise if they fail to meet certain requirements.

EFFECTIVE DATE: July 1, 2003, except for (1) the provisions on requests for proposals, the DPUC study, interconnection rates and standards, the reallocation of the adder, and a separate line on bills for federally mandated congestion costs, which are effective upon passage; (2) the cable TV provisions, which are effective October 1, 2003; and (3) the provisions on the RPS and the systems benefits charge, which are effective January 1, 2004.

STANDARD OFFER SERVICE (2004 THROUGH 2006)

Current Law

By law, utilities must provide standard offer service to customers who do not choose a supplier. (Currently, fewer than 2% of customers have done so.) They can charge no more than their December 31, 1996 rates for this service, less 10%, subject to various adjustments. This requirement ends January 1, 2004.

Cap on Transitional Standard Offer Rate

The act requires the utilities to provide a "transitional standard offer" service from January 1, 2004 through December 31, 2006 at a rate not exceeding the utilities' December 31,

1996 rates, excluding any rate reduction ordered by DPUC on September 26, 2002. (DPUC ordered United Illuminating to reduce its rates by 3% on this date, on top of the 10% mandated by the law.) The rate cap does not apply to utility customers that received service under a special contract or flexible rate tariff as of July 1, 2003. The transitional standard offer tariffs filed with DPUC must indicate this fact.

The cap does not cover federally mandated costs related to congestion on the electric transmission system. The Federal Energy Regulatory Commission modified the pricing rules that govern the wholesale electric market, effective in March 2003, to require Connecticut consumers to pay for certain congestion-related costs that had previously been spread across New England. The act requires that electric bills contain a line item identifying these costs.

As is the case with standard offer service, utilities can provide transitional standard offer service from their own generation affiliates, so long as they are licensed as suppliers. (Connecticut Light & Power has one such affiliate; United Illuminating has none.)

Adjustments to Rates

The act requires DPUC to set the transitional standard offer rate by December 15, 2003 using the same hearing process it followed in setting the standard offer rate. The rate goes into effect January 1, 2004. It allows, and in some cases requires, DPUC to adjust the rate under the same circumstances as apply under current law to standard offer service. For example, DPUC must adjust the rate to reflect changes in state and federal tax laws. It may approve a rate adjustment for such things as changes in accounting standards or if the utility incurs extraordinary and unanticipated expenses. The energy adjustment clause applies to this service. This mechanism adjusts utility rates to reflect changes in their costs of fuel and purchased power, among other things. The act entitles the utilities to recover their reasonable costs in providing transitional standard offer service.

Transmission and Distribution Component of Rates

The act requires Connecticut Light & Power to file an application with DPUC by January 1, 2004 to amend its rates for transmission and distribution services. The application must include a four-year plan for providing these

services. DPUC must conduct a quasi-judicial rate case on the application and plan and can approve, reject, or modify it. Once the plan is approved, DPUC must establish the transmission and distribution component of the transitional standard offer rate. These provisions do not apply to United Illuminating, which recently had a rate case. DPUC must set the transmission and distribution component of United Illuminating's rate for transitional standard offer at its current level. However, if the company applies for a rate change before December 31, 2006, it must file a four-year plan with its application.

Procurement Fee

The act entitles utilities to receive, in addition to their reasonable administrative costs, a fee of 0.05 cents per kilowatt-hour for providing transitional standard offer service. The act also allows a utility to receive an additional fee if it is able to procure power for these services at less than the regional average cost of power. DPUC must determine an appropriate mechanism to establish an incentive plan for procuring long-term contracts for these services. It must do so in a contested case.

The incentive plan must be based on a comparison of the average price of the procured power with the regional average price for power, adjusted for variables DPUC considers appropriate, such as locational price differences. (Under Federal Energy Regulatory Commission regulations, the wholesale price of power can vary by location, reflecting differing levels of transmission congestion, among other things.) If the utility's actual average contract price is less than the actual regional contract price, DPUC must divide 0.05 cents per kilowatt-hour equally between ratepayers and the utility. DPUC may retain a third party with expertise in energy procurement to help it develop the incentive plan. Neither fee is considered in determining whether the utilities' rates are just and reasonable.

SERVICE STARTING IN 2007 FOR CUSTOMERS WHO DO NOT CHOOSE A SUPPLIER

Under prior law, utilities had to provide default service, starting January 1, 2004, to customers who do not choose a supplier or are unable to maintain service with a supplier. The utilities had to obtain power for default service through competitive bidding. A utility's

generation affiliate could provide this power if it was the lowest qualified bidder and was licensed by DPUC as a supplier. DPUC had to adopt regulations on how utilities obtain this power.

The act eliminates these requirements. Instead, it requires utilities, starting January 1, 2007, to provide service to customers who do not arrange for, or are not receiving service from, a supplier. The act requires the utilities to provide "standard service" to customers whose maximum demand is less than 500 kilowatts or who do not use a demand meter. This category includes all residential customers and small and medium-sized business customers. The utilities must provide "last resort" service to larger customers. For both types of service, the utility is entitled to recover its actual net costs of procuring power and providing service, so long as it mitigates its costs for customers it no longer serves.

Small and Medium-Sized Customers (Standard Service)

The act requires DPUC to set the price for standard service by October 1, 2006 and periodically thereafter, but not more than once per calendar quarter. The utilities must procure power for this service under a DPUC-approved plan designed to reduce price volatility. The plan must provide for a portfolio of power contracts sufficient to meet the projected demand for the service. The portfolio must be assembled to (1) invite competition; (2) guard against favoritism, improvidence, extravagance, fraud, and corruption; and (3) secure a reliable supply of power while avoiding unusual, anomalous, or excessive pricing.

The plan must require that the procured power contracts overlap over time and be obtained in a way that is likely to produce just, reasonable, and reasonably stable rates. The contracts must be for a fixed period, normally at least six months. However, the utility can procure shorter contracts under conditions DPUC prescribes to ensure (1) the lowest rates possible for customers, (2) reliable service under extraordinary circumstances, and (3) the prudent management of the contract portfolio.

A utility can accept a bid from its generation affiliate if (1) the affiliate submits its bid on the business day before the first day that other suppliers can submit their bids and (2) the utility and its affiliate are in compliance with the existing code of conduct that regulates interactions between them.

DPUC, in consultation with the Office of Consumer Counsel, must retain a third party with expertise in energy procurement to oversee the initial development of the request for proposals and the utility's bidding process. The costs of retaining the third party must be included in the generation component of the standard service rate.

Each bidder must submit its bid to the utility and third party, who must jointly review the bids and submit an overview of all bids and a joint recommendation on the preferred bidder to DPUC. Within 10 business days, DPUC can reject the recommendation, in which case the utility must re-bid the service.

Large Customers (Last Resort Service)

Starting January 1, 2007, utilities must provide last resort service to large customers (those with peak demand of 500 kilowatts or more), other than those on special contracts or flexible tariffs. The utility must procure power for this service, and DPUC must set its price to reflect the full cost of providing power on a monthly basis. A customer who has chosen a supplier but then returns to last resort service must agree to stay with this service for at least one year. The utilities are entitled to recover their actual net costs of procuring power for this service, so long as they mitigate their costs for customers who leave it.

ALTERNATIVES TO TRANSITIONAL STANDARD OFFER AND STANDARD SERVICE

Under the act, DPUC can require a utility to offer, through a competitive supplier, an alternative to transitional standard offer service before January 1, 2007 and an alternative to standard service thereafter. The alternative must include an option that exceeds the RPS and may include one that uses strategies or technologies to reduce the overall consumption of electricity. DPUC must develop the alternative in a contested case. The utility, under DPUC supervision, must then conduct a bidding process to solicit persons to provide the alternative. DPUC must determine the terms and conditions of the alternatives, including at least the minimum percentage of Class I and Class II renewable power if applicable (see below). DPUC can reject some or all of the bids the utility receives.

DPUC may require the supplier who will offer the alternative to provide assurances that the contracts resulting from the bidding process are fulfilled. The supplier is also subject to DPUC's orders and its power to impose civil penalties on entities that disobey them. DPUC can also suspend or revoke the supplier's license or bar it from accepting new customers, after a contested case hearing.

RENEWABLE ENERGY

Definition of Class I Renewable Resources

The law requires suppliers to get part of their power from Class I renewable resources such as wind and solar power and to obtain an additional amount of power from these resources or Class II renewable resources such as hydropower and biomass.

The act expands the definition of Class I renewables to include ocean thermal power, wave or tidal power, low-emission advanced renewable energy conversion technologies, and distributed generation. The latter generates electricity on a customer's premises using technologies such as fuel cells, photovoltaic systems, and small wind turbines. The act also adds run-of-the-river hydropower with a capacity of up to five megawatts that begins operation on or after July 1, 2003, so long as it does not cause an appreciable change in the river's flow. The act expands the biomass facilities that count as Class I. By law, biomass facilities count as Class I, if they went into operation on or after July 1, 1998 and meet certain other criteria. The act additionally counts the energy produced at older plants, if their nitrogen oxides emissions are equal to or less than .075 pounds per million British Thermal Units (mmBTU) in the previous calendar quarter.

The act limits the hydropower resources that count as Class II to those that went into operation before July 1, 2003, but that otherwise meet the criteria of Class I. Under prior law, all hydropower resources were considered Class II as long as they met U.S. or Canadian regulatory standards. The act also limits the biomass resources that count as Class II to facilities that began operation before July 1, 1998 and that emit no more than 0.2 pounds of nitrogen oxides per mmBTU. Under prior law, any biomass resources that did not count as Class I counted as Class II. PA 03-221 modifies those provisions.

Modified RPS Schedule

As displayed in Table 1, the act reduces, as of January 1, 2004, the total amount of renewable power suppliers must obtain for their service. It also modifies the amount of Class I power they must obtain.

Table 1: Changes in Renewable Portfolio Standard

Month and Year	Prior Class I/II Standard (percent)	Act's Class I/II Standard (percent)	Prior Percent That Must Be Class I	Act's Percent That Must Be Class I
7/02	6.5	NA	1	NA
7/03	7	NA	1.5	NA
1/04	7	4	1.5	1
7/04	8	4	2	1
1/05	8	4.5	2	1.5
7/05	8.5	4.5	2.5	1.5
1/06	8.5	5	2.5	2
7/06	9	5	3	2
1/07	9	6.5	3	3.5
7/07	10	6.5	4	3.5
1/08	10	8	4	5
7/08	11	8	5	5
1/09	11	9	5	6
7/09	13	9	6	6
1/10	13	10	6	7

Where Renewables Can Come From

Under DPUC regulations, renewable power that is generated in New England or is sold into the New England market counts towards the RPS. The act instead specifies that a utility or supplier can meet its RPS requirements by buying renewable energy from New England, and, if they have RPS requirements similar to Connecticut's, Delaware, Maryland, New Jersey, New York, and Pennsylvania.

By law, suppliers can meet their RPS requirements by participating in a DPUC-approved trading program. The act extends this provision to utilities and specifies that the trading program must operate within the above jurisdictions.

Extension of RPS to Utilities

The act requires utilities to meet the revised RPS schedule starting January 1, 2004, based on their total output, by contracting with a supplier.

The act requires each utility to file with DPUC by July 1, 2007, one or more long-term contracts with Class I projects that have received funding from the state's Clean Energy Fund, at a

price not to exceed the DPUC's estimate of wholesale costs plus up to 5.5 cents per kilowatt-hour. The two utilities must contract for 100 megawatts of power between them. The costs of the contracts and the utilities' administrative costs are recoverable from ratepayers if (1) the contracts run for enough time to fund the projects (at least 10 years) and (2) the projects begin operation on or after July 1, 2003. The power obtained under these contracts counts towards the utilities' Class I RPS requirements.

Penalties for Noncompliance with the RPS

The act allows a supplier or utility to make up a deficiency in meeting the RPS in the first three months of a calendar year, or otherwise as specified under New England Power Pool rules. But the utility or supplier cannot double count this amount.

Under prior law, if a supplier failed to comply with the RPS, DPUC could impose a civil penalty of up to \$10,000 per offense, with each day's violation a separate offense. DPUC could also suspend or revoke a supplier's license or bar it from accepting new customers.

Under the act, DPUC must instead require a utility or supplier that does not meet the RPS to pay 5.5 cents per kilowatt-hour for the shortfall. DPUC must annually conduct a contested case to determine whether each utility meets its RPS requirements. DPUC must transfer the payments to the state's Clean Energy Fund for the development of Class I resources. In the case of a utility, the payments are not recoverable from ratepayers. PA 03-221 modifies these provisions.

Net Metering

By law, suppliers must provide a credit to their residential customers who generate electricity from a Class I renewable resource or hydropower. In effect, the law requires the suppliers to run a customer's electric meter backwards for the power he produces using these resources. The act extends this requirement to utilities in their provision of transitional standard offer, standard, and backup services.

Under prior law, such net metered customers had to pay two charges based on the power they consumed, without deducting any electricity they produce. These charges are used to pay for public policy costs and the utility's stranded costs. The act exempts from this provision customers who generate electricity from a unit

that has a capacity of up to 10 kilowatts, which is the amount of power used by 100 100-watt light bulbs.

SUPPLIER LICENSURE

Scope of Licensure

Under prior law, suppliers and aggregators (which serve as middlemen between suppliers and retail customers) had to obtain licenses from DPUC. As described below, the act requires aggregators to register with DPUC rather than obtain a license. The act explicitly requires municipalities, regional water authorities, and the Connecticut Resources Recovery Authority to meet the licensing conditions that apply to other entities.

By law, utilities do not have to be licensed to provide standard offer service or, before January 1, 2004, backup service. The act extends this exemption to transitional standard offer service and backup service after January 1, 2004.

Conditions for Obtaining a License

The act eliminates a requirement that to obtain a license, a supplier demonstrate to DPUC that (1) it has the capacity, as specified by the independent system operation (ISO, the entity that administers the New England wholesale market) to adequately serve all of its customers; (2) its generation facilities in North America comply with Department of Environmental Protection regulations; and (3) its Connecticut generation facilities comply with Connecticut Siting Council law as well as state environmental laws and regulations.

Applying for a License

By law, a license applicant must disclose to DPUC whether it is currently under investigation for violating a consumer protection law in Connecticut or another state. The act extends this duty by requiring the applicant to disclose whether (1) it has ever been investigated for such violations and (2) its corporate affiliates or officers have been or are being investigated.

Under prior law, DPUC had to conduct its review of the application as a contested case. Among other things, this required the department to hold a hearing on the application and allowed the Office of Consumer Counsel to participate in the case as a party. The act instead only requires DPUC to hold a hearing on the application at the

request of an interested party and does not require that it be a contested case.

Conditions of Maintaining a License

The act makes certain conditions of licensure apply only to continued licensure and adds to the conditions.

It requires suppliers to meet the following requirements in order to maintain, rather than obtain, a license. They must:

1. meet all applicable licensure requirement of the Federal Energy Regulatory Commission (this requirement also applies to all of the entities from which the supplier buys power from by contract) and
2. acknowledge that it is subject to various state taxes and will pay all of these taxes.

It also makes meeting the RPS standard a condition of a continued licensure.

Under prior law, to obtain a license, an applicant had to demonstrate to DPUC that it was registered with, or certified by, the ISO or that it had contracts with entities that are registered or certified. The act instead requires that the supplier, as a condition of maintaining its license, be a member of the New England Power Pool or its successor, or have contracts with one or more entities that are members.

Similarly, under the act each generating facility operated by the supplier or under long-term contract to it must meet state environmental laws (including those dealing with the Connecticut Siting Council) in order for the supplier to maintain, rather than obtain, its license.

AGGREGATOR REGISTRATION

By law, aggregators are entities that group customers together to negotiate their purchase of electricity from a supplier. The aggregator acts as a middleman and may not buy or resell the electricity. Customers must contract directly with the supplier.

The act requires aggregators to register with DPUC rather than obtain a supplier's license. (Municipal aggregators were already subject to registration rather than licensure.) DPUC must give registration certificates to aggregators licensed as of July 1, 2003. The act reduces the information aggregators must provide to DPUC when they apply and exempts them from certain requirements in order to remain in operation.

Application Process

Under the act, an aggregator need no longer include the following in its application to DPUC (1) a copy of its standard service contract; (2) an attestation that it is subject to various taxes, as applicable, and that it will pay them; and (3) a scope of service plan that describes where it plans to operate, among other things.

Under prior law, a license application had to include the address of the aggregator's office in the state and information about its corporate structure. Under the act, the registration applicant must provide this information as applicable. (In effect, this eliminates the need for an aggregator to have an office in the state.) The act also allows an application for an aggregator's registration to list an in-state, rather than toll-free, telephone number instead. The act requires DPUC to set the fee for a registration; it already must do so for licensure.

The act requires DPUC to notify the applicant within 30 days of receiving the application whether it is complete. DPUC must grant or deny the application within 90 days of receiving all of the required information. It must hold a hearing on the application at the request of any interested party.

Maintaining a Registration

The act eliminates a requirement that an aggregator demonstrate to DPUC that it has the technical, managerial, and financial capability to provide generation services. It also eliminates the requirement that the aggregator maintain a bond or other form of financial security with DPUC.

The act requires an aggregator to update its application information as necessary. It eliminates requirements that it (1) annually update information that DPUC considers necessary and (2) notify DPUC at least 10 days before (a) changing its corporate structure or scope of service or (b) making other changes DPUC considers relevant.

CONSUMER INFORMATION AND EDUCATION

By law, suppliers must provide information regarding the economic and environmental characteristics of their services to DPUC, which must maintain the information and provide it to consumers on request. The act extends these requirements to utilities in their provision of backup and standard service. The information

includes the company's rates and charges; the terms and conditions of its contract; the proportion of its power that comes from nuclear, fossil fuel, and renewable resources; emissions of various pollutants from its power plants; and records of customer complaints and their disposition.

The act requires DPUC, in consultation with the Office of Consumer Counsel, to establish a program for disseminating information about suppliers. The program must require utilities to distribute this information to (1) any new utility customer and (2) their existing customers on January 1, 2004, and every six months thereafter. DPUC must develop the information, which must include (1) each supplier's name, address, and internet address; (2) the state where it is based; (3) whether it offers service to residential, commercial, or industrial customers; and (4) whether it exceeds the RPS standards. DPUC must include price information to the extent it determines feasible. DPUC must post the information on a conspicuous part of its own website and provide links to each supplier's website. DPUC must update the information at least quarterly.

By October 1, 2003, DPUC must develop a plan, in consultation with the Office of Consumer Counsel and the Consumer Education Advisory Council, to restart its electric restructuring education program by October 1, 2004. It must submit the plan to the Energy and Technology Committee.

DPUC STUDY ON COMPETITION

The act requires DPUC to conduct a study of the state of competition in the retail electric market. It must examine the following factors associated with the development of a competitive market:

1. the number of suppliers serving the market and actively seeking new customers,
2. the percentage of each utility's customers receiving transitional standard offer service and service from a supplier,
3. the number of customers who have returned to standard offer or transitional standard offer service after having chosen a supplier, and
4. other factors DPUC considers relevant.

DPUC must conduct the study as a contested case. In its final decision, DPUC must make recommendations on (1) how to protect

customers from excessive rate fluctuations and (2) the development of competition in the market. DPUC must begin the study by July 1, 2005, and submit its final decision to the Energy and Technology Committee by January 1, 2006.

REALLOCATION OF GENERATION “ADDER”

When DPUC established the rate for the current standard offer service, it added approximately 0.5 cents per kilowatt-hour to the cost of the power to provide a margin for competitive suppliers. It allocated the revenues from this “adder” to accelerate the payment of the utilities’ stranded costs, e.g., the difference between the book value of their nuclear power plants and the price they were able to receive for them when they auctioned them off.

The act instead requires this revenue, and the revenue from any future adder, to be used to offset the fee the utilities receive for procuring power for transitional standard offer service. Any remaining revenues can be used to partially offset the increase in rates from standard offer service and then to accelerate payment of stranded costs.

REQUEST FOR PROPOSALS TO BUILD NEW FACILITIES

Under the act, DPUC can determine that (1) safe, adequate, and reasonably priced electricity is not available on the wholesale market; (2) additional temporary generation facilities would reduce the state’s share of federally mandated congestion costs; and (3) the savings in building these facilities outweighs their costs. The determination must be made by four of the five DPUC commissioners, be in writing, and include the reasons supporting the determination. These provisions run from July 1, 2003, to July 1, 2008.

Upon making this determination, DPUC can develop, in a contested case, a request for proposals (RFP) to build new facilities, containing the terms and conditions it determines will best serve the public interests. DPUC must design the RFP process to ensure fairness and full participation of all qualified responders.

DPUC can negotiate terms and conditions with one or more responders, after notice to all responders. DPUC must base its decision to conclude a transaction on the best interest of ratepayers and the public.

These provisions do not allow a utility to own, operate, lease, or control a facility as part of the transaction. The costs of the facility can be recovered through the systems benefits charge component of electric rates, which applies to customers whether they receive service through a supplier or a utility.

MISCELLANEOUS ELECTRIC PROVISIONS

Systems Benefits Charge

By law, all consumers pay a systems benefits charge to cover the costs of various social policies, including assistance for utility workers who were dislocated as a result of the restructuring legislation. The act allows this charge to cover (1) such costs for workers who were employed at a nuclear power plant in the state and (2) insurance benefits for the surviving spouse of a dislocated worker. By law, the dislocated-worker costs must have been incurred by a utility or its affiliate before January 1, 2008, in order to be recoverable. The act also broadens the consumer education expenses that are recoverable by the charge. As noted above, the act also allows the systems benefits charge to pay for the cost of DPUC-approved temporary generation facilities.

Utility Conservation Programs

By law, utilities must develop conservation plans, which are subject to review by the Energy Conservation Management Board and approval by DPUC. The act requires that each program contained in a plan be approved or denied by the utility and the board before it is submitted to DPUC. By law, the utilities’ conservation programs must be cost-effective. The act requires that cost-effectiveness testing use available information from real-time monitoring systems to accurately verify energy use. It expands the costs recoverable from the conservation charge on electric bills to include such systems.

Release Of Customer Information

The act broadens the ways in which a consumer can authorize a utility to release information about him to a supplier. Under prior law, the consumer had to sign a release. The act alternatively permits him to allow this by consenting electronically or by having an independent third party verify the authorization.

Renewable Energy Investment Fund

By law, Connecticut Innovations, Incorporated (CII) must administer the Renewable Energy Investment Fund, which is funded by a charge on electric bills. The act expands the types of projects CII can invest in to include hydrogen production and conversion technologies. By law, CII must establish an advisory committee for the fund. The act requires that a copy of the committee's annual report on the fund go to DPUC and the Office of Consumer Counsel.

Backup Service

By law, utilities must provide backup service to customers who choose a supplier, but whose supplier fails them. The act extends, from December 31, 2003, to December 31, 2006, the last date a utility can use its generation affiliate to provide power for this service, rather than bidding it out. It also requires the utilities to submit a plan for DPUC approval for the provision of this service.

DPUC Regulations

The act requires DPUC to adopt regulations on abusive switching practices by suppliers. It eliminates a requirement that DPUC adopt regulations on standards for bidding out default and backup service. It requires, rather than allows, DPUC to adopt regulations regarding the RPS.

Interconnection Standards and Rates

The act requires DPUC to start a proceeding to review and adopt generation interconnection protocols. Among other things, such protocols establish technical requirements for small power generators who wish to connect to the transmission grid. If the Institute of Electrical and Electronic Engineers has adopted such protocols, DPUC must adopt them.

The act requires municipal electric utilities to establish, by October 1, 2004, rates for connecting generation facilities that begin operation after the act's passage in their territories with the utilities' transmission and distribution systems. The municipal utilities must consult with the Connecticut Municipal Electric Energy Cooperative in developing these rates.

Recession of Contracts with Suppliers

Under prior law, all consumers could rescind contracts with suppliers within three days. The act exempts from this provision consumers whose peak demand is more than 500 kilowatts, i.e., large commercial and industrial consumers.

Utility Ownership of Generation Assets

The act explicitly bars utilities from owning power plants or other generation assets. Prior law effectively required them to divest themselves of such assets.

CABLE TV PROVISIONS

By law, DPUC can grant a cable TV franchise renewal for terms ranging from five to 15 years. The act bars DPUC from renewing a franchise for more than five years if it determines that the franchisee substantially failed to (1) deal effectively with consumer requests, complaints, and billing or service questions and disputes; (2) provide quality and diversity of programming; (3) maintain fair and reasonable rates for (a) basic and extended basic service, considering the quality of service and programming and (b) associated equipment; (4) provide community (public, educational, and governmental) access programming and the Connecticut Television Network; or (5) meet commitments for extending service to customers in the franchise area. These provisions do not authorize DPUC to set specific rates for service or equipment.

BACKGROUND

Federally Mandated Congestion Costs

Congestion on the electric transmission system increases the cost of providing service to congested areas, such as southwestern Connecticut (Fairfield County, most of New Haven County, and part of Litchfield County). Historically, these costs were spread across ratepayers throughout New England. However, a change in Federal Energy Regulatory Commission wholesale market rules has assigned the costs associated with southwestern Connecticut solely to Connecticut ratepayers since March 2003. In May 2003, DPUC allowed Connecticut Light & Power to temporarily pass on these costs to its ratepayers, resulting in a rate

increase of approximately 8%. It appears that United Illuminating's contracts with its wholesale supplier require the wholesaler to bear these costs through the end of 2003.

Related Federal Cable TV Law

Under federal law, franchising authorities (in Connecticut, the DPUC) can only regulate cable rates to the extent authorized by that law (47 USC § 543 *et seq.*). The law only authorizes them to regulate rates for basic service (broadcast channels and community access channels), and they must do so in accordance with detailed Federal Communications Commission regulations. And they cannot regulate these rates if the cable company is subject to "effective competition."

PA 03-140—sHB 6508

Energy and Technology Committee

Environment Committee

Finance, Revenue and Bonding Committee

Government Administration and Elections Committee

AN ACT CONCERNING LONG-TERM PLANNING FOR ENERGY FACILITIES

SUMMARY: This act expands the responsibilities of the Connecticut Energy Advisory Board (CEAB) to include energy planning and the identification of alternative solutions to the state's energy infrastructure needs. It requires CEAB to prepare an annual plan, using existing data, on the need for new energy resources, transmission facilities, and energy conservation initiatives in the state. This requirement supersedes a mandate that the Office of Policy and Management (OPM) develop a similar plan every four years and that CEAB report its recommendations on energy policy every other year.

CEAB must issue a request for proposals (RFP) when the Siting Council receives an application on or after December 1, 2004 for a certificate to build an energy facility (electric transmission line, power plant, substation, or gas transmission line) in order to identify alternative solutions. The act allows the board to issue an RFP on its own initiative to address the needs identified in its annual plan.

The act requires CEAB to develop guidelines by December 1, 2004, for evaluating alternative proposals for addressing the state's energy infrastructure needs, and requires it to

evaluate any proposals received in response to the RFP, as well as the original application, using those guidelines. CEAB must report its findings to the Siting Council. The report becomes part of the record upon which the Siting Council must make its decision.

The act requires CEAB to participate in New England transmission planning processes and certain Siting Council proceedings. It modifies CEAB's membership and funds the board through the systems benefits charge on electric bills.

The act also:

1. requires an applicant for a Siting Council certificate for an energy facility, starting July 1, 2003, to pay a \$25,000 fee, which goes to an account the act establishes to reimburse the potential host municipality or municipalities for expenses they incur in participating in the Siting Council process;
2. subjects facilities that are proposed in the RFP process to the council's jurisdiction;
3. requires the council to hold a consolidated hearing on the original application and any applications submitted in response to the RFP;
4. requires the council, when it holds a consolidated hearing, to grant a certificate to the applicant that represents the most appropriate alternative based on the council's findings and determinations;
5. extends the deadline for the council to hold its hearings and issue its decision to account for the time taken up in the CEAB review process;
6. imposes more stringent council approval standards for underwater transmission lines and changes the decision criteria for other energy and telecommunications facilities regulated by the council;
7. requires the council to promote energy security as part of its mission; and
8. allows the council to approve the siting of temporary generation facilities pursuant to PA 03-135 by declaratory ruling rather than by the longer certification process.

EFFECTIVE DATE: July 1, 2003, except (1) the provision on the siting of temporary generation facilities is effective on passage and (2) the provisions related to RFPs and the

applicant's submission of information provided to a municipality to CEAB are effective October 1, 2004.

CEAB RESPONSIBILITIES

The act expands CEAB's responsibilities to include the following tasks, which are described in greater detail below:

1. preparing an annual energy plan, following a process similar to that used in preparing an environmental impact statement;
2. issuing an RFP to identify alternate solutions to the state's energy infrastructure needs; and
3. evaluating proposals received in response to the RFP.

The act also requires CEAB to:

1. represent the state in the transmission planning process conducted by the Independent System Operator-New England (ISO-New England), which administers the regional electric grid and wholesale market;
2. encourage affected municipalities to participate in this process;
3. participate in the Siting Council proceeding that projects future electric supply and demand; and
4. participate in the Siting Council proceeding that compares the life-cycle costs of underground with above ground transmission line alternatives.

The act requires CEAB to employ the staff it needs to discharge its duties. It eliminates a requirement that OPM provide staff support for the board. It funds CEAB's operating expenses using the existing systems benefits charge. This charge, which is on electric bills of all customers other than those served by municipal utilities, pays various social policy costs related to the electric industry. The act requires CEAB annually to submit a proposed budget to the Department of Public Utility Control (DPUC) for its approval or modification.

ENERGY PLANNING

The act requires CEAB to prepare a comprehensive energy plan by January 1, 2004 and annually thereafter. The plan must be based on existing reports and studies on the need for new energy resources, in-state transmission facilities, and energy conservation initiatives.

Proposed Plan

CEAB must hold regional public hearings on its proposed plan, providing at least 30 days' notice on the websites of the participating agencies. The board can publish additional notices it considers necessary in one or more general circulation newspapers. The notice must state the date, time, and place of the hearing, its subject matter, the statutory authority for the plan, and where the plan can be examined.

The board must allow at least 45 days from the date the website notices are published for comment on the proposed plan. The board must fully consider, after the hearings, all written and oral comments regarding the plan.

Final Plan

The final plan must reflect the state's energy policy (as stated in CGS § 16a-35k) and be consistent with the state Plan of Conservation and Development. The energy plan must:

1. assess current energy supplies, demand, and costs;
2. identify and evaluate the factors likely to affect these variables in the future;
3. describe the progress made toward meeting the long-term goals specified in the previous plan;
4. recommend measures to decrease dependency on fossil fuels by promoting conservation and alternative fuels;
5. assess the state's natural gas and electric infrastructure;
6. evaluate the impact of ISO-New England's regional transmission planning process on the state's environment and economic development and on energy market design; and
7. consider alternative energy planning mechanisms and targets instead of integrated resource planning (an electric utility planning system used before the electric markets were partially deregulated).

The plan must also present energy policies and long-range planning objectives and strategies to achieve, among other things, the least expensive mix of supply sources and measures that reduce energy demand. In doing so, the board must consider effects on ratepayers, security and diversity of fuel supplies and generating methods, protection of public health

and safety, environmental impacts, energy conservation, and the state's ability to compete economically. The plan must include CEAB's administrative and legislative recommendations to implement these policies, objectives, and strategies.

The act's requirements take the place of provisions that required:

1. OPM to prepare an energy plan addressing items one through four on the above list, plus mechanisms to implement its recommendations and
2. CEAB to report to the governor and legislature annually, with the report in odd-numbered years providing CEAB's energy supply and conservation recommendations and the report in even-numbered years describing progress in implementing the recommendations in OPM's and its own previous reports.

Distribution Of The Plan And Related Documents

Under the act, the board must mail a notice of availability of the following documents to each person who comments on the proposed plan or requests notice:

1. the text of the final plan,
2. a summary of the differences between the proposed and final plans and the reasons for the differences, and
3. the principal considerations raised against the proposed plan and the reasons for rejecting them.

The board chairman must sign the final plan and send it to the Energy and Technology, Environment, and Transportation committees.

Reflecting The Energy Plan In Rivers Plans

By law, two or more towns can form commissions to coordinate management of rivers that are used for multiple purposes. Such commissions must prepare a report on all plans that may affect the river corridor. Under the act, the report must address the CEAB energy plan, rather than the OPM plan.

IDENTIFYING AND EVALUATING ALTERNATE SOLUTIONS

Guidelines

The act requires CEAB to develop guidelines by December 1, 2004 for evaluating proposals submitted in response to RFPs. The guidelines must be consistent with its annual energy plan and state environmental policy. The guidelines must at least include (1) environmental preference standards; (2) efficiency standards for generation, transmission, and demand side management, among other things; (3) generation preference standards; (4) electric and natural gas capacity, use trends, and forecasted resource needs; and (5) regional bulk power grid reliability criteria.

Issuing the RFP

Under the act, starting December 1, 2004, CEAB must issue an RFP for alternative solutions to the need addressed by a Siting Council application for an energy facility. It must do this within 15 days of the application's filing. In addition, CEAB can issue RFPs on its own initiative in response to a need for new energy resources, transmission facilities, and energy conservation initiatives identified in its annual energy plan or in the regional planning processes conducted by ISO-New England. In all cases, the RFP must, when appropriate, solicit proposals that include distributed generation or energy efficiency measures. CEAB must publish the RFP in one or more newspapers or periodicals it chooses.

Evaluating Proposals

Anyone can submit a proposal in response to the RFP within 60 days from its first publication date, containing information the proposer considers relevant. CEAB can request additional information in order to be able to evaluate the proposal. Within 45 days of the submission deadline, CEAB must issue a report that evaluates each of the proposals it has received for compliance with the infrastructure guidelines described above. CEAB must send the results of its evaluation to the Siting Council, and these results must be part of the record that forms the basis for the council's decision. Responders to the RFP have 30 days from the date CEAB reports on its evaluations, if they wish, to file

applications with the Siting Council.

CEAB MEMBERSHIP

The act reduces the CEAB's membership from 16 to nine. It eliminates:

1. the Siting Council chairperson and public works and economic and community development commissioners,
2. three of the governor's appointments, and
3. two of the three appointments each made by the House speaker and Senate president pro tempore.

It adds the OPM secretary, consumer counsel, and agriculture commissioner to the board.

The act prohibits board members from being employed by or serving as a consultant to a DPUC-regulated utility, a competitive electric supplier, or an affiliate or subsidiary of a utility or supplier. It eliminates a requirement that one of the governor's appointees represent organized labor and a provision that entitles CEAB members who are not state officials to a \$50 per diem.

The act requires the reconstituted board to hold its first meeting by September 1, 2003. It specifies that a quorum consists of two-thirds of the members currently serving on the board.

SITING COUNCIL TIMELINE

Starting October 1, 2004, the act extends the deadline for the Siting Council to hold a hearing and issue a decision on an application for an energy facility to accommodate the CEAB review process described above.

Hearings

Prior law required the council to schedule an initial hearing from 30 to 150 days after it received an application. The act instead requires the hearing for a proposed energy facility to be scheduled from 30 to 60 days after the deadline for submitting proposals in response to the RFP in cases where no proposals were submitted. (The submission deadline could be up to 75 days from the date the original application was made to the council.)

If CEAB receives one or more proposals, the hearing must be held from 30 to 60 days after the deadline for the proposer to submit its application to the Siting Council, which could be

up to 150 days from the filing of the original application with the Siting Council. In such cases, the council must hear the competing applications in a consolidated process.

Decision Criteria

The act modifies the council's decision criteria for both energy and telecommunication facilities it regulates. It has separate provisions for transmission lines and for applications filed between July 1, 2003, and October 1, 2004, and those filed thereafter.

Transmission Lines. In the case of transmission lines, prior law had different standards for (1) aboveground lines and (2) those that are underground or under water. For the former, the council could not approve an application unless the public need for the line outweighed its environmental impact. In the case of the latter, the council could not approve a line unless its public benefit outweighed the environmental impact, a less stringent standard. The act subjects applications for under water lines filed on or after July 1, 2003, to the more stringent public need standard.

By law, the council can approve a proposal for overhead transmission lines only if they are (1) cost effective, (2) the most appropriate alternative to underground options on a life-cycle basis, and (3) consistent with the Siting Council law and regulations. The act extends these provisions to alternatives proposed by parties and intervenors in the case.

Generally Applicable Provisions. For applications filed between July 1, 2003, but before October 1, 2004, the act requires the council to determine whether other feasible and prudent alternatives identified by a party or intervenor in the case to address the same public need as the original proposal. It requires the council also to determine (1) the environmental impacts for the identified alternatives and (2) for both the original and alternative proposals, the cumulative environmental impacts of the proposed facilities and other existing facilities. It also requires the council to show why other feasible and prudent alternatives with less environmental impact identified by parties or intervenors in the case do not address the same public need as the original proposal.

For applications filed on or after October 1, 2004, the act generally returns to the prior law. But it also requires that when an application is heard under a consolidated hearing (i.e., one or more subsequent applications were filed

following the RFP process), the council must grant a certificate to the facility that represents the most appropriate alternative, based on the procedures specified in the law.

Decision Deadline

Starting October 1, 2004, the act delays the council's deadline for issuing its decision on energy facility applications. Under current law, the deadline is 12 months after the filing of an application for an electric or fuel transmission line or a substation included in an application for an electric transmission line. For other applications, the deadline is 180 days from the application date.

The act delays the deadline for all of these facilities by the time allowed for submitting an application to the Siting Council following the RFP process, i.e., up to 150 days from the submission of the original application.

APPLICANT'S CONSULTATION WITH HOST MUNICIPALITY

By law, a prospective applicant for a certificate must consult with the potential host community at least 60 days before filing the application. The prospective applicant must provide the municipality with any technical documents it has on the need for the facility, the site selection process, and the facility's environmental effects. The act requires the prospective applicant to submit the same information to CEAB when it provides it to the municipality. CEAB must publish this information in newspapers and periodicals it chooses within 15 days of receiving it.

By law, (1) the municipal consultation must at least include good faith efforts to meet with the municipality's chief elected official; (2) the municipality may hold meetings and public hearings on the proposal; and (3) the municipality must issue its recommendations to the applicant within 60 days of the initial consultation. The act extends the consultation requirements to entities that file proposals in response to the RFP. Such entities must begin their consultation when they file their proposals, but they do not have to consult again if they file an application with the council.

The act also requires all applicants to provide CEAB all materials it provided to the municipality and a summary of the consultations, including the municipality's recommendations. CEAB must publish this information within 15

days of receiving it.

The act also subjects entities that file proposals in response to the RFP to the Siting Council's jurisdiction once they submit their proposals to CEAB.

MUNICIPAL PARTICIPATION FUNDING

The act requires applicants for a Siting Council certificate, other than applicants for telecommunications towers, to pay a municipal participation fee of \$25,000. It establishes a non-lapsing "municipal participation account" within the General Fund and requires the fees to be deposited into it. Interest earned on the account stays with it.

If a proposal is submitted under the RFP process, the proposer may apply for a Siting Council certificate. If it does, it must pay (1) the municipal participation fee and (2) the filing fee of up to \$25,000 required under current law. It must take these steps within 30 days of CEAB's evaluation of the proposal.

The act allows municipalities that are, by law, entitled to notice of a Siting Council application for an energy facility to seek payments from the account with the state treasurer's approval. These are (1) any municipality that is the potential host site for the proposed facility and (2) any municipality whose boundary is within 2,500 feet of the facility.

The municipality can apply for funding to defray its costs of participating in the Siting Council process. If several municipalities seek funding, the fee must be split evenly among them. No municipality can receive more than \$25,000 or more than it spends from its own funds. If a municipality receives more money from the account than it spends, it must return the excess to the account at the end of the Siting Council proceeding. The unspent money must be returned to the applicant.

The state treasurer must make approved payments within 60 days of the application to the Siting Council. She must verify that the municipality actually was a party in the proceedings. After the proceeding is over, she must verify that the municipality actually spent the money it claims.

BACKGROUND

Related Acts

PA 03-135 significantly changes the state's electric restructuring law. Among other things, it

allows the DPUC to issue an RFP for temporary generation facilities if it determines that such facilities could reduce the costs of transmission congestion for ratepayers. It allows the costs of such facilities to be recovered in the systems benefits charge, a component of electric rates.

PA 03-263 requires the Siting Council to consider whether other prudent and feasible alternatives to a proposed project could meet the needs addressed by the project with less environmental impact.

PA 03-148 extends, by one year, the moratorium on the Siting Council and Department of Environmental Protection approving most applications for utility lines crossing Long Island Sound.

PA 03-248 changes the Siting Council's standard of review for submarine transmission line applications.

PA 03-163—sSB 865

Energy and Technology Committee

AN ACT CONCERNING MINOR REVISIONS TO UTILITY STATUTES

SUMMARY: This act eliminates the requirement that utilities, other than a water company, obtain the Department of Public Utility Control's (DPUC) approval before selling or otherwise disposing of improved property worth between \$50,000 and \$250,000 (separate provisions apply to water company land dispositions). Prior law allowed the approval exemption for property with an appraised value of less than \$50,000, which the act retains for unimproved real property.

The act appears to extend to dispositions of small parcels of unimproved land provisions that already apply to dispositions of larger parcels. Among other things, these provisions give state agencies and municipalities a right of first refusal to purchase unimproved property and applies other disposition procedures.

The act also exempts from DPUC jurisdiction an entity that manufactures gas in a biomass gasification plant, so long as it does not own, lease, maintain, operate, manage, or control pipes or other fixtures in public highways or streets.

EFFECTIVE DATE: October 1, 2003, except for the gas provision, which is effective upon passage.

DISPOSING OF UTILITY PROPERTY

The law generally requires a utility to obtain DPUC approval before disposing of real property (e.g., selling, leasing, or mortgaging it). There are separate provisions for water companies. Under prior law, a utility other than a water company, did not need DPUC approval for property worth \$50,000 or less. The act raises this threshold to \$250,000 for improved property.

The act also requires DPUC to follow the procedures that apply to transactions involving unimproved land owned by a utility other than a water company. By law, these procedures already cover transactions involving all or part of any unimproved parcel containing three or more acres. As a result, the act appears to extend these provisions to transactions involving parcels of less than three acres. The procedures:

1. require the utility to notify DPUC, the departments of Public Health and Environmental Protection, and the local municipality of its intent to conduct the transaction, unless the other party is the federal government, the state, or a municipality;
2. require DPUC to tentatively approve or disapprove the transaction within 150 days of receiving the notice, with failure to act constituting approval; and
3. require DPUC to hold a hearing in the local municipality if the consideration is more than \$50,000 and entitle the municipality to party status in the DPUC proceeding.

By law, if DPUC tentatively approves a transaction, the state or a municipality has a right of first refusal within 180 days of the approval. The state or municipality must agree to the terms and conditions, including the price, that had been accepted by the would-be purchaser. The state or municipality has 15 months to complete the acquisition. The state's right to acquire the property is secondary to the municipality's.

PA 03-175—sHB 5059

*Energy and Technology Committee
Planning and Development Committee
Public Health Committee*

AN ACT CONCERNING WATER SERVICE CONNECTIONS, AUTOMATIC SPRINKLERS, AND WATER SERVICE TO

A SCHOOL ADMINISTRATION BUILDING

SUMMARY: This act generally exempts municipal water utilities in certain municipalities that meet narrow criteria from most of the laws governing water utilities, notably the public health laws.

The act makes private water companies with annual revenue of \$20,000 or more financially responsible for all service connection replacements and repairs, regardless of when the connection was installed. Under Department of Public Utility Control (DPUC) regulations, such companies have been financially responsible for maintaining and repairing all new service connections installed since 1966; customers were responsible for older service connections. The regulations define a service connection as the part of the service pipe that runs from the water main to the curb stop that is at or near the street line or the customer's property line. The connection also includes other valves or fittings that the company may require at or between the water main and the curb stop, but it does not include the curb box.

Finally, the act requires businesses and state agencies that begin installing automatic lawn sprinkling systems on or after October 1, 2003 to equip the system with a sensor that overrides it when adequate rainfall has occurred. It allows municipalities to adopt parallel ordinances that can apply to all entities installing such systems on or after October 1, 2003, rather than just businesses and state agencies.

EFFECTIVE DATE: Upon passage for the municipal water utility exemption and October 1, 2003, for the remaining provisions.

EXEMPTION FROM WATER UTILITY LAWS

Municipal water utilities are subject to the laws administered by the departments of Public Health (DPH), Environmental Protection (DEP), and, to a limited extent, DPUC. DPH regulates water quality and adequacy; DEP regulates diversions from water bodies and aquifers; and DPUC, in the context of municipal utilities, enforces consumer protection laws.

The act exempts municipal water utilities that meet two criteria from most of the DPH laws and all of the DPUC laws. The criteria are that the municipality has (1) a population between 38,000 and 43,000 according to the 2000 census and (2) a school administration

building housing fewer than 75 employees that is served by a well. Groton, Shelton, and Southington meet the population criterion; it is not known which towns meet the second criterion.

The act exempts municipal water utilities in the town or towns that meet both criteria from DPH laws (except as they require testing of well water) and DPUC laws. Among other things, the act exempts the affected utilities from DPH laws that:

1. restrict the sale and use of utility-owned land;
2. require large utilities (those with 250 or more customers or serving 1,000 or more individuals) to submit water supply plans to DPH;
3. subject utilities that violate drinking water laws and regulations to civil penalties;
4. provide grants for the construction and modification of water facilities;
5. require utilities to participate in the water utility coordinating committee process, which assigns exclusive service territories to utilities; and
6. require a DPH permit to sell or abandon a water supply source.

The act also exempts the affected water utilities from DPUC laws including those:

1. requiring DPUC and DPH approval to build new water supply systems and, in the case of smaller utilities, to expand existing systems;
2. subjecting water utilities that violate DPH or DPUC orders regarding water availability, potability, or adequacy to a possible take-over by the public or private entity that the DPUC, in consultation with DPH, determines is most appropriate; and
3. governing DPUC's rate regulation of management services a private water company provides to a municipal water utility.

The act also appears to exempt the affected municipal water utilities from the law providing for the court's appointment of a receiver in cases in which a landlord fails to pay his water bill.

PA 03-221—HB 6428

Energy and Technology Committee

AN ACT CONCERNING TECHNICAL REVISIONS TO THE UTILITY STATUTES

AND TELECOMMUNICATIONS TOWERS ON AGRICULTURAL LAND

SUMMARY: This act modifies the electric restructuring law, as amended by PA 03-135, with regard to its renewable energy requirements.

PA 03-135 requires electric companies to provide “transitional standard offer service” from 2004 to 2007 to customers who do not choose a competitive supplier. It caps the rate for this service at the companies’ 1996 rates but excludes federally mandated congestion costs from the cap. This act specifies that these costs include locational marginal pricing and reliability “must-run” contracts. The former adjusts the wholesale cost of electric power geographically to reflect differing levels of transmission congestion within New England. The latter pays generators located within congested areas a premium for the power they produce.

By law, a Siting Council certificate is needed to build telecommunications towers owned by the state or a utility company, and those used to provide wireless service. For towers proposed to be built on land under agricultural restriction, this act bars the council from granting a certificate unless it finds that the tower will not materially reduce the acreage and productivity of arable land. “Agricultural restrictions,” as defined by another act (PA 03-278), are those imposed under the state’s farmland preservation program.

EFFECTIVE DATE: July 1, 2003, for the electric restructuring provisions and October 1, 2003, for the Siting Council provision.

ELECTRIC RESTRUCTURING

Renewable Energy

By law, competitive electric suppliers must obtain part of their power from renewable resources under a provision known as the renewable portfolio standard (RPS). They meet part of this requirement by obtaining “class I” resources, such as wind or solar power. PA 03-135 modifies the requirement and extends it to electric companies in their provision of service to customers who do not choose suppliers.

The act modifies the circumstances under which biomass (e.g., wood) counts as a class I resource. By law, the biomass must be cultivated and harvested in a sustainable manner to count as a class I resource. Under prior law as amended by PA 03-135, the biomass facility had to emit

no more than .075 pounds of nitrogen oxides per million British Thermal Units of heat input for the previous calendar quarter, unless the facility began operating on or after July 1, 1998. The act extends this emission limit to all facilities, other than those that (1) have a capacity of less than 500 kilowatts and (2) began construction before July 1, 2003. These facilities are also class I.

PA 03-135 extends the RPS requirements to electric companies, requiring that they meet the requirements by contracting with retail suppliers. The act instead requires them to contract with wholesale suppliers.

Under PA 03-135, the Department of Public Utility Control (DPUC) must determine annually whether an electric company has met its RPS responsibilities. Companies that do not meet the standard must pay 5.5 cents per kilowatt-hour into the state’s Clean Energy Fund to help develop class I resources. This act instead requires that a contract a company has with its wholesale supplier include a provision that requires the wholesaler to pay the company 5.5 cents per kilowatt-hour if the wholesaler fails to meet the RPS for the relevant year. The electric company must promptly transfer such payments to the Clean Energy Fund. This act eliminates a provision that prohibited electric companies from recovering such payments from ratepayers. Instead, it specifies that such payments do not count as revenue or income for the electric company.

BACKGROUND

Related Acts

PA 03-135, substantially amends the state’s electric restructuring law. In addition to the changes noted above, it establishes pricing and procurement standards for the services the electric companies will be required to provide, starting in 2007, to customers who do not choose competitive suppliers. It also modifies licensure standards for competitive suppliers, extends several environmental provisions of the law to electric companies, and makes many other changes.

PA 03-278 specifies that “land under agricultural restriction,” for purposes of the Siting Council law, is protected land under the state’s farmland preservation program, in which the state buys the development rights of farmland subject to development pressures.

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-65—SB 1031
 Environment Committee

AN ACT CONCERNING THE BENEFICIAL REUSE OF GLASS

SUMMARY: This act allows the use of crushed recycled glass as fill material. It may be used as aggregate for asphalt, concrete, or any other subgrade construction application in which it would substitute for sand or stone aggregate, provided the crushed recycled glass does not constitute more than 10% of clean fill by volume, as defined by regulations.

Under the act, crushed recycled glass is composed of glass, food, or beverage containers and less than 5%, by volume, of plastic, metal, paper, or other solid waste that (1) have been combined by processing source-separated recyclable solid waste at an intermediate processing facility, (2) cannot be marketed for reuse in glass manufacture, (3) have components that measure 3/8 inch or less in diameter, and (4) are virtually inert and pose neither a pollution threat to ground or surface water nor a fire hazard.

EFFECTIVE DATE: Upon passage

BACKGROUND

Intermediate Processing Facility

An intermediate processing facility removes glass, metals, paper products, batteries, household hazardous waste, fertilizers, and other items from the waste stream for recycling or reuse.

PA 03-72—HB 6048
 Environment Committee
 Energy and Technology Committee

AN ACT CONCERNING MERCURY EMISSIONS FROM COAL-FIRED ELECTRICITY GENERATORS

SUMMARY: This act requires coal-burning electric plants to reduce the amount of mercury they emit, starting July 1, 2008. It (1) sets standards the plants must meet, (2) requires plants to test their generating units quarterly, and (3) requires owners to submit quarterly reports to the Department of Environmental Protection

(DEP) commissioner on a form he prescribes. The act authorizes the commissioner to set alternative emission limits if the plant cannot meet its requirements with properly installed and operating control technology. The commissioner’s implementation of these provisions does not suspend any underlying procedure or requirement in state regulations. The act applies to the Bridgeport and AES Thames (Uncasville) generating plants.

The act also requires the commissioner to review mercury emission limits applicable to all units in the state by July 1, 2012, and authorizes him to adopt regulations imposing more stringent mercury emission limits on or after that date.

EFFECTIVE DATE: Upon passage

MEETING EMISSIONS STANDARDS

The act requires that, starting July 1, 2008, plant owners or operators meet a mercury emissions rate equal to or less than (1) 0.6 pounds of mercury per trillion British Thermal Units (tBTU) (approximately 40,000 to 50,000 tons of coal) or (2) a 90% reduction from the amount of mercury introduced into the system, whichever is more readily achievable as determined by the plant’s owner or operator.

TESTING EMISSIONS

The plants must show compliance with the above standards by averaging smokestack tests conducted during the two most recent calendar quarters. The tests must be conducted each calendar quarter according to (1) the U.S. Environmental Protection Agency’s (EPA) Method 29 for the determination of metal emissions from stationary sources (40 CFR 60, Appendix A) or (2) any alternative method approved by either EPA or the commissioner. The tests must be conducted while the unit is burning coal or coal blends representative of the type of fuel used during the quarter the test occurs.

ALTERNATIVE EMISSIONS LIMITS

The act requires plant owners and operators to notify the commissioner by February 1, 2009, if properly installed and operated control technology fails to achieve the required emissions rate at any generating unit in their plant. They must submit each quarterly stack test

to the commissioner. The commissioner must evaluate them and establish an alternative emissions limit for each unit, based on the control technology's optimized performance.

If the plant owner or operator is unable to achieve the required emissions rate with properly installed and operated control technology and properly notifies the commissioner by February 1, 2009, he may demonstrate compliance with the act from July 1, 2008 until the commissioner issues an alternative emissions limit. He can do so by operating the unit, and any associated air pollution control technology, in a manner consistent with good air pollution control practices to minimize mercury emissions, as determined by the commissioner. In making such a determination, the commissioner may review the emissions monitoring results and operating and maintenance procedures of the affected unit and inspect it.

The commissioner must establish the alternative emissions limits by April 1, 2010. He must incorporate them into the affected unit's Title V permit, and review the limit whenever the permittee seeks to renew it. At that time, he may impose more stringent alternative emissions limits based on any new data regarding the demonstrated capabilities of the control technology.

CONTINUOUS EMISSION MONITORS

If the commissioner determines that continuous emission monitors for mercury in flue gases are commercially available and can perform according to National Institute of Technology Standards or other EPA-approved methodology, the owner or operator of an affected unit must install and operate such monitors instead of conducting quarterly stack tests. Plant owners or operators must use an average of the continuous emission monitor data during the most recent calendar quarter when submitting their quarterly reports to the commissioner.

BACKGROUND

Title V Permit

DEP issues Title V operating permits to power plants and other major sources of air pollution subject to the federal Clean Air Act. Permittees must ensure compliance with pollution control requirements. A permit lasts for up to five years.

PA 03-103—SB 49

Environment Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING DOG LICENSE FEES

SUMMARY: The act increases, from \$9 to \$12, the annual fee that an owner or keeper must pay for licensing each of his unneutered male or unspayed female dogs age six months or older. It also makes a technical change.

EFFECTIVE DATE: October 1, 2003

PA 03-122—sSB 840

Environment Committee

Transportation Committee

AN ACT CONCERNING MTBE AS A GASOLINE ADDITIVE

SUMMARY: This act links the state's phaseout of the gasoline additive methyl tertiary butyl ether (MTBE) to New York's plan to eliminate MTBE starting January 1, 2004.

Under prior law, the environmental protection commissioner, working in conjunction with the Northeast Regional Fuels Task Force, was to develop and implement a plan to phase out MTBE starting October 1, 2003. The act extends that deadline by three months, to January 1, 2004, provided New York proceeds with plans to ban MTBE starting then. If New York postpones its ban, the act requires the commissioner to develop and implement a plan to phase out MTBE in Connecticut starting July 1, 2004.

The phaseout only applies to gasoline intended for sale to Connecticut end users and does not prevent anyone from selling, offering for sale, distributing, or blending motor fuel containing up to one-half of one percent by volume of MTBE. The act extends by one year (through January 1, 2004) a requirement that the commissioner report annually to the Environment Committee on plans to eliminate MTBE.

EFFECTIVE DATE: Upon passage

BACKGROUND

MTBE

MTBE is a chemical first added to gasoline as a replacement for lead. Since 1992, it has been

used to increase gasoline oxygen levels, as required by the federal Clean Air Act. The act requires gasoline sold in areas with unhealthy levels of air pollution to contain oxygenates, such as MTBE, because they produce more complete fuel combustion and result in less carbon monoxide and ozone-forming emissions. However, leaks from underground gasoline storage tanks and accidental gasoline spills have caused MTBE contamination of many state drinking water supplies.

New York's MTBE Law

New York law bans the importation and sale of gasoline containing MTBE as of January 1, 2004. Violators are subject to a civil penalty of between \$500 and \$10,000.

PA 03-123—sHB 6623

Environment Committee

AN ACT CONCERNING TECHNICAL REVISIONS TO ENVIRONMENTAL PROTECTION STATUTES

SUMMARY: This act requires that responses, as well as comments, received by the secretary of the Office of Policy and Management under the Connecticut Environmental Policy Act be available for public inspection. It requires that environmental impact evaluations give, among other things, a description of detailed mitigation measures proposed to minimize environmental impacts of the proposed action and each alternative, rather than the mitigation measures themselves. By law, such evaluations are prepared by state agencies that propose an action that may significantly affect the environment. The act also makes technical changes.

EFFECTIVE DATE: Upon passage, except for a technical change in a provision affecting applications for cable and pipeline crossings of Long Island Sound, which takes effect October 1, 2003.

PA 03-125—sHB 6423

*Environment Committee
Judiciary Committee*

AN ACT CONCERNING ENFORCEMENT OF POLLUTION ABATEMENT ORDERS

SUMMARY: By law, people, companies, and municipalities must have a Department of Environmental Protection (DEP) permit to discharge any water, substance, or material into state waters, and the attorney general may file an action in court to halt an illegal discharge. This act authorizes the DEP commissioner to request that the attorney general ask a court to order the clean-up of the effects of an illegal discharge. By law, the attorney general must bring these actions in Hartford Superior Court, and such requests take precedence over other civil actions. **EFFECTIVE DATE:** July 1, 2003

PA 03-131—sHB 5793

*Environment Committee
Judiciary Committee
Government Administration and Elections Committee*

AN ACT CONCERNING WEST ROCK RIDGE STATE PARK

SUMMARY: This act makes several changes in the statute and special acts governing the way in which the commissioner of the Department of Environmental Protection (DEP) can obtain additional property for West Rock Ridge State Park. It (1) adds to the notice requirements; (2) increases the penalty for property owners who fail to follow the law's requirements and potentially applies the penalty to more property; (3) limits the length of time the state is considered to have waived its rights regarding property; (4) requires a property owner to record an affidavit if the state fails to respond to a notice in a timely way; and (5) eliminates registered mail as an alternative way to provide notice, leaving certified mail, return receipt requested, as the only method allowed. **EFFECTIVE DATE:** Upon passage

NOTICE REQUIREMENTS

By law, before any property owner can change the use of, develop, or transfer any property within the West Rock Ridge conservation area or conservation area supplement, he must give the DEP commissioner written notice of his intention. The act requires this notice to include a description of the property and a price at which the state can buy the property.

By law, if the owner later proposes to alter the terms of the change, development, or transfer of his property, he must notify the state. The act

specifically requires him to notify the state if he intends to sell the property at a price less than the one in his original notice. It also eliminates a requirement that this alteration-of-terms notice be sent to the town clerk and recorded on the appropriate land records.

WAIVER OF STATE'S INTEREST AND AFFIDAVIT

By law, the DEP commissioner has 90 days to respond to the property owner's notice. If the commissioner fails to respond or if he notifies the owner that the state is not interested in the property, the state is deemed to have waived its right to acquire the land. Under the act, the state's waiver expires 180 days after (1) the expiration of the 90 days or (2) receipt of notice of the state's lack of interest in the property.

Previously, if the state notified a landowner that it was not interested in obtaining a piece of property, it had to record that notice on the town land records. The act makes the landowner responsible for recording the notice. Alternatively, it requires him to record an affidavit on the land records when the state fails to respond within its 90-day window of opportunity. It allows a landowner who fails to record the notice or the affidavit on the land records to correct his omission at any time. But such a late recording does not affect the legal rights of any third party buying the property and suing the owner for failing to file the required notice.

The act also eliminates a process in law requiring an owner to "certify in writing" that he has sent the commissioner notice, include in the certification the return receipt of the notice, and file the certification on the land records.

PENALTIES

A person is already liable for a civil penalty if, after the DEP sends notice, he changes, develops, or transfers his "priority parcel" without notifying DEP of the transaction. Priority parcels are those designated by the DEP commissioner as priorities for state acquisition. The commissioner must record on the land records for all priority parcels the requirements and restrictions in the law regarding changes to, development of, or transfers of land. The act expands the potential application of the penalty to anyone changing, developing, or transferring property anywhere within the West Rock Ridge conservation area or conservation area

supplement without notifying DEP regardless of whether or not it is a priority parcel or has had an entry made in the land records. It also increases the penalty when property is transferred from 5% to 25% of the price.

BACKGROUND

West Rock Ridge State Park

West Rock Ridge State Park is about 1,600 acres. It is located mostly in Hamden, but part of it is in New Haven. It abuts Bethany and Woodbridge.

West Rock Ridge Conservation Area and Conservation Area Supplement

The West Rock Ridge conservation area was established by SA 75-80. It basically surrounds the park and extends well into it, in some places all the way to the trap rock ridge line, which runs north/south close to the border of the towns of Hamden, Bethany, and Woodbridge. The West Rock Ridge conservation area supplement was established by SA 79-92. It is mostly in Hamden; is a continuation along the trap rock ridgeline and is, for the most part, north of the conservation area.

PA 03-136—sSB 1046

Environment Committee

*Government Administration and Elections Committee
Planning and Development Committee*

AN ACT CONCERNING INVASIVE PLANTS

SUMMARY: This act creates a nine-member Invasive Plants Council to:

1. educate the public, merchants, and plant buyers about problems associated with invasive plants;
2. recommend ways to control and abate invasive plants;
3. make available information on invasive plants to anyone who requests it;
4. annually publish and periodically update a list of plants considered invasive or potentially invasive; and
5. support state agencies researching the control of invasive plants through such means as eradicating and managing existing invasive species and developing alternative species that do

not harm the environment.

The act authorizes the council, by a two-thirds vote of its membership, to recommend to the Environment Committee that it prohibit the import, export, wholesale or retail sale, and purchase of plants the council determines are invasive or potentially invasive. It sets the criteria the council may consider in making such a recommendation, as well as the criteria the council must consider in classifying a plant as invasive or potentially invasive.

The act prohibits state agencies, departments, or institutions from buying plants the council determines are invasive or potentially invasive unless the agency must do so to honor a state contract in effect when the plant is listed as invasive or potentially invasive. But a state agency, department, or institution may transport invasive or potentially invasive plants for educational or research purposes.

The act prohibits municipalities from adopting ordinances regarding the retail sale or purchase of any invasive plant until May 5, 2004. It bars the importation, transport, sale, purchase, possession, cultivation, or distribution of seven specific plants, regardless of any municipal ordinance to the contrary. Violators of the ban on the seven plants are subject to a fine of up to \$100, and must follow the procedures the law prescribes for infractions. An infraction is not considered a crime, and violators can pay the fine by mail without a court appearance.

The act requires Department of Environmental Protection (DEP)-approved safe boating courses to instruct boaters how to properly inspect boats and boat trailers for vegetation and dispose of it. A boater who fails to properly inspect and dispose of vegetation before transporting a boat or trailer faces a fine of up to \$100 for each violation. The act authorizes conservation officers, special conservation officers, and patrolmen appointed by the DEP commissioner to enforce the inspection requirement.

EFFECTIVE DATE: Upon passage

DETERMINATION OF INVASIVE SPECIES

The council must determine a plant possesses all nine of the following characteristics before classifying it as an invasive plant. It must find a plant meets all of the first five criteria, and at least one of criteria six through nine to be considered potentially invasive. The council must find a plant:

1. is not indigenous to the state;
2. is naturalized, has the potential to be naturalized, or occurs without being cultivated in areas where it is not indigenous;
3. has, under average conditions, the biological potential to spread quickly and widely in the state or a region of the state;
4. has, under average conditions, the biological potential to spread excessively over habitats of varying sizes and types, including those that may differ from the site where it was introduced;
5. has, under average conditions, the potential to exist in large numbers outside of highly managed habitats;
6. occurs widely in a region of the state or in a particular habitat in the state;
7. has numerous individuals within many populations;
8. can out-compete other species in the same natural plant community; and
9. has the potential for rapid growth, high seed production, and dissemination and establishment in natural plant communities.

Once the council finds a plant has met the criteria to be considered either invasive or potentially invasive, a majority of its nine members must approve listing it as such. The council must hold a public meeting at least 30 days before listing a plant as invasive if at least two council members request one. The council may recommend ways to discourage the sale of plants listed as invasive or potentially invasive and identify alternatives that may be grown in their place.

COUNCIL MEMBERSHIP

The nine-member council must include the following four people, or their designees:

1. the agriculture commissioner;
2. the environmental protection commissioner;
3. the director of the Connecticut Agricultural Experiment Station; and
4. the dean of the University of Connecticut's College of Agriculture and Natural Resources.

In addition, members must include:

1. a representative of the *Invasive Plant Atlas of New England*, appointed by the Senate minority leader;

2. a representative of a nonprofit environmental association with a demonstrated knowledge of invasive plants appointed by the House speaker;
3. a representative of a nonprofit association concerned with plant and flower growers and retailers appointed by the Senate president pro tempore;
4. a representative of a nonprofit association concerned with oceans, lakes, and rivers appointed by the governor; and
5. a representative of a company that grows or sells flowers or plants appointed by the House minority leader.

COUNCIL DUTIES

The council must meet at least twice a year and must elect a chairperson annually from among its members. It may (1) create work groups as necessary; (2) conduct or recommend research on the problem of invasive plants; (3) use funds available from federal, state, or other sources; and (4) enter into contracts to carry out its duties.

It must report to the Environment Committee on or before February 1, 2004, and on January 1 of each subsequent year. The reports must include the council's accomplishments of the previous year and its recommendations for the coming year, including recommendations to ban the import, export, wholesale or retail sale, and purchase of any listed invasive or potentially invasive plant. The council must submit the names of any plant it considered, information related to the findings below, and each council member's vote on the recommendation.

COUNCIL FINDINGS

In recommending to the Environment Committee that it prohibit the retail sale and purchase of a plant listed as invasive the council may consider:

1. the estimated dollar value of sales of the plant in Connecticut,
2. the estimated costs associated with its eradication,
3. the plant's potential effect on the environmental resources of the state or a region of the state, and
4. the estimated effect on property values in the state or a region of the state

where the plant may grow.

PROHIBITED PLANT SPECIES

The act prohibits the importation, transport, sale, purchase, possession, cultivation, and distribution of the following seven plants:

1. curly-leaved pondweed (*potamogeton crispus*),
2. fanwort (*cabomba caroliniana*),
3. Eurasian water milfoil (*myriophyllum spicatum*),
4. variable water milfoil (*myriophyllum heterophyllum*),
5. water chestnut (*trapa natans*),
6. egeria (*egeria densa*), and
7. hydrilla (*hydrilla verticillata*).

A violation is punishable by a fine of up to \$100.

PA 03-137—HB 6066

Environment Committee

Judiciary Committee

Planning and Development Committee

AN ACT AUTHORIZING MUNICIPAL ANIMAL CONTROL OFFICERS TO SPAY OR NEUTER ANIMALS IN THEIR CARE

SUMMARY: By law, a municipal animal control officer may euthanize, sell, or place as a pet, a dog, cat, or other animal in his custody if its owner has not claimed it within seven days after notice of the animal's capture is published. This act allows the officer to have a licensed veterinarian spay or neuter unclaimed, healthy cats, dogs, or other animals in the officer's custody after the same seven-day period, before selling or placing them as pets. The act exempts veterinarians who perform these procedures from civil liability, including liability for certain reconstructive surgery.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Impounded Animals

By law, after an animal control officer takes a cat, dog, or other animal into custody he must immediately contact the owner if known, or publish a description of the animal in a newspaper circulating in the town where the animal was found when the owner is unknown. The officer must also immediately tag the cat or

dog or use another suitable way to identify it. No one who destroys cats or dogs under these circumstances may be held criminally or civilly liable.

PA 03-141—HB 6551
Environment Committee

**AN ACT CONCERNING EXEMPTIONS
FROM THE WATER DIVERSION
PERMITTING PROCESS**

SUMMARY: This act:

1. eliminates certain notice and comment provisions for general permit applications under the Connecticut Water Diversion Policy Act (CWDPA) and makes some provisions optional;
2. adds certain water diversions needed for the security of public water supplies to those exempt from permit and notification requirements and exempts these and other diversions from the general permit requirement for minor activities as well; and
3. requires the Water Planning Council to issue recommendations on watershed allocations, budgets, and administration by February 2004.

The act also makes technical changes.

EFFECTIVE DATE: July 1, 2003

**CWDPA NOTICE AND COMMENT
PROVISIONS**

By law, anyone may comment on the issuance, renewal, modification, revocation, or suspension of a general permit for minor activities under the CWDPA for 30 days after the Department of Environmental Protection (DEP) commissioner publishes notice of intent to issue the permit in a major newspaper. The act eliminates a provision allowing inland wetlands agencies, zoning commissions, and conservation commissions, or any person to comment on activities covered by the general permit to the commissioner 25 days before the activity is to start. The act allows, instead of requires, a general permit under CWDPA to require any person or town intending to undertake an activity covered by the permit to give written notice to the inland wetlands agency, zoning commission, and conservation commission of any town that will or may be affected by the action. It also

eliminates the requirement that the person or town that plans to conduct the activity give such notice at least 60 days before the action and that DEP receive and make the notice publicly available.

**DIVERSIONS FOR THE SECURITY OF
PUBLIC WATER SUPPLIES AND THEIR
REPORTING REQUIREMENTS**

Under the act, certain diversions necessary to protect public water supplies are exempt from the CWDPA's permitting process. Those include:

1. a diversion from a back-up well where a primary well is out of service, as long as (a) the back-up well is located within 250 feet of the primary well and the total quantity of water withdrawn does not increase the rate or quantity of a diversion registered or permitted by the DEP commissioner under the CWDPA and (b) the water company annually provides the commissioner with a report by January 30 for the previous year detailing the location and construction type of each back-up well and the date of installation and daily water use for each primary and back-up well for the days the back-up well operated and
2. a water transfer from one distribution system to another during a water supply emergency declared by the governor or otherwise according to law, when the transfer (a) is limited to the time of the emergency; (b) does not increase the rate or quantity of a diversion registered or permitted by the commissioner under the CWDPA; (c) uses existing, authorized, installed capacity or temporary equipment that is removed within 30 days after the last day of the water supply emergency. The water company must also notify the commissioner in writing within three days of such a transfer, including its location, with daily written reports during the emergency and any other related information he requests.

WATER PLANNING COUNCIL

The act requires the Water Planning Council, by February 1, 2004, to issue recommendations for (1) a water allocation plan, based on water budgets for each watershed; (2)

funding for water budget planning, giving priority to the most highly stressed watersheds; and (3) the feasibility of merging the data collection and regulatory functions of the DEP Inland Water Resources Program and the Public Health Department's water supplies section. The Water Planning Council was created in 2001 to address issues involving water companies, water resources, and state policies regarding the future of the state's drinking water supply. By law, it must report annually to the Environment, Public Health, and Energy and Technology committees.

BACKGROUND

Connecticut Water Diversion Policy Act

By law, a diversion is any activity that causes, allows, or results in the withdrawal from, or alteration of, the flow of water in the state (such as wells, reservoirs, watercourses, and other bodies of water).

Minor Activities

Minor activities are those the DEP commissioner determines (1) cause minimal environmental effects when conducted separately and only minimal cumulative effects and (2) have no adverse effect on existing or potential uses of water for potable water supplies, hydropower, flood management, water-based recreation, industry, or waste assimilation.

Emergency Powers

When the governor declares a water supply emergency or the Department of Public Health (DPH) commissioner, in consultation with the DEP commissioner and the Public Utilities Control Authority, declares one, the DEP commissioner has special powers. He may (1) temporarily suspend a diversion permit or impose conditions on the permit holder without a hearing for up to 30 days (which may be extended once for up to 30 days) and (2) authorize, with the governor's approval, a person or municipality, without hearing and despite existing law, to divert water as he deems necessary and proper to ease emergency conditions for 30 days (which may be extended twice for 30 days each time). But the commissioner may not authorize a diversion if it would adversely affect an area where a public drinking water supply emergency has been declared and must consult with the DPH

commissioner and other state agencies and municipal officials as he deems necessary.

PA 03-148—sSB 1158

Environment Committee

Energy and Technology Committee

AN ACT CONCERNING THE MORATORIUM ON PROJECTS IN LONG ISLAND SOUND

SUMMARY: This act extends for one year, until June 3, 2004, a moratorium on state agency consideration or final decision on any electric power line, gas pipeline, or telecommunications crossing of Long Island Sound. It specifies that the moratorium applies to any facility that requires either (1) a certificate of environmental compatibility and public need from the Connecticut Siting Council or (2) approval by the Federal Energy Regulatory Commission (FERC). As under prior law, the moratorium does not apply to maintenance, repair, or replacement work necessary for repairing electric power lines, gas pipelines, or telecommunications crossings currently serving customers located on islands or peninsulas off the Connecticut coast or harbors, embayments, tidal rivers, streams, or creeks. It also does not affect a project in the Sound extending from Norwalk to Northport, New York to replace existing electric cables. It also makes a technical change.

EFFECTIVE DATE: Upon passage

BACKGROUND

Long Island Sound Moratorium

PA 02-95, which imposed the initial one-year moratorium, required the Institute of Sustainable Energy at Eastern Connecticut State University to convene a task force to examine issues surrounding cross-Sound lines. The task force issued its report on June 3, 2003.

Certificate of Environmental Compatibility and Public Need

By law, a Siting Council certificate is required to build or modify fuel pipelines, electric transmission lines, generating plants and substations, and certain other facilities.

FERC Approval

FERC approves the location and construction of interstate gas pipelines and approves rates for the wholesale sale of electricity and transmission of electricity in interstate commerce.

PA 03-161—HB 6364

*Environment Committee
General Law Committee*

**AN ACT CONCERNING LOCALLY
GROWN FARM PRODUCTS**

SUMMARY: This act adds “Connecticut-Grown” to the list of terms that may be used to sell or advertise farm products grown, and eggs produced, in Connecticut. Under prior law, other useable terms were “native,” “native grown,” “local,” “locally grown,” and other unspecified terms. The act narrows the list to just the specified terms.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2003

PA 03-186—HB 6036

*Environment Committee
Public Health Committee*

**AN ACT CONCERNING RADON
MITIGATORS**

SUMMARY: This act changes the certification requirement for contractors who advertise themselves as radon mitigators. Under prior law, radon mitigators had to attend a program and pass an examination that the public health commissioner approved before the consumer protection commissioner could certify them as radon mitigation contractors. The act instead requires people to provide satisfactory proof of certification from the National Radon Safety Board or the National Environmental Health Association before they can be certified.

By law, anyone who advertises himself as a contractor or salesperson must first obtain a certificate of registration from the consumer protection commissioner. The law exempts certain corporate officials already registered as contractors from also being certified as salespeople.

The act also sets a \$250 minimum fine for violators of the certification requirement. Under prior law, the fines ranged from up to \$500 for the first violation, up to \$750 for the second violation occurring within three years of the first, and up to \$1,500 for the third and subsequent violations occurring within three years of the prior violation.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Related Act

PA 03-252 requires the Department of Public Health (DPH) to maintain a list of companies or individuals doing radon analytical measurement services and residential mitigation services. The list must contain only those who are included on current lists of national radon proficiency programs approved by DPH. The act also makes related definitional changes concerning radon service providers. Prior law required DPH to publish a list of companies performing radon mitigation or diagnosis, and radon testing companies who were listed with the federal Environmental Protection Agency’s (EPA) Radon Proficiency Program. Apparently, EPA has not provided this service since 1998.

PA 03-192—HB 6394

*Environment Committee
Judiciary Committee*

**AN ACT CONCERNING THE
ENDANGERED SPECIES PROGRAMS OF
THE DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

SUMMARY: This act:

1. sets conditions for administering drugs, pesticides, vaccines, and immunocontraceptives to wild animals;
2. allows hunters to use bait to kill deer in areas the Department of Environmental Protection (DEP) commissioner designates;
3. requires the commissioner to issue free private land deer permits, for use on farms that are limited liability corporations, to the corporation’s partners or their immediate family members;
4. authorizes the commissioner to permit

- towns, homeowner associations, and nonprofit land-holding organizations to kill deer and take Canada geese under certain conditions;
5. (a) expands the commissioner's power to control fish and wildlife to protect natural or agricultural ecosystems, and to acquire property for wildlife management purposes, (b) requires that he document any such use of these and other specified powers, and (c) subjects such uses to disclosure under the Freedom of Information Act (FOIA);
 6. gives the commissioner authority to dispose of undesirable wildlife detrimental to livestock, endangered or threatened species, or causing severe property damage;
 7. permits people to kill rock doves (pigeons), monk parakeets, and certain other birds in certain situations;
 8. increases the fine for disturbing, hunting, taking, killing, or attempting to kill a bald eagle, and also imposes criminal penalties on people who disturb an active bald eagle nest or enter a posted no-access area for a bald eagle or an active bald eagle nest;
 9. expands the definition of dangerous animals, increases the penalty for illegally possessing them, and authorizes DEP to bill a person who illegally possesses one for the costs of its confiscation, care, maintenance, and disposal;
 10. expands the law concerning the commissioner's authority over the possession, importation, and transport of fish and wildlife;
 11. bans the sale or purchase of snakehead fish; and
 12. requires that hunters taking migratory game birds use types of nontoxic shot that at least meet standards set by the U.S. Fish & Wildlife Service.

It also makes technical changes.

EFFECTIVE DATE: October 1, 2003

ADMINISTRATION OF CHEMICAL OR BIOLOGICAL SUBSTANCES

The act requires people to obtain a DEP permit before (1) administering chemical or biological substances, including drugs, pesticides, vaccines, and immunocontraceptives or (2) physically altering or attaching any device

to free ranging wildlife. An applicant must obtain all necessary federal permits and provide the commissioner with a written proposal (1) describing the protocol (method) he will use; (2) the credentials of each person who will carry out the procedure; (3) the procedure's purpose or intent; and (4) an assessment of any resulting physiological, behavioral, or environmental impact. The act exempts from permit requirements DEP wildlife management programs performed according to professional wildlife management principles.

The law bars people from hunting or attempting to hunt wild game birds, wild quadrupeds (four-legged animals), reptiles, or amphibians, except as authorized by the commissioner. The act expands these protections to include all wild birds, wild mammals, and invertebrates.

TAKING OF DEER

Under prior law, hunters could not kill deer using traps, snares, salt licks, or bait. The act permits them to use bait (an "attractant") to kill deer in areas the commissioner designates. Under the act, an attractant is any natural or artificial substance placed, exposed, deposited, distributed, or scattered to attract, entice, or lure deer to a specific location. It includes salt; chemicals or minerals, including their residues; or any natural or artificial food, hay, grain, fruit, or nuts.

The act authorizes the commissioner to permit a town, homeowner association, or nonprofit land-holding association to "take" (shoot, pursue, hunt, kill, capture, or trap) deer in a manner consistent with professional wildlife management principles if it can show to the commissioner's satisfaction that the deer present a severe nuisance or are causing ecological damage. The town, association, or organization must (1) submit for the commissioner's approval a plan describing the extent and degree of the nuisance or damage and the proposed methods of taking the deer and (2) notify abutting landowners of the approved plan before it implements it. The taking of the deer cannot involve the use of snares or occur on a Sunday. A violation of these provisions is punishable by a fine of between \$200 and \$500 and a prison term of between 30 days and six months for the first offense. Each subsequent offense is punishable by a fine of between \$200 and \$1,000 and a sentence of up to one year.

PRIVATE LAND DEER PERMIT

By law, the commissioner must issue, without fee, a private land deer permit for use on a farm, provided that it is an S corporation and the permit is issued to a corporate member or a member of his immediate family. The act requires the commissioner also to issue such a permit to a partner of a farm that is a limited liability corporation, or the partner's immediate family. For purposes of the act, a limited liability corporation is a company treated as a limited liability corporation for federal income tax purposes.

TAKING OF CANADA GEESE

The act allows the commissioner to authorize a town, homeowner association, or nonprofit land-holding organization to take resident Canada geese at any time or place, using a method consistent with professional wildlife management principles. It requires the town, association, or organization to submit to the commissioner a plan describing the proposed method of taking the geese and the extent and degree of the nuisance or damage they are causing. The plan cannot involve a snare, must include a prohibition on feeding the geese, and require that landscaping be managed, using native plantings, to make it less hospitable to the birds. The town, association, or organization must notify abutting landowners before implementing the plan.

UNPROTECTED BIRDS

The law allows people to shoot crows in the act of eating corn. The act expands this to allow the shooting of crows, as well as brown-headed cowbirds, pigeons, and monk parakeets found (1) destroying ornamental trees, agricultural crops, livestock, or wildlife or (2) concentrated in such numbers as to be a public health or public safety hazard. It eliminates a provision allowing people to shoot red-winged crows and crow blackbirds that are eating corn.

EXPANSION OF COMMISSIONER'S POWERS

By law, the commissioner may take any fish, crustacean, bird, or animal for scientific, educational, or public health and safety purposes, or for propagation and dissemination. The act

expands that authority to allow him to also to take those creatures, consistent with professional wildlife management principles, to protect natural or agricultural ecosystems as long as he does not do so on a Sunday or use a snare. But, in the case of an imminent threat to public health or safety, the commissioner may take, at any time or place, any fish, crustacean, bird, or animal, using any method consistent with wildlife management principles regardless of any law to the contrary.

The act (1) expands the commissioner's jurisdiction to include all wildlife, rather than just game animals, on state lands, and their introduction, propagation, securing, and distribution; (2) authorizes him to acquire lands for fisheries and wildlife management areas, in addition to the fish hatcheries and game preserves the law already allows him to acquire; (3) authorizes him to import fish and wildlife, rather than just game birds, and game and furbearing animals, and to provide for their protection, propagation, and distribution; and (4) allows him to acquire fish and wildlife for experimental, propagation, or scientific purposes.

The act expands the commissioner's authority to destroy or dispose of undesirable and diseased wildlife. It allows him to take these actions at any time or place, consistent with professional wildlife management principles, if he determines, among other things, that the wildlife (1) is detrimental to livestock; (2) is likely to be detrimental to endangered or threatened species, species of special concern, or these species' essential habitat; or (3) may cause severe property damage. It specifies that these powers, and those granted under prior law, supersede other statutes. It authorizes him to employ such special assistants as are necessary, rather than as many as he finds advisable.

WILDLIFE MANAGEMENT PRACTICES

The act authorizes the commissioner to:

1. manage the state's wildlife resources to provide sustainable, healthy populations of diverse wildlife species, including threatened and endangered species, consistent with professional wildlife management principles;
2. conduct research to better understand processes and relationships affecting wildlife and habitats;
3. conduct public awareness and technical assistance programs to enhance privately owned habitat and promote an

- appreciation for, and understanding of, the value and use of wildlife;
4. establish, restore, improve, control, and protect wildlife habitats;
 5. create and maintain entrance and exit facilities for the public to use in any area under his control;
 6. regulate hunting seasons and bag limits for all harvestable wildlife species in the state;
 7. manage public hunting and wildlife recreational opportunities on state-owned, state-leased, permit-required areas and cooperative wildlife management areas; and
 8. conduct, with volunteer assistance, conservation education and safety programs to promote safe and ethical hunting practices.

By law, the commissioner may spend federal funds for supplies, material, equipment, temporary personal services, and contractual services to carry out these provisions. The act requires him to document any use of these powers or the expenditure of federal funds. He must document (1) the reason for the use; (2) its duration; (3) a description of the power he used; and (4) the location where he used it.

The act requires him to list the names of the people or entities that may take animals according to a plan, the plan conditions, and any methods used and species taken under a plan. However, this section of the act does not refer to a plan. The act explicitly subjects such uses and documents to FOIA disclosure.

DISTURBING A BALD EAGLE OR BALD EAGLE NEST

The act increases, from \$100 to \$1,000, the maximum fine for disturbing, hunting, taking, killing, or attempting to kill a bald eagle. As under prior law, such acts are also punishable by up to 30 days in prison. The act exempts molesting or harassing a bald eagle from these penalties. But, it prohibits people from disturbing an active bald eagle nest, and from entering a posted no-access area for either a bald eagle, or an active bald eagle nest. Violators are subject to a fine of up to \$1,000 and up to 30 days in prison.

ILLEGAL POSSESSION OF DANGEROUS ANIMALS

By law, certain wild animals are potentially

dangerous and it is illegal for people to own them. The act defines hybrids of such wild animals as potentially dangerous animals. It authorizes DEP to bill someone who illegally owns or possesses such an animal for all costs of confiscating, caring for, maintaining, and disposing of it. It increases the penalty for illegal possession of such animals from \$100 to a maximum of \$1,000 per offense and makes each violation and each day of illegal possession a separate offense. It authorizes the environmental protection commissioner to ask the attorney general to sue in Superior Court to recover the fine and the amount DEP billed.

IMPORT OR INTRODUCTION OF WILDLIFE

By law, no person can import or introduce into the state, possess, or liberate in the state any live fish, wild bird, wild quadruped, reptile, or amphibian without a DEP permit. The act expands the law to include invertebrates and all mammals, thereby including such animals as bats and primates (monkeys, apes, and lemurs). The law authorizes the commissioner to (1) prescribe the number of these animals that may be imported, possessed, introduced, or liberated; (2) exempt certain species from permit requirements; (3) prohibit the importation, introduction, possession, or liberation of species he determines to be a potential threat to people, crops, or established species of plants and animals; (4) exempt certain institutions, such as zoos, from permit requirements; and (5) seize and dispose of illegally imported or illegally possessed animals. Each violation is an infraction (see Table on Penalties).

The law already prohibited the transport within or from the state of fish, birds, quadrupeds, reptiles, and amphibians for which a closed season exists without a DEP permit. The act expands the prohibition to include invertebrates and all mammals, thereby including such animals as bats and primates.

The act requires that mammals with fewer than four legs and invertebrates transported within or out of the state be conspicuously tagged and labeled with the full name and address of the person authorized to transport them. The tagging requirement already applies to four-legged animals, fish, birds, reptiles, and amphibians; failure to attach the required tag is *prima facie* evidence of violation of the law. The law exempts from these requirements the transport of such an animal (1) legally taken; (2) bred, propagated, or possessed by a person

licensed or otherwise authorized to do so; or (3) exempt from licensing requirements. Violators are subject to fines of between \$10 and \$200 and up to 60 days in prison.

BACKGROUND

Endangered, Threatened, and Species of Special Concern

An “endangered species” is any native species documented to be in danger of extirpation throughout all or a significant portion of its range within the state and to have no more than five “occurrences” in the state. A “threatened species” is one likely to become endangered in the foreseeable future and to have no more than nine occurrences in the state. An “occurrence” is a population of a species breeding and existing within the same ecological community and capable, or potentially capable, of interbreeding with other species’ members in that community.

A “species of special concern” is a native plant species or any native non-harvested wildlife species documented (1) to have a naturally restricted range or habitat in the state, (2) to be at a low population level, and (3) to be in such high demand by people that its unregulated taking would be detrimental to the conservation of its population, or (4) as having been extirpated from the state.

Potentially Dangerous Animals

By law, potentially dangerous animals include, but are not limited to, wild cats, such as lions, leopards, cheetahs, jaguars, ocelots, jaguarundis (central American wildcats), pumas, lynxes, and bobcats; wild dogs, such as wolves and coyotes; and black, brown, and grizzly bears.

PA 03-198—sSB 486

Environment Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE ADOPTION OF ANIMALS FROM THE CONNECTICUT HUMANE SOCIETY

SUMMARY: By law, people acquiring an unspayed or unneutered dog or cat from a pound must pay the pound \$45 for a voucher to sterilize the animal. This act exempts the Connecticut Humane Society (CHS) from paying the \$45 fee

when the pound gives it an animal, if CHS sterilizes the animal before placing it for adoption. It requires CHS to biannually submit a report to the Animal Population Control Fund that includes (1) the town facility from which the cat or dog came; (2) the animal’s impound number, species, and gender; and (3) the dates CHS received and sterilized the animal. It allows the agriculture commissioner to end the exemption and reinstate the \$45 fee if CHS fails to sterilize the animals or report as required. It exempts from sterilization an animal CHS receives if a veterinarian certifies in writing that it is medically unfit for the surgery.

It allows an animal owner or his employees to administer to the owner’s animals without violating the prohibition on the practice of veterinary medicine without a license.

It also makes a technical change.
EFFECTIVE DATE: October 1, 2003

BACKGROUND

Animal Population Control Fund

The Animal Population Control Fund reimburses veterinarians part of the cost of the operation (plus certain pre-surgical immunizations) for participating in the state’s program to spay and neuter dogs adopted from pounds. The fund is generated from dog licensing fees.

PA 03-212—sHB 6038

Environment Committee

Judiciary Committee

AN ACT CONCERNING THE CONFINEMENT AND TETHERING OF DOGS

SUMMARY: This act subjects anyone who confines or tethers a dog for an unreasonable period of time to a fine of up to \$100 for a first offense, between \$100 and \$250 for a second offense, and between \$250 and \$500 for any subsequent offenses.

By law, anyone who has charge or custody of an animal and abandons it or fails to provide it with proper food, drink, and protection from the weather commits the crime of cruelty to animals and is subject to a fine up to a \$1,000, a year imprisonment, or both.

EFFECTIVE DATE: October 1, 2003

PA 03-218—sHB 6402

Environment Committee

Judiciary Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING REVISIONS TO CERTAIN ENVIRONMENTAL QUALITY PROGRAMS

SUMMARY: This act:

1. makes certain water quality project costs eligible for grants, rather than loans;
2. makes additional polluted property eligible for assessment and remediation under the Urban Sites Remedial Action Program and changes the conditions under which the Department of Environmental Protection (DEP) commissioner may remediate particular properties;
3. excludes from Transfer Act requirements the conveyance of a hazardous materials “establishment” through foreclosure of a municipal tax lien and makes other changes to the Transfer Act;
4. requires that all new underground storage tanks, other than residential storage tanks, be of double-walled construction;
5. authorizes the commissioner to incorporate California motor vehicle emission standards by reference; and
6. gives certain utility company special police officers, conservation officers, special conservation officers, and patrolmen joint jurisdiction over land the state and the Nature Conservancy purchased for conservation purposes in 2001 (the Kelda lands).

It also makes technical changes.

EFFECTIVE DATE: July 1, 2003, except for the underground storage tank requirements, which take effect October 1, 2003.

WATER QUALITY PROJECT FUNDING

The act makes several changes in the way the state funds various water quality projects. By law, eligible water quality projects generally receive grants for 20% of their cost and a loan for the remainder. Certain types of projects are eligible for larger grants. Under the act, eligible project costs are determined according to state

regulations instead of by a federal formula.

Nitrogen Removal

By law, municipalities that awarded contracts for nitrogen removal on or after July 1, 1999, are eligible for grants for 30% of the cost associated with nitrogen removal and a loan for the remainder of these costs. Under prior law, they were eligible for a loan for the projects’ costs unrelated to nitrogen removal. The act instead makes such projects eligible for a grant for 20% of these non-nitrogen removal costs and a loan for the remaining costs.

Municipalities whose nitrogen removal projects were in the design or construction phase on July 1, 1999, and projects that had not received Clean Water Fund financing by that date, were eligible only for a 30% project grant and ineligible for loans. The act makes these towns eligible for the same financial assistance as the towns awarded contracts on or after July 1, 1999.

The act makes distressed municipalities with certain water quality projects eligible for (1) combined state and federal grants of up to 50% of the cost of nitrogen removal; (2) a 20% grant for the project balance not related to nitrogen removal; and (3) a loan for the remainder up to 100% of the allowable project costs.

Distressed municipalities are eligible for these grants and loans only if supplemental federal grant funds are available for Clean Water Fund projects that are (1) specifically related to the clean-up of Long Island Sound and (2) funded on or after July 1, 2003.

Under the act, distressed municipalities also may receive combined state and federal grants for up to 100% of the DEP-approved cost of the planning phase of nitrogen removal projects if supplemental federal grant funds are available for clean water fund projects specifically related to Long Island Sound clean-up and funded on or after July 1, 2003.

Combined Sewer Projects

By law, combined sewer projects are eligible for grants for 50% of the cost of the project and a loan for the remainder, not to exceed 100% of the eligible project cost. The act defines eligible project costs by state regulations, rather than a federal formula.

Water Pollution Control Projects

The act makes certain towns with water pollution control projects built on or after July 1, 2003 eligible for a grant for 25% of the design and construction phase of eligible project costs, and a loan for the remainder of the project costs, up to 100% of the eligible water quality project cost. This provision applies to towns that have either (1) a population of 5,000 or less or (2) more than 5,000 people but with 5,000 or fewer living in a discrete area not served by an existing sewer system.

Allowance of Reserve Capacity

By law, all agreements to fund eligible projects with Clean Water Fund grants must deduct from the grant the cost of building in more capacity than needed to serve existing needs. The act limits that requirement to agreements reached before July 1, 2003.

Sewer Collection and Conveyance Systems

Under prior law, eligible water quality projects that exclusively address sewer collection and conveyance system improvements could receive loans, but not grants, for their eligible costs. The act allows projects to receive grants if they do not also receive loans.

REMEDICATION OF URBAN COMMUNITY SITES

The act makes more property eligible for the Urban Sites Remedial Action Program, in which the Department of Economic and Community Development (DECD) and DEP evaluate and remediate certain contaminated property whose remediation will benefit the state. It does so by allowing a site to participate in the program even if (1) the DEP commissioner is able to determine who is responsible for the contamination, (2) the responsible party has complied with a remediation order, or (3) a remediation order is not being appealed or a hearing has not been requested.

The act makes the same change in a similar program under which the DEP and DECD commissioners identify urban community sites whose remediation can benefit a local community. By law, remedial action program sites with state significance must be located in a distressed municipality or targeted investment community, while those with local significance

can also be in an enterprise corridor zone.

The act removes a requirement that a property be deemed vital to the economic development of the state for it to be included in the remedial action program. It requires the DECD commissioner, in considering sites for evaluation and remediation under the program, to consider whether the site would not otherwise be remediated.

TRANSFER ACT

The Transfer Act regulates the sale or other conveyance of any real property or business operation ("establishment") where (1) more than 100 kilograms of hazardous waste was generated in any one month; (2) hazardous waste was recycled, reclaimed, reused, stored, handled, treated, transported, or disposed of; or (3) dry cleaning, furniture stripping, or vehicle body repair took place. The act excludes from the Transfer Act's requirements the conveyance of an establishment through foreclosure of a municipal tax lien.

Transfer Act Forms

The law requires transferors to complete one or more of four different forms. By law, a transferor can file a Form I or II under several circumstances.

The transferor can file a Form I when there has been no hazardous waste spill or the DEP commissioner has issued a written determination, or a licensed environmental professional (LEP) has verified, that any hazardous substance spill has been properly cleaned up. The act requires that the parcel be investigated according to prevailing standards and guidelines. (A parcel and establishment are not necessarily identical. An establishment may occupy several parcels, or several establishments may be sited on one parcel.)

By law, a transferor can file a Form II when (1) the parcel has been investigated according to prevailing standards and guidelines and been properly attested to by the commissioner or an LEP and (2) the commissioner received a Form IV and no discharge or spill of a hazardous waste or hazardous substance has occurred since. (A Form IV certifies that the property was contaminated and has been remediated except for post-remediation monitoring DEP requires.) The act requires that an LEP verify in writing that he has investigated the site according to prevailing standards and guidelines and that the

establishment has been remediated in accordance with the remediation standards.

The law requires certifying parties to a Form I, Form III, or Form IV to provide the commissioner with certain documents at his request. The act requires this of a party filing a Form II as well. It excuses parties filing a Form II request from the requirement they submit a complete environmental condition assessment to the commissioner but applies the requirement to those submitting a Form III. It also requires anyone filing a Form III or Form IV to notify people whose property abuts the parcel where the remediation occurred. Under prior law, notification was required only of people whose property abutted a business where remediation occurred.

UNDERGROUND STORAGE TANKS

The act requires people and municipalities to install only double-walled underground storage tank systems on and after October 1, 2003, and prohibits the operation and use of other types of underground storage tanks installed after that date. It exempts residential underground storage tanks. It defines double-walled tanks as tanks that are (1) listed by the Underwriters' Laboratories, Inc. and (2) built using two complete shells with a continuous 360-degree space between them. A "double-walled underground storage tank system" is one or more double-walled underground storage tanks connected by double-walled piping and that uses the piping to connect to any associated equipment. The space between shells must be continuously monitored using inert gas or liquid or a vacuum, electronic, mechanical, or another approved monitoring method.

MOTOR VEHICLE EMISSIONS

By law, the DEP commissioner may create a program to allow the sale, purchase, and use of motor vehicles that comply with California emissions standards for the purpose of generating emission reduction credits. The act authorizes him to incorporate by reference the motor vehicle emission standards adopted as final regulations by the California Air Resources Board under Title 13 of the California Code of Regulations.

KELDA LANDS

The act gives utility company special police officers appointed by the public safety commissioner, conservation officers, special conservation officers, and patrolmen appointed by the DEP commissioner joint jurisdiction over property the state and the Nature Conservancy purchased for conservation purposes in 2001 (the Kelda lands). The officers will have the same authority to make arrests on the Kelda lands as they do on DEP-owned lands.

BACKGROUND

Urban Sites Remedial Action Program

This program provides for expedited remediation of polluted property that has potential economic development benefits for the state. Eligible sites must be located in either a distressed community or a target investment community. It also allows the remediation of sites, which, if cleaned up and developed, will improve the urban environment.

Distressed Municipalities

The DECD commissioner designates distressed municipalities annually, based on demographic and economic indicators. According to DECD, the 2002 distressed municipalities were: Ansonia, Bridgeport, Bristol, Derby, East Hartford, East Windsor, Enfield, Hartford, Killingly, Meriden, Naugatuck, New Britain, New Haven, New London, Norwich, Plainville, Plymouth, Putnam, Sprague, Stafford, Torrington, West Haven, Waterbury, Winchester, and Windham.

Transfer Act

A hazardous waste is any waste material that may pose a present or potential hazard to human health or the environment when improperly disposed of, treated, stored, transported, or otherwise managed.

The Transfer Act requires the parties involved in a property transfer to certify that the property (1) has not been contaminated by hazardous wastes; (2) has been contaminated but has been cleaned up to the satisfaction of the DEP or a licensed environmental professional (LEP); (3) has been contaminated and not cleaned up, but they accept the liability for a clean-up; or (4) has been contaminated and

partially remediated but they accept liability for further remediation.

A certifying party is (1) in the case of a Form III or Form IV, a person associated with the transfer of an establishment who signs a Form III or Form IV and agrees to investigate the parcel according to prevailing standards and guidelines and to remediate pollution caused by any release at the establishment in accordance with the remediation standards and (2) in the case of a Form I or Form II, a transferor of an establishment who signs the certification.

Related Act

PA 03-82 exempts from the Transfer Act a person appointed by the court to sell, convey, or partition real property or as a trustee in bankruptcy.

PA 03-234—HB 5215

*Environment Committee
Finance, Revenue and Bonding Committee
Planning and Development Committee*

**AN ACT CONCERNING A PROPERTY
TAX EXEMPTION FOR CERTAIN FARM
BUILDINGS**

SUMMARY: This act authorizes a municipality, with the approval of its legislative body, to exempt from property tax up to \$100,000 of the assessed value of any building actually and exclusively used in farming, as defined by law. This exemption does not apply to farmers' homes. Farmers must apply and qualify for the exemption according to law.

EFFECTIVE DATE: July 1, 2003

PA 03-244—sSB 863

*Environment Committee
Judiciary Committee
Public Safety Committee
Public Health Committee*

**AN ACT CONCERNING BOATING
SAFETY**

SUMMARY: This act makes the laws governing boating while under the influence of alcohol or drugs parallel in some ways to those governing driving while under the influence, thereby substantially increasing the penalties that apply

under the boating laws.

Under the act, a boater is considered to have implicitly consented to tests to determine his blood alcohol content (BAC) when operating in state and federal waters. It requires an officer who arrests a person for boating while under the influence or related crimes to revoke temporarily that person's authority to engage in boating if he (1) refuses to submit to the test or (2) has an "elevated" BAC. Under the act, an elevated BAC is (1) .02% if the person is under 21 and (2) .08% for anyone else. Under prior law, the criminal penalties for boating while under the influence applied to any boater with a BAC of .10% or more.

The act establishes an administrative procedure for suspending or revoking the person's safe boating certificate or certificate of personal watercraft operation ("certificate") which are required for legal boating, or his right to operate a vessel that requires a safe boating certificate to operate, depending on the offense. The procedure, which parallels the administrative *per se* law for drunk driving, applies if the boater fails to submit to a test or has test results indicating an elevated BAC. This procedure is independent of criminal prosecutions for boating while under the influence. The act establishes a separate administrative suspension procedure if the boater was injured in an accident and arrested for operating under the influence and reckless boating.

The act increases the criminal penalties for boating under the influence and applies them to boating with an elevated BAC. Under prior law, the penalty was a fine of \$100 to \$500, regardless of the number of previous offenses. Under the act, the fine depends on the number of prior offenses. In addition, the act subjects a first time offender to a prison term or probation with community service. For subsequent offenses, it subjects violators to a prison term, probation, and community service. The act also requires suspending the person's certificate for a first or second offense and revocation for a third offense. Under prior law, a boating safety certificate was not revocable. The act also requires the Department of Environmental Protection (DEP) commissioner to adopt regulations governing reinstatement of the certificates and right to operate.

The act modifies the standards under which test results are admissible in criminal proceedings for boating under the influence, including allowing retesting standards to test for

drugs other than or in addition to alcohol.

It expands the definition of reckless boating under the influence and increases the penalty for this crime.

The act requires all offenders to participate in an alcohol education and treatment program, including allowing first-time offenders who qualify to participate in a pretrial alcohol education and prevention program.

The act makes engaging in activity contrary to the DEP boating regulations an infraction (see Table on Penalties). It broadens the powers of peace officers to stop and seize boats for boating law violations, but limits who may enforce certain laws. It requires courts and DEP to keep certain records of violations of boating laws. It increases fines for several boating laws.

It also (1) subjects those who misuse a boat registration to a fine, imprisonment, or both; (2) changes the law on marked courses or jump ramps (water skiing courses); and (3) eliminates water skiing under the influence as a crime.

EFFECTIVE DATE: October 1, 2003

IMPLIED CONSENT

Under the act, anyone who operates a boat in the state is considered to have consented to a chemical test of his blood, breath, or urine. If the person is a minor, his parents or guardians are also considered to have given their consent.

Under prior law, if a person was arrested for (1) operating a boat while under the influence or (2) carrying a loaded firearm while under the influence or with a BAC of .10% or more, the arresting officer had to ask him to submit to an alcohol test. The act extends this testing provision to people arrested for boating with an elevated BAC. It also extends the following existing requirements to arrests for this crime: (1) the officer must inform the person of his constitutional rights and that refusing to submit to the test may be used against him in a criminal prosecution; (2) the person must be given an opportunity to telephone an attorney before taking the test; (3) if he agrees to testing but cannot or will not submit to a blood test, the officer chooses between a urine or breath test; and (4) if he refuses to submit to any test, no test is given.

For arrests for elevated BAC or for operating a boat or hunting under the influence, the act requires the officer to inform the person that his personal watercraft operation or safe boating certificate or right to operate will be suspended if he refuses to take the test or if the

test indicates that he had an elevated BAC. The officer must note on the police department record that he has complied with this requirement.

TEMPORARY REVOCATION

Under the act, the peace officer must immediately revoke the arrested person's operating privilege if he (1) refuses to take an alcohol test or (2) the results of a test taken within two hours of his arrest indicate an elevated BAC. The revocation, which is made on behalf of the DEP commissioner, is for 24 hours. The act repeals the prior ban on a person arrested for boating or water skiing under the influence from engaging in either activity for 24 hours after the arrest.

Under the act, the officer must submit a sworn report of the incident on a DEP-approved form to the DEP commissioner. The report must describe the officer's reasons for believing there was probable cause to arrest the person for boating while under the influence or with an elevated BAC. The report must state whether the person (1) refused to submit to the test or (2) took a test that began within two hours and showed he had an elevated BAC at the time of the alleged offense. The officer must sign the form under penalty of false statement. If the person refused to take the test, a third party who witnessed the refusal must also sign the report.

The officer must mail the following documents to the commissioner within three business days: the report, any certificate the officer took into his possession, and the results of any tests or analyses. If the arrested person takes a blood or urine test that requires laboratory analysis, the officer must notify the commissioner and submit the report immediately upon receiving results indicating the person's BAC was elevated.

ADMINISTRATIVE SUSPENSION

The act establishes an administrative procedure to suspend the person's operating privilege or boating certificate. This suspension is independent of any criminal penalties that may apply.

Notice

Upon receiving the officer's report, the DEP commissioner must suspend the person's boating certificate or right to operate. The suspension must take place within 35 days after the person

was arrested. The commissioner must notify the person of the suspension, when it takes effect, and that he is entitled to a hearing. The notice must inform him that he can schedule the hearing by contacting DEP within seven days after the notice was mailed. If he fails to do so, the commissioner must affirm the suspension.

If the person contacts DEP, it must set a date, time, and place for the hearing, which must occur before the suspension takes effect. If the person requests a continuance and shows good cause, the commissioner can grant one for up to 30 days.

Hearing

Under the act, the hearing is limited to the following five questions:

1. Did the officer have probable cause to arrest the person for boating while under the influence or with an elevated BAC?
2. Was the person arrested?
3. Did he refuse to submit to the test, or did the results of a test begun within two hours indicate that he had an elevated BAC when the alleged offense occurred?
4. Was he operating the boat?
5. Was the blood sample obtained in accordance with conditions for admissibility standards for criminal prosecutions of boating while under the influence?

At the hearing, the test results are generally sufficient to indicate the person's BAC when he was boating. But evidence must be submitted that they accurately reflect the person's BAC at that time if the second test required by the admissibility standards (described below) (1) indicates a BAC of 0.8% or less and (2) is higher than the first result.

The fees for witnesses summoned to appear at the hearing are the same as those for criminal and civil cases.

Suspension

Under the act, a negative answer to any of these questions requires the commissioner to stay the suspension. If the answer to all five questions is yes, or if the person did not appear at the hearing, the commissioner must affirm the suspension.

The commissioner must send the person notice of his decision within 35 days of the arrest

(65 days if a continuance was granted). The notice must be sent by certified mail. If the commissioner does not make his decision within the 35- or 65-day period, he may not suspend the certificate or operating privilege.

The commissioner must suspend the operating certificates if the person (1) fails to request a hearing, (2) fails to appear at a scheduled hearing, or (3) appears but loses. Table 1 describes the suspension periods, which begin on the date the commissioner makes his decision or the date specified in the suspension notice, whichever is later.

Table 1: Administrative License Suspension Periods

	<i>First Offense</i>	<i>Second Offense</i>	<i>Third or Subsequent Offense</i>
Test Refused	6 months	1 year	3 years
BAC of .16% or more	120 days	10 months	2 years, 6 months
Other elevated BAC	90 days	9 months	2 years

The penalties also apply to someone who takes the initial test but refuses to take the second test. They are in addition to any suspension penalties imposed by a criminal court.

These provisions do not apply to someone whose condition makes such tests medically inadvisable. DEP may adopt regulations to implement these provisions.

Special Provisions for Injury Accidents

Somewhat different provisions apply if the officer obtains test results from a boater who was in an accident where he suffered or allegedly suffered an injury. In such cases, the officer must notify the commissioner if (1) the test results indicate that the boater had an elevated BAC and (2) the boater was arrested for boating under the influence or either first or second degree reckless boating under the influence in connection with the accident.

The commissioner must provide the boater notice and an opportunity for a hearing before suspending his operating privilege. It appears that the timeline described above for holding the hearing does not apply in these cases, but the act specifies the hearing must be conducted in accordance with Uniform Administrative Procedure Act. This law requires the hearing notice to list the time, place, and nature of the hearing, but does not specify a timeline for it.

The act modifies one of the five questions the hearing must address. As noted above, one of these questions is whether the boater (1)

refused to submit to the test or (2) took a test that indicated an elevated BAC at the time of the offense. Under the act, the first part of this question does not apply in the injury accident cases (presumably because the police obtained a blood sample from another source such as a hospital).

If any of the five conditions are not met, the commissioner cannot suspend the boater's operating privilege.

In such accident cases, the penalty for a first offense is suspension for up to 90 days and for a subsequent offense, up to one year.

CRIMINAL PROSECUTIONS

Threshold

The law prohibits operating a boat while under the influence of alcohol or any drug. Under prior law, a boater was considered under the influence of alcohol if his BAC was .10% or more. The act eliminates this definition, thereby allowing a boater to be convicted if he is found to have operated a boat while under the influence of alcohol or drugs, regardless of his BAC. But the act provides that, in any prosecution for this offense, otherwise admissible evidence regarding the BAC of the boater's blood or urine, as shown by a chemical analysis of his blood, urine, or breath, is admissible only at his request. Under the act, "operate" means that the vessel is underway or run aground and not moored, anchored, or docked.

The act additionally prohibits boating with an elevated BAC (.02% if the person is under age 21 and .08% for anyone else).

Evidence Admissibility Standards

The law specifies the circumstances under which test results are admissible in criminal prosecutions of boating while under the influence, reckless boating, and carrying a loaded firearm while under the influence. Prior law specified who could perform a test and how the testing device was to be checked for accuracy, among other things, and required (1) two tests of the same type be administered (breath, blood, or urine) and (2) the Department of Public Health (DPH) commissioner to (a) determine the reliability of each testing device and method and (b) adopt regulations for conducting tests, using testing devices, training device operators, and their certification and annual recertification.

The act instead requires the tests to be conducted by Department of Public Safety (DPS)-certified personnel. It requires that the tests be conducted and the devices checked in accordance with DPS, rather than DPH, regulations and requires the DPS commissioner to consult with the DPH commissioner in developing those regulations. It eliminates the requirement that the regulations require annual recertification of device operators. It bars the regulations from requiring recertification of a peace officer because he leaves one department and starts work for another. It requires them to cover the drawing or obtaining of blood, breath, and urine samples as the DPS commissioner finds necessary to protect the health and safety of arrested persons and to insure accuracy in testing. And, it requires the commissioner to determine the reliability of analytic, as well as testing, devices and methods.

The act requires evidence be presented that the test began within two hours of the operation of the boat (even in firearms cases). It establishes a rebuttable presumption that the test results establish the person's BAC at the time of the alleged offense. But evidence must be submitted demonstrating this relationship if the persons second test result (1) indicates a BAC of .10% or less and (2) is higher than the results of his first test. By law, a second test must be performed at least 30 minutes after the initial test. The act also permits a peace officer with reasonable cause to request an additional chemical test (different from the type first used to detect alcohol) to detect the presence of a drug or drugs other than or in addition to alcohol.

The act also requires the state to pay reasonable charges of a doctor who, at the request of a municipal police department, takes a blood sample for the purposes of these provisions.

Penalties

Under prior law, a person operating a boat or water skiing under the influence was subject to a fine of \$100 to \$500. The act (1) increases the fine, (2) requires imprisonment or community service, (3) requires the suspension of the boater's certificate for a first offense, and (4) eliminates the penalty for water skiing. It establishes enhanced penalties for second and subsequent offenses within 10 years of a prior conviction. All the prescribed penalties must be assessed. The new penalties are described in Table 2.

Table 2: Act's Penalties for Operating a Boat While Under the Influence

Offense	Fine	Prison/ Community Service (CS)	Suspension
First	\$500-\$1,000	Up to six months, 48 consecutive hours non-suspendable OR probation and 100 hours CS	One year
Second	\$1,000-\$4,000	Two years, 120 consecutive days non-suspendable AND probation and 100 hours CS	Three years, or until he turns age 21, which-ever is longer
Third or subsequent	\$2,000-\$8,000	Three years, one year non-suspendable AND probation and 100 hours CS	Permanent revocation

The suspension for a boater who is under age 18 is for the period specified above, or until he turns age 18, whichever is longer. (Thus, the certificate of a 17-year-old convicted of a second offense will remain suspended until he turns age 21).

A suspension goes into effect when the period for appealing the conviction ends. The suspension is stayed during an appeal. Within two business days of a suspension taking effect, the defendant must mail or deliver his safe boating or personal watercraft operation certificate.

The act requires anyone whose certificate is suspended for boating or reckless boating under the influence to attend an alcohol education and treatment program. It also makes a conforming change.

The act parallels driving under the influence laws by allowing first-time offenders to attend a pretrial alcohol education and prevention program. (This option is not available if someone was seriously injured or killed, unless good reason is shown.) By law, the pretrial option allows an offender to have his record closed to the public after swearing under oath in open court that (1) he has not had the program invoked on his behalf within the preceding 10 years, (2) if under 21 and charged under the .02% BAC standard, he has never previously had the program invoked on his behalf for any driving while intoxicated charge, and (3) he has not been convicted of either of the felonies of causing someone's death or serious physical injury while operating a motor vehicle while under the influence of alcohol or drugs. The person must pay the court an application fee of \$50 and a nonrefundable evaluation fee of \$100. The court must order the file sealed from the public. After considering the prosecutor's recommendation,

the court may grant the application.

RECKLESS BOATING

The act modifies the scope and increases the penalty for reckless boating under the influence. Under prior law, a person was guilty of this crime in the 1st degree if he (1) operated a boat while under the influence (i.e., had a BAC of .10% or higher) and (2) killed or seriously injured someone or caused more than \$1,000 in property damage. The act eliminates the specific BAC standard for operating under the influence and extends the law to cover cases in which the boater has an elevated BAC. It also raises the property damage threshold to \$2,000. Under prior law, the penalty for this crime was a fine of \$500 to \$1,000, imprisonment for up to one year, or both. The act increases the fine to \$2,500 to \$5,000 and the prison term to up to two years.

Under prior law, the crime of reckless operation in the 2nd degree applied to people who operated boats while under the influence (.10% BAC) in a way that endangered another person's life, limb, or property. The act extends this provision to people boating with an elevated BAC. Under prior law, the penalty was a fine of \$250 to \$500, imprisonment for up six months, or both. The act increases the fine to \$500 to \$1,000.

Under prior law, a boat that was operated by a person arrested for 2nd degree reckless boating under the influence had to be impounded for 24 hours after the arrest. The act allows, instead of requires, boats to be impounded for 48 hours or more. It extends this option to any boat whose operator was arrested for 1st degree reckless boating under the influence after being involved in a boating accident.

By law, evidence that a defendant in a boating under the influence incident refused to submit to an alcohol test is admissible, and the court must instruct a jury about what inferences may or may not be drawn from the refusal. The act extends these provisions to reckless boating under the influence prosecutions.

POWERS OF LAW ENFORCEMENT OFFICERS

By law, a wide variety of officers can stop and board any boat moored or underway to determine compliance with boating laws. They include harbormasters, conservation officers, special police officers, voluntary auxiliary force members, municipal police, and state and local

police officers. The act authorizes only peace officers to determine compliance with the laws that bar operating a boat or reckless boating under the influence, thereby excluding harbor masters and deputy harbor masters. It also eliminates voluntary police auxiliary members from those who may enforce boating laws.

For reckless boating in the 2nd degree, the act allows a peace officer authorized to enforce the boating laws to take the arrested person's boat. This is a separate offense from reckless boating under the influence in the 2nd degree and covers such things as operating a boat beyond its carrying capacity. The act extends to such boats the laws that apply to boats taken pursuant to arrests for other boating laws. Among other things, they (1) make the expenses incurred by the officer and the marina where the boat is stored a lien on the boat and (2) allow the marina owner to sell the boat if it is not claimed within 60 days.

The act allows any boat involved in an accident resulting in death, serious injury, a missing person, or property damage greater than \$2,000 to be seized for the collection of evidence. It allows such boats to be held until the accident investigation or court proceedings are over. It also allows the trailer used to transport the boat to be impounded to facilitate the boat's transportation and handling.

It also makes minor conforming changes.

Record Keeping

The act requires the courts to keep a record of boating law violations. The court must send a summary of each case record to the DEP commissioner within five days of a conviction, forfeiture, *nolle*, or other disposition. The summary must include the operator's safe boating certificate or certificate of personal watercraft operation number. By law, the court must notify DEP within 30 days of boating under the influence convictions. The act requires notice as well of 1st and 2nd degree reckless boating under the influence. The DEP commissioner must suspend the certificate for the applicable period specified in the act.

The act also requires the Court Support Services Division to send DEP a record of people who satisfactorily complete the pretrial alcohol education required under the act for boating or reckless boating under the influence. DEP must keep the record for seven years as part of the person's boater certification record.

BOAT REGISTRATIONS AND REGISTRATION DECALS

By law, the operator of a vessel in state waters that is not properly registered or numbered is subject to a fine of (1) between \$25 and \$200 for a first offense and (2) between \$200 and \$500 for subsequent violations. The act specifies that a person who uses (1) another person's boat registration or registration decal or (2) a registration or registration decal on a boat other than the one to which it was issued is subject to up to a \$100 fine, up to 30 days' imprisonment, or both.

WATER SKIING MARK COURSE JUMP RAMPS

The act requires an informational hearing, instead of a public hearing, for a proposed marked course or jump ramp. It specifies that the DEP commissioner may issue or deny authorization for the course or ramp, and it specifically requires him to consider its direct environmental impact.

The act also (1) allows the commissioner to impose conditions necessary to protect public safety, welfare, or the environment when he authorizes a marked course or jump ramp and (2) requires municipalities to obtain written authorization to have them.

BACKGROUND

Right to Operate a Vessel That Requires a Safe Boating Certificate for Operation

By law, no resident of the state or person owning real property or a vessel in the state may operate a vessel on state waters unless he has obtained a DEP safe boating certificate. The law exempts from this requirement people with valid vessel operator's licenses issued by the U.S. Coast Guard. (Such people still must obtain a personal watercraft certificate.) Boaters buying new or used boats must obtain a safe boating certificate within six months, and may apply for a temporary certificate in the interim.

Related Act

PA 03-202, among other things, directs court clerks to notify the DEP commissioner of minor boating safety convictions, rather than send him a certified copy of the conviction.

PA 03-248—sHB 6682

Environment Committee

Energy and Technology Committee

Finance, Revenue and Bonding Committee

**AN ACT CONCERNING SITING COUNCIL
REVIEW OF APPLICATIONS FOR
CERTAIN ELECTRIC TRANSMISSION
LINES**

SUMMARY: This act creates a presumption that certain electric transmission line proposals will meet applicable Connecticut Siting Council standards for approval.

By law, the council applies different standards in approving (1) overhead or (2) underground and underwater lines. The council cannot approve an overhead line unless it finds it is needed to ensure the reliability of the state's electric supply (the "public need" standard). It cannot approve an underground or underwater line unless it finds it necessary either (1) for the reliability of the state's electric supply or (2) to develop a competitive market for electricity (the "public benefit" standard).

This act creates a presumption that certain overhead lines will meet the public need standard and that certain underground lines will meet the public benefit standard. A party or intervenor to the council proceedings may present evidence to rebut (overcome) this presumption. The act affects plans for any transmission line with a capacity of 345 kilovolts or more, submitted on or after May 1, 2003, that propose placing the line underground in residential areas and overhead in industrial and open space areas.

EFFECTIVE DATE: Upon passage

PA 03-250—sHB 6546

Environment Committee

Judiciary Committee

**AN ACT CONCERNING VICARIOUS
LIABILITY FOR PERSONS RENTING OR
LEASING CERTAIN MOTOR VEHICLES**

SUMMARY: By law, anyone who rents or leases a motor vehicle he owns to another person is liable for personal or property damage caused by the vehicle's operation to the same extent the operator would have been had he owned the vehicle.

This act exempts from this law people who lease private passenger vehicles to others, if the total lease term is for one year or more and the

vehicle is insured for bodily injury liability for at least \$100,000 per person and at least \$300,000 per occurrence at the time the damages are incurred. This exemption applies to (1) private passenger cars; (2) station wagons; (3) campers; (4) truck-type vehicles with a gross vehicle weight of less than 10,000 pounds that are registered either as passenger cars, as passenger and commercial vehicles, or used for farming purposes; and (5) commercially registered vehicles as defined by law. The act specifically excludes from this exemption (1) motorcycles and (2) a motor vehicle used as a public or livery conveyance.

The act also exempts from liability people who rent to others trucks, tractor trailers and tractor trailer units with a gross vehicle weight of 10,000 pounds or more if (1) the lease or applicable contract term is for one year or more and (2) the loss or claim is insured by any combination of coverage, through an insurer, for at least \$2 million.

The act exempts from double or treble damages the owner of a rental or leased motor vehicle who was not operating the vehicle when the damages occurred. By law, a court can award double or treble damages if an injured party has pleaded that another party has deliberately or recklessly operated a motor vehicle in any of the following ways, and that such a violation was a substantial factor in causing injury, death, or property damage: (1) traveling unreasonably fast, (2) speeding, (3) driving recklessly, (4) operating under the influence of drugs or liquor or while having an elevated blood alcohol content, (5) illegally driving in the wrong lane, (6) passing in a no-passing zone, (7) illegally driving across a highway dividing strip, (8) driving the wrong way on a one-way street or rotary, or (9) failing to drive a reasonable distance apart.

The act applies to causes of action that arise on or after October 1, 2003.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Insurance Coverage

To register a motor vehicle in Connecticut, an owner must have proof of financial responsibility to satisfy claims for damages of \$20,000 for a single personal injury or death, \$40,000 for more than one personal injury or death occurring in one accident, and at least \$10,000 for property damage. Each policy must provide insurance with limits no less than these.

PA 03-263—sSB 1018*Environment Committee**Energy and Technology Committee**Finance, Revenue and Bonding Committee**Appropriations Committee***AN ACT CONCERNING THE PROTECTION OF LONG ISLAND SOUND****SUMMARY:** This act:

1. bars the agriculture department and certain other state agencies from making agreements with parties to Connecticut Siting Council hearings and proceedings concerning certificate applications that require the agencies to refrain from participating in, or withdrawing from, the proceedings;
2. requires the council to consult with, and solicit written comments from, the agriculture department before holding a hearing;
3. requires fishermen leasing shellfish beds from the state or fishing shellfish beds designated or granted by towns to make a good faith effort to cultivate and harvest them;
4. prohibits shellfishermen from entering into contracts in which they agree not to cultivate or harvest the beds, or from agreeing with a third party not to carry out their lease obligations, without the approval of, in the case of the state, the agriculture department and attorney general, and, in the case of the towns, the shellfish commission or selectmen;
5. requires that utility line or public use structure owners whose projects impact a shellfish bed pay the shellfisherman the costs of removing or relocating the shellfish;
6. authorizes the Department of Environmental Protection (DEP) commissioner, when considering an application to dredge; build any structure; or place any fill in the state's coastal, tidal, or navigable waters, to hold a public hearing if he believes it will serve the public interest;
7. requires him to hold such a hearing if at least 25 people request it, and certain other conditions are met; and
8. adds the attorney general and agriculture department to the list of state and town officials the DEP commissioner must notify before acting

on a dredging application.

By law, the siting council must find a public need exists before approving gas pipelines, above-ground electric transmission lines, and substations. The act requires the siting council, in deciding if there is a public need for an energy facility, to determine if it is needed for the reliability of electric power in the state.

EFFECTIVE DATE: Upon passage

SHELLFISH BED LEASES

By law, the agriculture commissioner and certain towns, including Branford, may lease, designate, or grant shellfish beds in their respective jurisdictions for cultivation and harvest.

For state-leased beds, the act requires the lease to require the lessee to make a good faith effort to cultivate and harvest the beds and bars him from entering into a contract in which the lessee agrees not to engage in such activities. The act bars the lessee from entering into an agreement with a third party that would prevent him from carrying out the lease terms unless the agriculture department and the attorney general approve it. The act imposes similar requirements for those who fish town-designated, or in the case of Branford, town-granted shellfish beds. In these cases, it bars shellfishermen from entering into contracts that require them to refrain from cultivating or harvesting, except with the selectmen's or shellfish commission's approval.

The act requires that utility line or public use structure owners whose projects impact shellfish beds pay the shellfisherman's removal and relocation costs. This requirement supersedes all other laws. But such a payment does not bar the state; shellfish board; selectmen; or the lessee, grantee, or designee, as applicable, from recovering damages they incur because of the installation, construction, or presence of the utility line or public use structure. The act does not define "public use structure."

DREDGING HEARING

The act adds the attorney general and agriculture department to the list of state and town officials the environmental protection commissioner must notify before approving or denying an application for a permit to dredge; erect any structure; or place any fill, obstruction, or encroachment in the tidal, coastal, or navigable waters of the state waterward of the high tide line.

It authorizes the commissioner, when considering an application to dredge; build any structure; or place any fill in the state's coastal, tidal, or navigable waters, to hold a public hearing if he believes it will serve the public interest. It requires him to hold such a hearing if at least 25 people request it and an application will (1) significantly affect any shellfish area, as determined by the agriculture department's aquaculture bureau; (2) have interstate ramifications; or (3) involve a project that requires a siting council certificate or Federal Energy Regulatory Commission (FERC) approval.

A proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for a hearing is a contested case under state law. Such a hearing is subject to laws governing notice, the conduct and record of the hearing, the final decision, and appeals.

BACKGROUND

Certificate of Environmental Compatibility and Public Need

By law, a certificate is required to build or modify fuel pipelines, electric transmission lines, or generating plants and substations, as well as certain other facilities.

FERC Approval

FERC approves the location and construction of interstate gas pipelines and approves rates for the wholesale sale of electricity and transmission of electricity in interstate commerce.

Related Acts

PA 03-140 substantially amends the siting process for energy infrastructure.

PA 03-248 creates a rebuttable presumption that certain electric transmission line proposals meet council standards for approval.

PA 03-148 extends until June 3, 2004 a moratorium on state agency consideration of, or final decisions on, any electric power line, gas pipeline, or telecommunications crossing Long Island Sound requiring siting council or FERC approval.

PA 03-276—sSB 1157

Environment Committee

Public Safety Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING MINOR REVISIONS TO THE ENVIRONMENTAL PROTECTION PROVISIONS

SUMMARY: This act:

1. requires warning labels, by July 1, 2004, on packaging for high-intensity discharge lamps containing mercury;
2. allows non-resident, active, full-time members of the armed services to purchase firearm permits to hunt deer and bow-and-arrow permits to hunt deer and small game for the same fee as state residents, expands the type of ammunition hunters may use in muzzle-loading rifles, and requires that bow hunters use a bow and arrow with a draw weight of at least 40 pounds to obtain a Department of Environmental Protection (DEP) bow-and-arrow deer hunting permit;
3. prohibits anyone from operating a snowmobile or all-terrain vehicle (ATV) on any land, rather than just fenced farmland or posted land, without the owner's written permission, and requires the operator to carry the written permission on his person while operating the vehicle;
4. tightens the requirements petitioners must meet when asking the DEP commissioner to hold a hearing on whether to allow a regulated activity on a wetland;
5. requires that the commissioner state the differences between proposed state regulations and existing federal standards and procedures when he gives notice of the proposed regulations, rather than at the public hearing;
6. stays for one year the assessment of administrative costs and interest for certain people on whose property is located a home from which DEP had lead paint removed in 2002; and
7. makes technical changes.

EFFECTIVE DATE: July 1, 2003, except for the provision concerning lead paint removal, which is effective upon passage.

LABELING PRODUCTS THAT CONTAIN MERCURY

By law, products containing mercury must be labeled beginning July 1, 2004. The act specifies that labeling appear on packaging for high intensity discharge lights that contain mercury, such as streetlights, floodlights, and industrial lighting. Labels on packaging must be clearly visible and inform the buyer that mercury is present and that the product should be properly disposed of or recycled.

HUNTING

Permit Fees

The act allows nonresident, active, full-time members of the armed forces to purchase firearms permits to hunt deer and bow-and-arrow permits to hunt deer and small game for the same fee as residents. The firearms permit fee is \$14 for residents and \$50 for nonresidents. The bow-and-arrow fee is \$30 for residents and \$100 for nonresidents.

Muzzle-Loading Ammunition

The act allows hunters using muzzle-loading rifles to fire projectiles, rather than musket balls. Projectiles the act allows include standard round ball, mini-ball, maxi-ball, and Sabot bullets (bullets encased in plastic containers). By law, muzzle-loading rifles or shotguns are at least .45 caliber; incapable of firing a self-contained cartridge; and use powder, ball, and wadding loaded separately at the weapon's muzzle end.

Rifle cartridges may be either centerfire or rimfire, depending on where the priming compound is located. The act eliminates language defining a rifle as a gun that fires centerfire ammunition only.

Bow-and-Arrow Permit

To obtain a DEP bow-and-arrow permit to hunt deer, the act requires that hunters use a bow with a draw weight of at least 40 pounds. Under prior law, hunters had to use a bow capable of shooting a hunting arrow weighing at least 400 grains 150 yards over level ground.

WETLANDS PERMIT HEARING

By law, the commissioner must hold a hearing on a plan to conduct a regulated activity

on a wetland if 25 people request it. The act requires the petitioners to be (1) at least 18 years old and (2) residents of the town in which the regulated activity is proposed. Regulated activities include the draining, dredging, removing, dumping, filling or depositing of soil, stones, sand or gravel; erecting structures; and placing obstructions.

NOTICE OF PROPOSED REGULATIONS

By law, the commissioner, in adopting regulations that differ from federal standards, must indicate those differences either in the proposed regulations or in accompanying documentation. The act requires that he provide this information when he gives notice of the proposed regulations, rather than at the hearing. He must provide an explanation of the differences to the public at the time notice is required.

LEAD PAINT REMOVAL

By law, anyone who directly or indirectly pollutes the state's land or waters, or causes a toxic waste spill, is liable for the costs and expenses of clean up, plus (1) administrative costs of 10% of the actual cost and (2) 10% annual interest on the actual cost, 30 days from the date the state seeks such costs and expenses. The act stays for one year from the date such costs are sought the assessment of (1) administrative costs and (2) interest from a responsible party who owns property on which there is a residential dwelling from which DEP removed lead paint between January 1, 2002 and December 31, 2002. A licensed contractor must have removed the lead paint.

PA 03-277—HB 6683

Environment Committee

AN ACT CONCERNING MYOFASCIAL TRIGGER POINT THERAPY ON ANIMALS

SUMMARY: This act allows people with experience performing myofascial trigger point therapy who practice it on animals to do so without violating the ban on practicing veterinary medicine without a license.

The act defines "myofascial trigger point therapy" as the use of specific palpation (examining by touch), compression, stretching,

and corrective exercise for promoting optimum athleticism. It defines “experienced people” as those who, before October 1, 2003, have attended at least 200 hours of classroom, lecture, and hands-on practice in myofascial trigger point therapy, including:

1. animal musculoskeletal anatomy and biomechanics,
2. theory and application of myofascial trigger point therapy technique,
3. factors that cause a condition to reoccur, and
4. corrective exercise.

EFFECTIVE DATE: October 1, 2003

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-107—sHB 6625

*Finance, Revenue and Bonding Committee
Judiciary Committee*

AN ACT CONCERNING CERTAIN ADMINISTRATIVE PROCEDURES OF THE DEPARTMENT OF REVENUE SERVICES

SUMMARY: This act:

1. allows the Department of Revenue Services (DRS) commissioner to place tax liens on intangible items owned by delinquent taxpayers,
2. allows taxpayers to pay taxes with debit and charge cards as well as credit cards,
3. eliminates certain paperwork filings related to the real estate conveyance tax,
4. restricts employer refunds for income tax withholding overpayments,
5. allows taxpayers to appeal DRS jeopardy assessments,
6. allows DRS to require use of rounded whole numbers on tax filings, and
7. eliminates several obsolete statutory provisions and makes a technical change.

EFFECTIVE DATE: Upon passage, except for the tax liens on intangible property, which are effective July 1, 2003.

TAX LIENS ON INTANGIBLE PROPERTY (§ 1)

The act authorizes the DRS commissioner to place tax liens against a delinquent taxpayer's Connecticut intangible property as well as on his "goods." Under the act, the commissioner can place liens for unpaid taxes on accounts, chattel paper, instruments, documents, investment property, deposit accounts, commercial tort claims, and general intangibles, as defined in the Uniform Commercial Code, that the taxpayer owns or later acquires. Such items include certain rights or claims to monetary payments, bank accounts, security interests, investments, and software.

The act also expressly allows the commissioner to file a lien against a debtor in both this state and in another if she decides it would benefit Connecticut.

TAX PAYMENTS BY CHARGE AND DEBIT CARD (§ 2)

The act allows taxpayers to use debit and charge cards, as well as credit cards, to pay taxes, penalties, interest, and fees. It extends to such cards the DRS commissioner's existing authority to charge a service fee, not exceeding the card issuer's charge, on payments with them.

REAL ESTATE CONVEYANCE TAX RETURNS FOR CERTAIN EASEMENTS (§ 3)

The act eliminates the requirement to file a real estate conveyance tax return with the appropriate town clerk when the state, a political subdivision, or any agency of the state or a political subdivision is a party to the conveyance and the only thing being conveyed is an easement. Such conveyances are already exempt from the tax.

REFUNDS OF EMPLOYER WITHHOLDING TAX PAYMENTS (§ 4)

By law, employers must withhold, and pay to DRS quarterly, income taxes on wages they pay their employees. Employers are liable for these payments whether or not they withhold the correct amount. Beginning on or after January 1, 2003, the act limits an employer's refund or credit for overpaying income taxes on employee wages to the amount he failed to withhold from an employee's pay. (The employee receives the refund for excess amounts actually withheld.)

INCOME TAX JEOPARDY ASSESSMENT APPEALS (§ 5)

The act allows taxpayers aggrieved by a DRS income tax jeopardy assessment to appeal the commissioner's determination or disallowance under the assessment to the New Britain Superior Court within one month of receiving it according to the same appeal procedures that already apply to deficiency assessment and refund determinations and disallowances. By law, the commissioner can demand immediate payment of personal income taxes when he believes a delay will jeopardize collection of the tax. Such a jeopardy assessment becomes final 10 days after notice is served on the taxpayer unless the taxpayer files a written protest with the commissioner within that

time.

USE OF ROUNDED NUMBERS ON TAX FILINGS (§ 6)

The act allows the revenue services commissioner to require taxpayers to use only rounded, whole numbers when entering amounts on any required tax returns, statements, and other documents. Under the act, she may choose to disregard fractional amounts entirely, or only fractional amounts of 50 cents or more which would be rounded up to whole dollars. But these provisions, which are applicable to tax returns first filed on or after January 1, 2004, do not apply to figures used to compute amounts that must be entered on tax forms, only to final amounts.

OBSOLETE PROVISIONS (§§ 7-11)

The act eliminates obsolete provisions:

1. defining “charter” and “special operations” for purposes of the motor carrier road tax in conformity with 1995 changes in the definition of motor carriers subject to the tax (§ 7);
2. allowing DRS to establish and enforce information-sharing agreements with New York or other out-of-state tax jurisdictions if needed to secure tax advantages for Connecticut residents under the other jurisdictions’ laws (§§ 8-11);
3. allowing Connecticut employers of out-of-state residents to withhold another state’s taxes from their wages according to specified procedures, a redundant provision also covered by CGS § 12-706 (§§ 8-11); and
4. allowing a passenger motor carrier subject to the motor vehicle road tax and that provides a small amount of special or charter services in addition to its regularly scheduled services to exclude the special services from its quarterly tax returns (§ 11).

PA 03-120—sHB 6629

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE RESEARCH AND DEVELOPMENT TAX CREDIT EXCHANGE PROGRAM

SUMMARY: This act temporarily reinstates eligibility for research and development (R&D) corporation tax credit refunds for companies that pay the alternative capital base corporation tax for a year when they report no net income. By law, all companies must pay a tax of 7.5% of net income or 3.1 mills per dollar of capital base, whichever is higher, but no less than \$250. Thus, the minimum tax a corporation pays is either \$250 or the alternative capital base tax, whichever is more.

The R&D credit refund program entitles certain companies to cash refunds for 65% of the value of unused corporation tax credits for R&D expenses. The program originally required eligible companies to have no corporation tax liability, but a 2002 law barred companies from using credits to reduce their annual corporation tax below \$250, making it impossible to have no liability. A subsequent law preserved eligibility for qualifying companies owing only the \$250 minimum tax, but did not address companies without net income that were still required to pay more than \$250 in alternative capital base taxes, even though they had formerly been eligible for refunds. For the 2002 income year only, this act reinstates eligibility for such companies.

EFFECTIVE DATE: Upon passage and applicable to income years starting on or after January 1, 2002.

BACKGROUND

Capital Base

For corporation tax purposes, a company’s capital base is the sum of the average value of its issued and outstanding capital stock, surplus and undivided profit, and surplus reserves, minus the average value of deficits and stockholdings in private corporations.

PA 03-147—sSB 1137

Finance, Revenue and Bonding Committee

AN ACT CONCERNING SALES TAX BOND REQUIREMENTS FOR NONRESIDENT CONTRACTORS

SUMMARY: This act changes the requirements for posting security to guarantee that Connecticut taxes are paid when a nonresident (out-of-state) contractor carries out a contract in Connecticut. It also extends the security requirements to all business dealings with nonresident contractors,

not just contracts where tangible personal property is consumed or used. It thus applies tax security requirements to contracts with nonresident contractors that involve only services.

The act requires a customer dealing with a nonresident contractor to withhold a share of the contract price and pay it to the Department of Revenue Services (DRS) commissioner. It requires DRS to deduct from the customer's deposit any taxes due as a result of the contractor's activities and eliminates the customer's liability for taxes payable on the project once he makes the deposit and gets a DRS receipt for it.

The act eliminates (1) a provision requiring the nonresident contractor instead of the customer to post security and (2) the option of posting a bond rather than depositing part of the contract price. It also eliminates lower security requirements for customers who are direct pay permit holders. (Direct pay permit holders pay sales and use taxes directly to DRS rather than through vendors.)

Finally, the act changes the deadlines for posting security and defines a nonresident contractor for purposes of the tax security requirements.

EFFECTIVE DATE: July 1, 2003 and applicable to contracts entered into on or after that date.

SECURITY REQUIREMENTS

Under prior law, a nonresident contractor entering into a contract with a Connecticut customer that involved use or consumption of tangible personal property had to post security to guarantee that applicable Connecticut taxes would be paid. The contractor had to either deposit a percentage of the contract amount or post an equivalent bond with the DRS commissioner when the contract began. When the contractor provided the security, it received a DRS certificate. The required security percentages were 5% of the contract amount for contracts with customers who did not have direct pay sales tax permits and 2% for contracts with those that did.

A customer dealing with a nonresident contractor on such a contract had to get a copy of the DRS certificate or else either deduct a percentage of the contract amount and deposit it with the commissioner or furnish the commissioner with its own bond. The customer had to provide the required security within 90

days or, in the case of shorter contract within 45 days, after the contract started.

The act eliminates the requirement for the contractor to post the security, either through a deposit or a bond and also the option for the customer to post a bond in lieu of withholding part of the contract payment. Instead, in every case, it requires the customer to withhold part of the contract price and deposit it with the commissioner. It establishes a standard 5% withholding for everyone, eliminating the 2% security requirement for direct pay permit holders. It also changes the deadline for the customer to remit the deposit to the commissioner from 45 or 90 days after the contract starts to 30 days after it is completed.

TAX LIABILITY

Under prior law, any customer of a nonresident contractor who failed to either (1) obtain a copy of the contractor's security certificate or (2) post the required security with the commissioner, was personally liable for paying any sales or use taxes due on items used in carrying out the contract. The act eliminates this provision and instead requires the commissioner to give the customer a receipt for the required deposit. Once the commissioner issues the receipt, the act relieves the customer of any liability (1) to the nonresident contractor for the deposit amount or (2) for any claim from the commissioner for taxes attributable to the contractor's activities on the project.

The act requires the contractor to make a written request that the DRS commissioner audit his records for the project and, after the commissioner receives the request, requires her to issue a certificate that the contractor either does or does not owe taxes. In the former case, she must give the full security deposit to the contractor. In the latter, the act allows her to give the contractor any part of the deposit that exceeds the taxes due plus any interest or penalties.

NONRESIDENT CONTRACTOR DEFINITION

Under the act, a nonresident contractor is one who does not continuously maintain or occupy any Connecticut office, factory, warehouse, or other space where it regularly and systematically does business in its own name through employees in regular attendance there. Contractors with only a statutory agent for

service of process or a temporary office at a construction site in Connecticut are considered nonresident contractors. Prior law did not define "nonresident contractor."

PA 03-225—sHB 6624

Finance, Revenue and Bonding Committee

AN ACT CONCERNING VARIOUS TAXES ADMINISTERED BY THE DEPARTMENT OF REVENUE SERVICES

SUMMARY: This act:

1. gives the Department of Revenue Services (DRS) commissioner more time to assess taxes against taxpayers who file for bankruptcy on or after July 1, 2003;
2. clarifies the carry-forward provisions of the research and development (R&D) credit against the corporation tax for biotechnology companies;
3. subjects roll-your-own tobacco to the tobacco products tax rather than the cigarette tax;
4. specifies a minimum type size for tax warnings in advertisements for untaxed cigarettes that appear in Connecticut;
5. requires someone buying a cigarette distributor's business or inventory to withhold money from the purchase price to cover any unpaid cigarette taxes;
6. disallows the "sale for resale" sales and use tax exemptions when a purchaser of taxable services resells them to an affiliate;
7. relaxes qualifications for fishermen's sales tax exemptions;
8. restricts certain motor fuel tax refunds to taxes paid on fuel used in Connecticut;
9. eliminates overlapping state income tax deductions for Social Security and railroad retirement benefits;
10. to match federal law, phases down required annual depreciation add-backs to Connecticut adjusted gross income (AGI) for those with S corporation income subject to the personal income tax;
11. exempts certain terrorist victims from liability for additional income tax due in 2001 attributable to the 2000 tax year;
12. expands the commissioner's authority to require taxpayers to pay taxes electronically and to file tax returns, statements, and documents by computer or other new technology as it is developed;
13. allows the attorney general to delegate to the DRS commissioner authority to appoint an attorney to represent her in whatever types of Superior Court appeals of her decisions are specified in a memorandum of understanding the commissioner and the attorney general may conclude;
14. restricts the interest a court may order the state to pay when granting equitable relief on an appeal under state tax laws and the tax has already been paid;
15. increases business tax credits for investments in certain programs under the Neighborhood Assistance Act and in day care facilities primarily for employees' children from 40% to 60% of the amount invested; and
16. eliminates obsolete provisions and makes technical changes.

EFFECTIVE DATE: Various, see below.

TIME LIMIT FOR MAKING TAX ASSESSMENTS IN BANKRUPTCY CASES (§ 1)

The act gives the revenue services commissioner more time to make tax assessments against any taxpayer who files for Chapter 11 bankruptcy on or after July 1, 2003. Under prior law, which under the act still applies to Chapter 11 bankruptcy cases filed between October 1, 1999, and June 30, 2003, statutory time limits for making tax assessments are suspended while a case prevents the commissioner from making an assessment and for 60 days afterwards. Under the act, for cases filed on or after July 1, 2003, tax assessment time limits do not run while the case is pending and for 120 days afterwards.

EFFECTIVE DATE: July 1, 2003

R&D CREDIT FOR BIOTECHNOLOGY COMPANIES (§ 2)

By law, companies receive corporation tax credits for 20% of increased R&D expenditures over the previous year. This act makes it clear that biotechnology companies that were eligible to carry forward unused R&D credits from the

1997 through 1999 income years for up to 15 years may still do so. It does so by restoring provisions of a 1996 law that allowed the carry-forwards.

PA 96-252 gave biotechnology companies the 15-year carry-forward starting with the 1997 income year. PA 98-110 extended the carry-forward provision to all types of companies starting with the 2000 income year but, in the process, eliminated the carry-forwards for the 1997 through 1999 income years.

EFFECTIVE DATE: Upon passage

TAX ON "ROLL-YOUR-OWN" TOBACCO (§§ 3 & 6)

The act subjects roll-your-own tobacco to the tobacco products tax rather than the cigarette tax, thus reversing PA 01-6, June Special Session, which switched roll-your-own tobacco to the cigarette tax as of January 1, 2002. The cigarette tax is 75.5 mills per cigarette (\$1.51 per pack). The tobacco products tax is 20% of the wholesale price. Under prior law, each .09 ounces of roll-your-own tobacco was considered one cigarette.

EFFECTIVE DATE: January 1, 2002

TAX WARNINGS IN ADVERTISEMENT FOR UNTAXED CIGARETTES (§ 4)

By law, written advertisements that appear in Connecticut offering to sell untaxed cigarettes for consumption here must include a warning that the cigarettes are subject to state taxes and can be seized as contraband. The act requires that the warning be printed in at least 14-point reverse type and in block form. Cigarette sellers who violate the advertising requirements are fined \$500 per offense.

EFFECTIVE DATE: July 1, 2003

SUCCESSOR LIABILITY FOR CIGARETTE TAXES (§ 5)

Requirements for Successors

The act requires someone buying a cigarette distributor's business or entire stock to withhold enough money from the purchase price to pay any cigarette taxes the distributor owes. (A distributor is a cigarette manufacturer, wholesaler, or retailer who operates five or more retail outlets or 25 or more cigarette vending machines.) The buyer must withhold the money until the seller provides either a DRS receipt

showing he has paid all cigarette taxes due or a DRS certificate stating that no taxes are due. If the buyer fails to withhold the money, he becomes personally liable for the unpaid taxes, up to the purchase price for the business or stock.

DRS Responsibilities

The act requires the DRS commissioner to issue a certificate stating that no taxes are owed or mail notice of the amount owed to the purchaser within 60 days of the latest of (1) the date the commissioner receives the purchaser's written request for a certificate, (2) the sale date, or (3) the date the former owner's records are made available for audit.

If the commissioner fails to mail the notice to the purchaser by the deadline, the purchaser need not withhold money. If there are taxes owed, the commissioner may issue a certificate after all taxes are either paid or payments are secured to her satisfaction.

Enforcing Successor Liability

The act allows the commissioner to enforce the successor's obligation for three years after either the sale date or the date the assessment against the seller becomes final, whichever is later. The act requires the commissioner, within three years of being notified of the transaction, to serve notice of successor liability on the purchaser in the same way she serves notice of a cigarette tax assessment, that is, through a tax warrant and a lien against the taxpayer's real estate in the state. The successor has 60 days from the date the notice is delivered or mailed to challenge the assessment by making a written request to the commissioner for a hearing, which the commissioner may or may not grant. The assessment becomes final 60 days after the notice is mailed, except for any amount subject to a written challenge.

EFFECTIVE DATE: July 1, 2003

RESALE OF TAXABLE SERVICES BETWEEN AFFILIATES (§§ 7 & 8)

The act further restricts sales and use tax exemptions for resale of taxable services between affiliated companies. Under prior law, taxable services were exempt only when bought as an integral and inseparable part of a taxable service that the purchaser resold to a third party.

The act also disallows the exemption for sales of (1) specifically enumerated services,

such as computer and data processing, management, advertising, maintenance, and public relations services, to a purchaser that will resell them in any form to an affiliate and (2) all other taxable services, such as telecommunications and cable TV service, to a purchaser that will resell them, unchanged, to an affiliate. Under the act, entities are considered affiliates when one owns a controlling interest in the other or the same parent business owns a controlling interest in both.

EFFECTIVE DATE: October 1, 2003, and applicable to sales and purchases occurring on or after that date.

FISHERMEN'S SALES TAX EXEMPTION (§ 9)

By law, sales of vessels, machinery, and equipment used exclusively for commercial fishing are exempt from the sales tax. The act relaxes the conditions a fisherman must meet to qualify for the exemption. It also requires fishermen to get exemption permits from DRS and requires the DRS commissioner to adopt regulations that require fishermen to register periodically for the permits.

Exemption Qualifications

To qualify for an exemption under prior law, a fisherman had to derive at least 50% of the total income reported on his federal tax return in the preceding year from commercial fishing. The act also allows a fisherman to qualify if his income from commercial fishing averaged at least 50% of his total income over the preceding two years.

Under prior law, the commissioner could grant an exemption to a fisherman who earned less than the required 50% of his income from commercial fishing in the preceding year if he satisfied the commissioner that he intended to carry on a commercial fishing business for at least two years. The act also allows the commissioner to issue an exemption to a person who was not previously engaged in the commercial fishing business if (1) in his current taxable year or the preceding one, he buys a commercial fishing business from someone who has an exemption permit and (2) carries on that business for two years after buying it.

Failure to Maintain Eligibility

Under both prior law and this act, a commercial fisherman is liable for back taxes if he fails to stay in the business for a two-year period. Under the act, for a person qualifying based on income earned from the business, the two years run from the date the commissioner issues an exemption permit rather than from the date the fisherman buys the boat or equipment. For new fishermen, the two years runs from the date they buy an existing commercial fishing business. As under prior law, a new fisherman who fails to stay in the commercial fishing business for at least two years, or any fisherman who fails to earn the minimum amount from commercial fishing over two years, is ineligible for a new exemption.

DRS Regulations

The act requires DRS to adopt regulations on the exemption permits. They must include a procedure for applying for a permit that (1) requires an applicant to sign a declaration under penalty of false statement and (2) contains notice of the penalty for misusing a permit.

EFFECTIVE DATE: October 1, 2003, and applicable to sales on or after that date.

MOTOR FUEL TAX REFUNDS (§ 11)

By law, motor fuel taxes are refundable on fuel used in (1) vanpool vehicles carrying between 10 and 15 people to and from work each day, (2) vehicles operated by livery services registered with the motor vehicles commissioner, and (3) vehicles delivering meals to senior citizens under a federally funded nutrition program approved by the DRS commissioner. The act specifies that, to receive the refund, the fuel must be used within Connecticut.

EFFECTIVE DATE: Upon passage

INCOME TAX (§ 13)

Social Security and Railroad Retirement Benefits

The act eliminates overlapping deductions for Social Security and Tier I railroad retirement benefits under the state income tax. When calculating Connecticut AGI for state income tax purposes, the law allows a taxpayer to subtract certain types of income included in federal AGI. Among the allowable deductions are (1) Tier I railroad retirement benefits and (2) Social

Security benefits for single filers with federal AGIs under \$50,000 and joint filers with federal AGIs under \$60,000. This act limits the deduction for railroad retirement benefits to the amount not subtracted under the Social Security deduction.

Bonus Depreciation Deduction

By law, individuals with income from an S corporation subject to the personal income tax must add back to their Connecticut AGI the amount of a federal bonus depreciation allowance on certain new property a business places in service between January 1, 2002, and September 9, 2004. (S corporations are small corporations that elect to be taxed as partnerships for federal income tax purposes.) This act allows a taxpayer to deduct 25% of the required add-back for each of the four taxable years after the first year to correspond to the annual reductions in the bonus depreciation specified in the federal tax law.

EFFECTIVE DATE: Upon passage and applicable to tax years starting on or after January 1, 2003.

TERRORIST VICTIMS – RELIEF FROM ADDITIONAL TAX DUE FOR THE 2000 TAX YEAR (§ 14)

By law, victims of the September 11, 2001, terrorist attacks and the 2001 anthrax attacks are exempt from Connecticut income taxes for 2001. If such a victim owed taxes for the 2000 tax year to another state that were abated, credited, or refunded by that state because the person was a terrorist victim, this act also exempts the victim from any Connecticut tax or interest due on the difference between the amount he is finally required to pay to the other state for 2000 and the credit he took against his 2000 Connecticut tax liability for taxes paid to that state.

EFFECTIVE DATE: Upon passage

ELECTRONIC FILING AND TAX PAYMENTS (§§ 16-18)

The act reduces the threshold above which the DRS commissioner may require taxpayers to pay taxes or transfer funds electronically from \$100,000 to \$50,000 starting July 1, 2003, and from \$50,000 to \$10,000 starting July 1, 2004. It also allows the commissioner to adopt regulations requiring certain taxpayers to file tax returns, statements, and other documents by

computer or by another new technology as it is developed, even if they are not required to pay their taxes electronically. Under prior law, the commissioner could require computer filings only from taxpayers who are also required to pay electronically.

EFFECTIVE DATE: July 1, 2003, for the \$50,000 electronic payment threshold and the computer filing requirement; July 1, 2004, for the \$10,000 electronic payment threshold. Changes apply to payments required on or after those dates.

AUTHORITY TO APPOINT ATTORNEY TO REPRESENT DRS IN CERTAIN APPEALS (§ 19)

The act allows the attorney general to delegate to the DRS commissioner the power to appoint an attorney to represent her in certain Superior Court appeals of her orders, decisions, determinations, or disallowances. It allows the attorney general and the commissioner to agree to a memorandum of understanding listing the types of appeals involved.

EFFECTIVE DATE: Upon passage

COURT-ORDERED INTEREST AS A RESULT OF TAX APPEALS (§ 20)

The act limits the Superior Court's power to order the state to pay interest on equitable relief the court grants in tax appeals when the state loses the appeal and the appellant has already paid the tax. In such situations, the act bars the court from ordering the state to (1) pay interest when the law under which the appeal was taken does not authorize the DRS commissioner to pay interest on overpayments of the particular tax or (2) pay more interest than the tax law under which the appeal was taken allows the commissioner to pay on overpayments.

EFFECTIVE DATE: Upon passage

TAX CREDITS FOR NEIGHBORHOOD ASSISTANCE ACT PROGRAMS AND DAY CARE CENTERS (§ 21 & 22)

The act increases credits against business taxes from 40% to 60% of any amount a business (1) invests in programs designated by municipalities under the Neighborhood Assistance Act that provide neighborhood assistance, education, community services, crime prevention, or construction or rehabilitation of dwellings for low- and moderate-income

families; (2) donates to a municipal fund for acquiring open space; (3) contributes to community-based alcoholism prevention and treatment programs; or (4) invests in day care facilities used primarily by its employees' children.

Businesses are already eligible for tax credits equal to 60% of their investments in job training and energy conservation programs designated under the Neighborhood Assistance Act.

EFFECTIVE DATE: July 1, 2003, and applicable to income years starting on or after January 1, 2003.

TECHNICAL CHANGES (§§ 10, 12, 13 & 15)

The act eliminates obsolete language for apportioning S corporation income between the corporation tax and the personal income tax. The apportionment applied while corporation tax liability for S corporations was being phased out. The phase-out was completed on January 1, 2001 (§ 13—effective upon passage and applicable to tax years starting on or after January 1, 2003).

The act also reenacts a provision of PA 01-6, June Special Session, concerning offsets against the insurance premium tax for insurance guaranty association assessments. The amendments enacted in PA 01-6, June Special Session, did not take effect because PA 01-67 had already deleted the underlying provision (§ 15—effective upon passage and applicable to calendar years beginning on or after January 1, 2001).

Finally, the act makes technical changes (§§ 10 & 12—effective upon passage).

PA 03-269—sSB 1098

*Finance, Revenue and Bonding Committee
Planning and Development Committee
Judiciary Committee*

AN ACT CONCERNING MUNICIPAL GRAND LISTS AND ASSESSMENT APPEALS, A PROPERTY TAX EXEMPTION FOR CERTAIN LEASED MOTOR VEHICLES, REVIEW OF CERTAIN MUNICIPAL CERTIFICATIONS RELATING TO PROPERTY REVALUATION AND A MUNICIPAL OPTION TO EXTEND CERTAIN PREVIOUSLY WAIVED PROPERTY TAX EXEMPTIONS AND VALIDATION OF THE ASSESSMENTS LISTS, ABSTRACTS

AND DETERMINATIONS OF THE BOARDS OF ASSESSMENT APPEALS IN THE TOWNS OF WARREN AND HARTLAND

SUMMARY: This act extends certain veterans' and armed forces members' property tax exemptions that formerly applied only to owned property to leased motor vehicles. It allows eligible recipients to receive tax refunds on leased vehicles, whether they paid the taxes directly or through their lease payments.

The act also:

1. allows applicants who miss filing deadlines for state-mandated and state-reimbursed five-year property tax exemptions for manufacturing or service facilities, certain machinery and equipment, and commercial trucks to apply to the local municipality rather than the General Assembly for deadline waivers, and bars a municipality from receiving any state payment in lieu of taxes for revenue losses from retroactive exemptions it grants;
2. allows towns to use any legal means, other than a tax lien, to collect delinquent property taxes from a state property lessee;
3. eliminates a \$5 fine for violating assessor procedural and certification requirements;
4. makes minor and clarifying changes in the law exempting a municipality from conducting its next scheduled revaluation if it can show through statistical calculations that the fair-market value of its properties is relatively stable;
5. reorganizes and clarifies laws concerning (a) compiling and publishing municipal grand lists, (b) taxing state property lessees, and (c) time extensions for assessors, boards of assessors, and boards of assessment appeals to complete their work; and
6. validates the Warren and Hartland assessment lists and abstracts and board of assessment appeals determinations with regard to their October 1, 2002 assessment lists, and allows the towns to collect taxes based on them.

EFFECTIVE DATE: Upon passage, except for the changes in laws concerning municipal grand lists and the elimination of the fine, which take effect July 1, 2003; and the extension of property tax exemptions to armed forces members' and

wartime veterans' leased vehicles, which takes effect October 1, 2003.

EXEMPTIONS FOR LEASED VEHICLES (§ 5)

Armed Forces Members

Under prior law, an active member of the U.S. armed forces was entitled to a property tax exemption for one passenger motor vehicle garaged outside of Connecticut that he owned or that was held in trust for him. This act extends the exemption to an armed forces member's leased vehicle garaged out-of-state and eliminates the requirement that the vehicle be a passenger vehicle.

The act requires an armed forces member claiming the exemption for a leased vehicle to receive a refund of the property tax on the vehicle, whether he paid the tax himself or the lessor paid it under the terms of the lease.

As under prior law, a person claiming the exemption must file a written application for it with the assessor or board of assessors in the town where the vehicle is registered by the December 31 following the tax due date. Under the act, once the assessor approves the claim, he must certify the refund amount and notify the tax collector, who must refer the certification to the town board of selectmen or the corresponding authority of any other type of municipality. Once they receive the certification, the selectmen or other authority must order the town treasurer to issue the refund.

Wartime Veterans

By law, wartime and disabled veterans, their surviving spouses, and under certain conditions, their minor children and parents, are entitled to exemptions of varying amounts for property they own or that is held in trust for them. This act extends the exemptions to such a person's leased motor vehicle.

It specifies that an eligible person is entitled to a refund of the tax paid on the vehicle, whether directly or through the lease payment. The refund equals the person's exemption, as specified in state law, multiplied by the applicable mill rate.

The procedure for applying for and issuing the refund is the same as described above for armed forces members. As is the case for the armed forces member exemption, an eligible person who fails to apply for the exemption by

the December 31 deadline waives his right to the exemption for that assessment year.

The leased vehicle exemptions apply to assessment years starting on or after October 1, 2003.

DEADLINE WAIVERS FOR EXEMPTIONS FOR MANUFACTURING MACHINERY AND EQUIPMENT AND COMMERCIAL TRUCKS (§ 10)

The act allows property owners who miss filing deadlines for state-mandated and state-reimbursed five-year property tax exemptions for manufacturing or service facilities, certain machinery and equipment, and commercial trucks to apply to the local municipality rather than the General Assembly for deadline waivers.

The law requires property owners to apply to local assessors for the exemptions by November 1 annually and also allows extensions of that deadline until December 15, with a late fee. The act allows a municipality, by vote of its legislative body, to grant the exemption to a property owner who missed both the regular and extension filing deadlines. The municipality may set criteria for granting the retroactive exemptions but the act requires the criteria to include (1) any hardship that may account for the applicant's failure to meet the deadlines and (2) whether the exemption provides a net benefit to the municipality's economic development.

The act bars a municipality from receiving any state reimbursement for revenue losses from retroactive exemptions it grants under the act.

The act covers property tax exemptions for (1) manufacturing or service facilities in distressed municipalities, targeted investment communities, or enterprise zones; (2) machinery and equipment in such facilities; (3) machinery and equipment used to upgrade a manufacturing process; (4) newly acquired machinery and equipment used in manufacturing and biotechnology facilities; and (5) large commercial trucks. The waiver applies to any assessment year.

MUNICIPAL REVALUATION EXEMPTION CHANGES (§§ 7-9)

By law, for revaluations required from October 1, 2003 to September 30, 2007, a municipality is exempt from conducting a scheduled revaluation if it provides statistical calculations and documentation that the fair market value of its properties is relatively stable.

A municipality must certify its exemption to the Office of Policy and Management (OPM) secretary, and an 11-member exemption review committee must evaluate its documentation and calculations.

The act (1) requires the review committee to analyze data the town considered and other data the committee considers necessary rather than data the town considered or should have considered; (2) excludes from the committee's mandatory review documentation on property sold for less than \$2,000; (3) allows, rather than requires, the committee to determine if the town assessor made necessary and appropriate sales price adjustments; (4) specifies that the adjustments must be made only for sales included as market sales; (5) requires the committee to determine not only whether the town met the law's requirements in its calculations but also whether the results of the calculations support the town's exemption; (6) requires the town's exemption certification form to be subject to the OPM secretary's approval; and (7) specifies that a town's failure to complete the required documentation in a timely fashion constitutes a waiver of its right to an exemption.

The act lowers the standard for the OPM secretary to impose a monetary penalty on a town by eliminating a requirement that OPM show that a town deliberately disregarded the law in order to subvert revaluation requirements. Instead, it allows the secretary to impose a penalty on a town that either disregards the law or fails to make a timely and good faith effort to implement revaluation on the date for which the secretary rescinded its exemption certification. Under the act, a town is considered to have disregarded the law if (1) it submits a revaluation exemption certification with calculations that do not satisfy the exemption criteria or (2) the data on which the town based its certification does not support its calculations.

The act's changes apply to exemption certifications made on or after April 1, 2003.

MUNICIPAL GRAND LISTS (§ 1)

The act reorganizes and clarifies the law concerning requirements for compiling and publishing municipal grand lists. It:

1. expressly requires that each member of a board of assessors, as well as each assessor, who signs a grand list be certified by the OPM secretary;

2. makes it clear that notices of increased valuations for personal property other than motor vehicles, as well as for real property, must be sent to the last-known address of the affected owner;
3. requires the grand list to reflect penalties for failure to file required declarations of leased, as well as owned, personal property; and
4. removes references to the signing and publication of a grand list "abstract" and makes it clear that it is the grand list itself that the assessors must sign and publish.

STATE-OWNED PROPERTY LEASED FOR NONGOVERNMENTAL PURPOSES (§ 2)

By law, anyone who leases state-owned land, buildings, or air-rights easements for nongovernmental purposes must pay property taxes on the assessed value of the portion of the property he leases. The act allows a town to use any legal means, other than filing a lien on the property, to collect delinquent taxes from a state property lessee. These methods include use of alias tax warrants allowing a state marshal to garnish a lessee's wages or bank accounts or attach his goods to enforce payment.

The act conforms the law on taxing leased state non-higher education property to that for property leased by higher education constituent units by (1) making the lessee having immediate right to occupy the land or buildings responsible for annual property taxes, (2) specifying that the taxing town is the one where the property is located, and (3) specifying that the lessee's tax liability starts the day after the lease date.

TIME LIMITS FOR ASSESSMENTS AND ASSESSMENT APPEALS (§§ 3 & 4)

The act eliminates a contradictory provision in the extension law that allowed a municipal chief executive officer to defer deadlines for assessments and assessment appeals for an additional three months when a town fails to adopt its budget in the time specified by another law (CGS § 7-344). The three-month extension the act eliminates conflicted with a provision of § 7-344 that requires a town board of finance meet "immediately" after the board of assessment appeals finishes its work to decide on the budget to recommend to the annual town meeting.

BACKGROUND

Related Acts

PA 03-85 expands eligibility for wartime service benefits, including property tax exemptions.

PA 03-246 sets narrow criteria under which Bridgeport's legislative body can grant state-reimbursed manufacturing property tax exemptions to a taxpayer who missed the deadline for claiming them and failed to request a deadline extension.

PA 03-256 and PA 03-262 contain the same validating provision as this act concerning Warren's and Hartland's property tax assessments.

PA 03-270—sSB 1099

*Finance, Revenue and Bonding Committee
Planning and Development Committee*

AN ACT CONCERNING A PROPERTY TAX EXEMPTION FOR CHARITABLE HOUSING

SUMMARY: By law, real property owned by or held in trust for a corporation organized exclusively for charitable purposes, and used exclusively for those purposes, is not subject to local property taxes. But the charitable exemption explicitly excludes housing that is (1) government subsidized or (2) for low- and moderate-income people. The Connecticut Supreme Court has ruled that the charitable tax exemption does not apply to housing owned by a charitable corporation, if the corporation collects rent from people living there (*The Fanny J. Crosby Memorial, Inc. v. City of Bridgeport*, 262 Conn. 213 (December 2002)).

This act specifies that the tax exemption applies to temporary housing owned by, or held in trust for, a federally tax-exempt, exclusively charitable organization and used primarily as one or more of the following:

1. an orphanage;
2. a drug or alcohol treatment or rehabilitation facility;
3. housing for homeless, retarded, or handicapped people or battered or abused women and children;
4. housing for ex-offenders or participants in Judicial Branch- or Department of Correction-sponsored programs; or

5. short-term housing where the average stay is less than six months.

EFFECTIVE DATE: Upon passage and applicable to assessment years beginning on or after October 1, 2002.

PA 03-271—sSB 1140

*Finance, Revenue and Bonding Committee
Judiciary Committee*

AN ACT CONCERNING THE UNLAWFUL DELIVERY OF CIGARETTES

SUMMARY: This act:

1. prohibits companies that sell cigarettes from shipping them to anyone in Connecticut who is not (a) a state-licensed cigarette distributor or dealer or named on a list of state-licensed distributors and dealers the act requires the Department of Revenue Services (DRS) to publish; (b) an export warehouse proprietor or customs bonded warehouse operator; or (c) a local, state, or federal government employee or agent acting within his official duties;
2. prohibits common or contract carriers or anyone else from knowingly delivering cigarettes to a residence or to someone in Connecticut they reasonably believe is not one of the entities authorized to receive them;
3. makes delivery to an authorized recipient conditional on the recipient's signing an acknowledgement of receipt and presenting proper proof of age;
4. requires sellers to plainly and visibly mark packages with the word "cigarettes" when they do not ship or transport them in the cigarette manufacturer's original container or wrapping;
5. makes a first violation of these provisions a class A misdemeanor and subsequent violations class D felonies (see Table on Penalties);
6. imposes additional civil forfeiture penalties for violations; and
7. starting October 1, 2004, requires tobacco manufacturers that directly or indirectly sell cigarettes in Connecticut to be licensed by DRS as manufacturers instead of as distributors and to pay an annual fee of \$5,000 instead of \$1,000.

EFFECTIVE DATE: July 1, 2003, except for the cigarette manufacturer licensing requirement, which takes effect October 1, 2004.

CIVIL PENALTIES AND FORFEITURE

The act allows the DRS commissioner to impose a civil penalty of up to \$5,000 for each shipment or delivery that violates its provisions. It authorizes the attorney general, at the commissioner's request, to file a lawsuit to collect the fine. He can also ask the court to order injunctive or equitable relief. If the state prevails in any action the attorney general brings, the act entitles the state to recover its costs for the action and investigation and for expert witness and reasonable attorney's fees.

The act also makes any cigarettes that have been or are being shipped or transported in violation of its provisions contraband and applies existing confiscation, search, and forfeiture law procedures for unstamped cigarette sale and transport violations to such circumstances.

CIGARETTE MANUFACTURER'S LICENSE

Duration and Fee

Starting October 1, 2004, the act requires any tobacco product manufacturer that directly or indirectly sells cigarettes to consumers in Connecticut to get a manufacturer's license from DRS. The license is renewable annually and the license fee is \$5,000. Under prior law, cigarette manufacturers operating in Connecticut had to be licensed as distributors and pay an annual fee of \$1,000.

As with a distributor's license, a manufacturer's license is valid until the September 30 following issuance or renewal, unless it is either revoked or the manufacturer discontinues his business. In the latter case, the holder must immediately return the license to the DRS commissioner. The act allows the commissioner to revoke a manufacturer's license on the same grounds and according to the same procedure as already applies to cigarette dealer and distributor licenses. Licenses may be revoked, after notice and hearing, for any violation of cigarette tax law or for selling or delivering tobacco in any form to someone under age 18.

The act also establishes a \$5 fee for a duplicate manufacturer's license.

Applicability

The act's licensing requirement applies to manufacturers subject to the state's tobacco settlement law, if they sell cigarettes to Connecticut consumers either directly or through intermediaries. The tobacco settlement law covers any entity or successor that, after July 1, 2000, directly and not through an affiliate, (1) manufactures cigarettes intended for sale in the United States or (2) is the first purchaser anywhere of cigarettes for resale in the United States, even if their manufacturer did not intend them for sale in the United States.

Conditions for Licensure

The act bars the DRS from issuing or reissuing a manufacturer's license to an applicant that has:

1. not either entered into, and performed financial obligations under, the master settlement agreement between Connecticut and four leading tobacco companies ("participating manufacturers") or paid into a qualified escrow account a specified amount for each cigarette it sells in the state ("nonparticipating manufacturers");
 2. imported cigarettes without meeting federal requirements for labeling, packaging, and ingredient reporting for foreign cigarettes; or
 3. imported or manufactured cigarettes that do not meet federal requirements for, among other things, warning labels and required reports of cigarette ingredients to the U.S. secretary of health and human services.
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Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-34—HB 6584
General Law Committee

AN ACT CONCERNING CHANGES IN OWNERSHIP OF RETAIL LIQUOR PERMIT PREMISES

SUMMARY: This act eliminates a requirement that the former permittee of a retail establishment that sells liquor file an affidavit with the Department of Consumer Protection (DCP) in connection with a new owner permit application. This affidavit had to list all outstanding bills from liquor wholesalers.

The act modifies the information that the new owner applicant must provide to DCP in an affidavit with the permit application. Under prior law, the affidavit had to state that all listed obligations had been paid unless, after a hearing, DCP found that the former permittee abandoned the business and did not receive any payment or other consideration for doing so. The act instead requires the applicant to file an affidavit stating either that (1) all of the former permittee's bills have been paid or (2) he did not receive direct or indirect payment or other consideration from the former permittee. It defines "consideration" as the receipt of legal tender or goods or services to purchase the liquor remaining on the premises, for which bills remain unpaid.

The act authorizes a liquor wholesaler who alleges that the applicant received payments or other consideration from his predecessor or that there are outstanding bills for liquor to file an affidavit with DCP along with supporting documentation. It authorizes DCP to determine whether a hearing is warranted.

EFFECTIVE DATE: October 1, 2003

PA 03-56—sSB 808
General Law Committee
Judiciary Committee

AN ACT CONCERNING TECHNICAL CORRECTIONS TO THE FAIRNESS IN FINANCING IN THE CONSTRUCTION INDUSTRY ACT

SUMMARY: The law requires certain construction contracts to include payment schedules (unless the parties in a written contract agree otherwise) and has provisions on retainage and posting notices. This act applies the law to

construction contracts for buildings with more than four residential units.

The act also makes the law apply to owners of record rather than to owners (the "owner of record" is the owner recorded on the land records).

EFFECTIVE DATE: October 1, 2003

LAW ON CONSTRUCTION CONTRACTS

The law requires contracts subject to its provisions to contain payment schedule provisions. Unless otherwise agreed to by the parties in a written contract, the law requires construction contracts to require:

1. owners to pay amounts due for labor and materials within 15 days after receiving a payment request,
2. general contractors to pay subcontractors and suppliers for labor and materials within 15 days after the general contractor receives payment from the owner for such labor and materials, and
3. general contractors to require their subcontractors and suppliers to include comparable provisions in their contracts with other subcontractors and suppliers.

It prohibits contracts from containing mechanic's lien waivers or requiring adjudication in other states.

The law applies to contracts between a property owner and a general contractor, a general contractor and a subcontractor, and between subcontractors. It applies to renovation and rehabilitation projects only if a certificate of occupancy is required. Under the law, "owners" include both owners of real property and lessees.

The law limits retainage under a construction contract to 7½% of the amount owed. It defines "retainage" as an amount withheld from progress payments to a general contractor or subcontractor in accordance with the terms of a construction contract.

The law requires owners to post at the construction site (1) the name and address of the owner and any agent authorized to receive a certificate of a mechanic's lien in a proceeding to enforce an owner's obligations under a construction contract; (2) the property's volume and page number in the town land records; and (3) if a payment bond exists, the name and address of the surety company that issued the bond. The owner must do this before or when

the work begins.

PA 03-59—sSB 331

General Law Committee

AN ACT EXEMPTING CERTAIN MINOR SHEET METAL WORK FROM LICENSING REQUIREMENTS

SUMMARY: This act permits registered new home construction contractors, registered home improvement contractors, and other occupational license holders such as electricians; plumbers; and heating, piping, and cooling workers to do certain work in residential buildings with six or fewer units without obtaining the sheet metal license that normally would be required. They may install: (1) exhaust systems for hoods and fans in kitchens and bathrooms; (2) clothes dryer exhaust systems; (3) radon ventilation systems; (4) fireplaces; (5) fireplace flues; (6) masonry chimneys or pre-fabricated chimneys rated by the Underwriters' Laboratory; and (7) wood, pellet, and other free-standing stoves.

EFFECTIVE DATE: October 1, 2003

PA 03-67—HB 6468 (VETOED)

General Law Committee

Human Services Committee

AN ACT CONCERNING FUNERAL AND BURIAL PLOT ALLOWANCES

SUMMARY: This act requires the Department of Social Services (DSS) commissioner to apply certain asset exclusions uniformly throughout the state when determining eligibility for the State Supplement and Temporary Family Assistance (TFA) programs. These are the exclusions for a burial fund amount (\$1,200), the value of a burial plot, and the value of an irrevocable funeral contract (limited by law to \$5,400). By law, the \$1,200 burial fund amount is reduced by the value of a revocable or irrevocable funeral contract and the face value of any life insurance policy the client owns.

The act defines "burial plot" as a gravesite, crypt, mausoleum or niche, crematorium urn, or any other repository traditionally used for the remains of a deceased person, and a headstone or marker.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

State Supplement Program

Needy people who are aged, blind, or disabled can qualify for State Supplement benefits, regardless of whether they are also receiving federal Supplemental Security Income benefits. Certain assets are excluded in determining eligibility.

Temporary Family Assistance Program

TFA is the cash assistance component of the state's Jobs First program. It generally provides up to 21 months of assistance to needy pregnant women and families with children. Eligibility is based on a number of factors such as family income, assets, and children's ages. Certain assets are excluded in determining eligibility.

PA 03-68—sHB 6585

General Law Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING WELL DRILLERS AND WELL CASING EXTENSIONS

SUMMARY: This act authorizes the consumer protection commissioner, with the advice and assistance of the Plumbing and Piping Work Examining Board, to establish by regulation limited contractor and limited journeyman certificates permitting licensed plumbers and others licensed to perform plumbing and piping work to extend, repair, and maintain well casings and extensions. Applicants must demonstrate their knowledge of well casing extension, repair, and maintenance by passing a licensing examination administered by the Department of Consumer Protection. Registration certificates are nontransferable and expire annually. The act establishes a \$25 initial registration fee and an annual \$25 certificate renewal fee.

EFFECTIVE DATE: July 1, 2003

PA 03-83—sSB 1050
General Law Committee

**AN ACT CONCERNING PROCESS PIPING
 USED TO PRODUCE PRODUCTS FOR
 HUMAN CONSUMPTION**

SUMMARY: This act requires people who install, repair, replace, alter, or maintain piping or tubing that conveys liquid or gas used to prepare food or drink for human consumption to be licensed as plumbing and piping, or heating, piping, and cooling workers. It also requires people to be licensed if they make products; electrical, plumbing, or piping systems; or repair and maintenance equipment used directly to make food or drink products even if such items are used to produce goods sold by industrial firms. Under existing law, people do not need a license to make, for sale by industrial firms, (1) glass products; (2) electrical, plumbing and piping, or fire protection sprinkler systems; or (3) equipment for solar work, heating, piping and cooling work, sheet metal work, or elevator installation, repair, and maintenance.
 EFFECTIVE DATE: October 1, 2003

PA 03-91—SB 1112
General Law Committee
Judiciary Committee

**AN ACT CONCERNING THE DRAM SHOP
 ACT**

SUMMARY: The Dram Shop Act makes someone who sells liquor to an intoxicated person liable if that person injures someone or property because of the intoxication. It does not require proof that the seller acted negligently. This act increases the maximum amount an injured person can recover under the act from \$20,000 to \$250,000 for injuries to a single person and from \$50,000 to \$250,000 in aggregate for injuries to more than one person.

The act eliminates an injured person's right to sue a seller for negligence in selling alcohol to someone at least age 21. The Connecticut Supreme Court recently established a common law (judge made) right for a person to file a negligence lawsuit against a seller.
 EFFECTIVE DATE: Upon passage

BACKGROUND

Dram Shop Act

Under the Dram Shop Act, a liquor seller is liable if he or his employee sells liquor to an already-intoxicated person who injures a person or property. The actual amount of liability in a particular case is decided in court. The act requires the injured party to notify the seller within 60 days of the incident causing harm of his intention to sue for damages. Up to 120 days between the death or incapacity of the injured party and the appointment of an executor, administrator, conservator, or guardian of the estate is not counted toward the 60-day deadline. The notice must state (1) the time and day of the sale and to whom it was made; (2) the name and address of the injured party; and (3) the time, day, and place of injury. Suits must be brought within one year of the sale.

Related Cases

In *Craig v. Driscoll*, the Connecticut Supreme Court held that the Dram Shop Act did not preempt a negligence claim and recognized a common law negligence action did not conflict with the act's purposes (262 Conn. 312 (2003)).

The Connecticut Supreme Court held in 1980 that a liquor permittee who sells liquor to an already-intoxicated person who subsequently injures another person because of his intoxication can be sued by the injured person if the seller acted wantonly and recklessly (*Kowal v. Hofner*, 181 Conn. 355). Wanton and reckless conduct involves highly unreasonable conduct and an extreme departure from ordinary care, in a situation where a high degree of danger is apparent (*Coble v. Maloney*, 34 Conn. App. 655 (1994)).

The Connecticut Supreme Court held in 1988 that one who provides alcohol to a minor who subsequently injures another person because of his intoxication may be sued by the injured person. The court reasoned that the legislature had determined that a minor is not competent to deal responsibly with the effects of alcohol and therefore consumption of liquor by a minor does not, as a matter of law, constitute the intervening act necessary to break the chain of causation (*Ely v. Murphy*, 207 Conn. 88).

PA 03-128—sSB 332
General Law Committee
Judiciary Committee

**AN ACT CONCERNING CONSUMER
 COMPUTER EQUIPMENT LEASES AND
 UNSOLICITED ELECTRONIC MAIL
 ADVERTISING MATERIAL**

SUMMARY: This act restricts the activities of people, with some exceptions, who e-mail unsolicited advertising material. It prohibits people and entities from sending unsolicited advertising material, or causing it to be sent, after the intended recipient has notified them that he does not want to receive any such communications. In all other transmissions to Connecticut residents, (1) the e-mail's subject line must include the letters "ADV" and (2) the body of the message must include a toll-free telephone number or valid e-mail address the recipient can use to unsubscribe or otherwise notify the sender not to send any more unsolicited advertising material.

The act also changes the amount that people can recover in private suits for violating the existing "junk fax" law and allows people to sue for violations of the act's unsolicited e-mail provisions under the "junk-fax" law.

The act requires the holder (the lessor or someone he assigned the lease to) of a consumer lease for computer or related equipment to notify the lessee between 30 and 120 days before the lease expires of (1) the lease's expiration date; (2) the lessee's rights and obligation when the lease expires; and (3) the price of purchasing the equipment, if the lessee has a purchase option. The notice must be in writing and given at no cost to the lessee. The act defines a computer as a programmable, electronic device capable of accepting and processing data.

EFFECTIVE DATE: October 1, 2003, except for the provisions on consumer leases, which are effective on July 1, 2003.

UNSOLICITED ADVERTISING MATERIAL

Under the act, an e-mail has unsolicited advertising material if it includes an advertisement for products or services and is sent without the recipient's consent by a person with whom the recipient does not have an established business relationship. It is not unsolicited advertising material when the sender has (1) the recipient's consent or (2) a prior or existing business relationship with the recipient, formed

by voluntary communication in response to the recipient's inquiry about, application for, purchase of, or use of the senders' products or services, whether or not consideration is involved.

**PEOPLE NOT SUBJECT TO E-MAIL
 RESTRICTIONS**

The act's restrictions on unsolicited e-mail advertising do not apply to:

1. electronic mail service providers, which (a) are intermediaries in sending or receiving electronic mail and (b) provide end-users the ability to send or receive electronic mail;
2. Internet access providers, which are underlying network facilities used in transmitting Internet services;
3. tax-exempt nonprofit organizations;
4. political committees (known as PACs); and
5. committees of candidates running for public office and their candidates and solicitors.

**PRIVATE SUITS ON "JUNK FAXES" AND
 UNSOLICITED E-MAIL**

By law, any person aggrieved by a violation of the "junk fax" law can file a civil suit to stop violations. The act changes the amount that a person can recover for violations to \$500 per violation plus costs, and reasonable attorney's fees instead of the greater of (1) \$200 or (2) actual damages, costs, and reasonable attorney's fees. By law, suits must be brought within two years of the offending conduct.

The act (1) expands this right to sue to cover violations of the act's provisions on unsolicited e-mail and (2) makes each e-mail sent in violation a separate and distinct violation for these purposes.

BACKGROUND

Consumer Leases

Under the state Uniform Consumer Leases Act, a consumer lease is one that lasts at least four months with a total obligation of up to \$150,000 in which the goods are leased for a personal, family, or household purpose. The act provides separate rules for these types of leases including certain protections, disclosure and notice requirements, limits on certain terms and

practices, and provisions on enforcement and remedies.

PA 03-134—sSB 1051

General Law Committee

Finance, Revenue and Bonding Committee

**AN ACT CONCERNING THE
ESTABLISHMENT OF A LIMITED SHEET
METAL POWER INDUSTRY LICENSE**

SUMMARY: This act authorizes the Department of Consumer Protection, upon authorization of the Heating, Piping, Cooling and Sheet Metal Work Examining Board, to issue a limited sheet metal power industry license, restricted to the installation, erection, replacement, repair, or alteration of breeching exhaust and inlet air systems at electric generation facilities. Electric generation facilities include cogeneration plants; biomass (raw or processed plant material), combined cycle, fossil fuel, gas, and hydropower facilities; blast furnaces; incinerators; and nuclear power plants. Licensees may only perform such work if employed by a licensed sheet metal contractor. Applicants must successfully complete an education and training program established and approved by the Labor Department, with the advice of the Connecticut State Apprenticeship Council, before taking the licensing exam.

EFFECTIVE DATE: October 1, 2003

PA 03-167—sSB 496

General Law Committee

Judiciary Committee

**AN ACT CONCERNING RETAINAGE,
THE NEW HOME CONSTRUCTION ACT,
THE HOME IMPROVEMENT
CONTRACTOR ACT AND THE HOME
SOLICITATION SALES ACT**

SUMMARY: This act requires escrow accounts to be established for money withheld from contractors and subcontractors as retainage except under certain circumstances. It extends the New Home Construction Act's protections to owners of property on which a new home is being, or will be, built, regardless of whether the property owner obtains a building permit as the owner of the affected premises.

The act makes it a class A misdemeanor, punishable by up to one year in jail, a \$2,000

fine, or both for a new home construction contractor to fail to refund a deposit in certain circumstances. It also makes clarifying and technical changes.

EFFECTIVE DATE: October 1, 2003, except the retainage provisions are effective January 1, 2004.

RETAINAGE

By law, construction contracts may provide for the retainage of up to 7.5% of the estimated amount of a progress payment made for the life of the construction project. The act makes it clear that (1) the contract may be written or verbal and (2) retainage consists of money withheld that would otherwise be payable to a contractor or subcontractor based on his substantial or final completion of all work.

ESCROW ACCOUNT FOR RETAINAGE

The act requires an escrow account to be established, presumably by the property owner, for most retainage. The "owner" must:

1. establish the account in a bank or savings and loan association domiciled in Connecticut;
2. give contractors monthly reports of the value of the retainage in the account and any additions to the account or payments from it (withdrawals can only be made with the owner's approval);
3. terminate the account when work is substantially or fully completed in accordance with the terms of the construction contract and after he has paid the contractor in full;
4. pay all fees and expenses related to maintaining the account; and
5. include the account form and account provisions in all solicitations for construction services and provide the contractor and subcontractor with a copy before entering into a contract.

Property owners do not have to establish an escrow account if the construction contract involves (1) residential property consisting of four or fewer dwelling units, (2) projects valued at less than \$25,000, or (3) public building or public works projects. Contractors must make the monthly reports and account form and provisions available for review by subcontractors who ask. Owners or contractors' failure to provide the form and provisions of escrow

accounts as required by the act cannot be asserted as a defense to contract enforcement.

The act allows owners who enter into multiple construction contracts with the same contractor to combine the retainage under each contract into one account. It permits property owners and contractors to accept securities in lieu of retention from contractors and subcontractors, respectively.

The act requires an owner who fails to deposit retainage in an escrow account or to release it as the act requires to pay the contractor an additional 1.5% of the undeposited or unreleased amount for each month or fraction thereof until the retainage is paid in full.

ENFORCEMENT OF RETAINAGE AND VOIDABLE PROVISIONS IN CONSTRUCTION CONTRACTS

The act authorizes courts to award court costs and reasonable attorney's fees in any action to enforce the (1) act's escrow account requirements, (2) statutory maximum allowable retainage in construction contracts, or (3) statutory provision voiding provisions in construction contracts for work in Connecticut that requires the contract to be adjudicated outside of the state.

CONTRACTOR'S FAILURE TO REFUND A DEPOSIT

The law requires a new home construction contractor to refund a deposit within 10 days after a written request is delivered to his last-known address, if (1) the consumer has complied with the terms of the written contract; (2) no substantial portion of the contracted work has been performed at the time of the request; (3) more than 30 days have elapsed since the starting date specified in the written contract, or more than 30 days have elapsed since the date of the contract, if no starting date is specified; and (4) the contractor has failed to provide the consumer with a reasonable explanation for his failure to perform a substantial portion of the contracted work. The act makes the contractor's failure to refund a deposit in these circumstances a class A misdemeanor (See Table on Penalties). By law, he is already liable for treble damages.

By law, "a substantial portion of the work" includes work the contractor performs to (1) secure permits and approvals; (2) redraft plans or obtain engineer, architect, surveyor, or other approvals for changes the consumer requests or

that site conditions discovered after the contract's execution make necessary; (3) schedule site work or arrange for other contractors to perform services related to the new home's construction; and (4) do any other work the contract refers to as a "substantial portion of the contracted work."

BACKGROUND

New Home Construction Act

The law requires new home construction contractors to register with the Department of Consumer Protection, make certain disclosures, and include their registration number in all advertisements. It prohibits anyone from (1) presenting another's registration as his own; (2) knowingly giving false material evidence to the commissioner in order to register; (3) impersonating a registered individual; (4) using an expired, suspended, or revoked registration; (5) making or offering to make home improvements without being registered; (6) representing that registration constitutes state endorsement; or (7) failing to refund a deposit as required by the act. It imposes criminal penalties for violations of its provisions. The act applies to anyone who contracts with a consumer to build a new home, or a portion of one, before it is occupied. A new home is a newly built single-family dwelling; any dwelling of up to two units; or a unit, common element, or limited common element of a condominium or common interest community.

PA 03-172—sSB 1111 (VETOED)

General Law Committee

AN ACT CONCERNING THE SALE OF ELECTRIC, GAS AND OIL FIRED HEATING UNITS

SUMMARY: This act prohibits the sale of electric, gas, and oil-fired heating units that require a building permit for installation in a one- or two-family dwelling unless the purchaser provides the seller with either (1) the name, and a copy of the occupational license, of the contractor purchasing the unit or (2) proof that a building permit for installation has been issued. It requires the seller to record certain information in writing at the time of sale, maintain the records for at least three years, and permit the consumer protection commissioner or his agents

to inspect and copy them during normal business hours. The act authorizes the commissioner to fine violators \$1,000 for each violation, and makes each sale of a unit that does not meet these provisions a separate violation.

The act exempts (1) manufacturers of electric, gas, and oil-fired heating units; (2) the state and its political subdivisions; and (3) hearth products. It defines “hearth products” as propane or natural gas fueled fireplaces, fireplace inserts, stoves, log sets, and associated venting and accessories that simulate the flame of a solid fuel fire.

EFFECTIVE DATE: October 1, 2003

SALES RECORDS

Before releasing an electric, gas, or oil-fired heating unit to the purchaser, the seller must record in writing:

1. the date the unit was purchased,
2. the purchaser’s name and address,
3. the location where the unit will be installed, and
4. either the contractor’s name and occupational license number or a copy of the building permit and the name of the municipality that issued it.

HEATING UNITS

The act covers heating units designed to provide heat or domestic hot water to one- or two-family residential dwellings. “Electric heating units” are pressure vessels, indirect fired heaters, furnaces, heat pumps, and baseboard heaters that use electricity. “Gas-heating units” are pressure vessels, indirect fired heaters, furnaces, infrared heaters, space heaters, unit heaters, and gas burners designed to burn natural gas, gas, or propane. “Oil-fired heating units” are pressure vessels, indirect fired heaters, furnaces, unit heaters, space heaters, and oil burners designed to burn fuel oil, kerosene, or waste oil.

PA 03-193—sHB 6470

General Law Committee

AN ACT CONCERNING THE SALE OF POISONOUS PLANTS

SUMMARY: This act requires the Connecticut Poison Control Center annually to give a list of poisonous plants to trade associations representing flower and plant retailers for

publication. It defines “poisonous” as having the capacity to produce injury or illness in a human being or domestic animal through ingestion.

The act requires these trade associations to (1) distribute the list annually to their members that sell flowers and plants at retail and (2) encourage their members to make the list available to their customers.

EFFECTIVE DATE: October 1, 2003

PA 03-228—sHB 6588

General Law Committee

AN ACT CONCERNING WINE ORDERED WITH RESTAURANT MEALS

SUMMARY: This act allows a restaurant patron to take from the premises one open wine bottle if he bought and drank part of it with a full course meal eaten at the restaurant. The restaurant’s permittee or his agent or employee must first securely seal and put the bottle in a bag. Prior law permitted on-premises consumption only.

Under the act, a “full course meal” is a diversified selection of food that ordinarily cannot be consumed without using tableware or conveniently consumed while standing or walking.

EFFECTIVE DATE: October 1, 2003

PA 03-235—HB 5810

General Law Committee

Judiciary Committee

AN ACT CONCERNING THE LIQUOR CONTROL ACT

SUMMARY: This act makes several changes to state liquor laws. It:

1. postpones, from October 1, 2003 to April 1, 2004, the time within which bars in bowling alleys must comply with the no-smoking provisions of PA 03-45;
2. allows all types of alcohol, rather than wine only, to be sold in 100-milliliter (approximately 3.3-ounce) bottles; and
3. requires liquor permit applicants who are required by law to notify the public about their applications to follow the same procedures when they intend to change the type of entertainment they offer as part of a permit renewal application.

The act also specifies that 96 100-milliliter bottles of liquor other than beer, cordials, cocktails, wines, and premixed drinks constitute a case. Case sizes are used, among other things, to set minimum prices liquor retailers and wholesalers can charge.

EFFECTIVE DATE: October 1, 2003, except for the provisions concerning 100-milliliter bottles, which are effective upon passage.

SMOKING BAN

Effective October 1, 2003, PA 03-45 prohibits smoking inside most restaurants and places that serve alcohol. It postpones the ban until April 1, 2004 for cafes and taverns. The act extends this postponement to the bar areas of bowling establishments.

PLANNED CHANGES IN ENTERTAINMENT

By law, most people filing liquor permit applications must place notices in the local newspaper where their business will be operated. Notices give the applicant's name and address, the type of permit applied for, the business location, and the type of live entertainment to be provided. They must also affix a Department of Consumer Protection placard on the building's outer door or some other location clearly visible to passersby. The act directs permit holders to follow the same procedures when their renewal application includes a change in the form of entertainment they will offer. Violators are subject to fines of up to \$1,000, imprisonment for up to one year, or both, for each offense.

EXEMPTED RENEWAL APPLICATIONS

Under the act, publicity need not be given to renewal applications involving the following permit types: airline; charitable organization; temporary; special club; concession; military; railroad; boat; coliseum or coliseum concession; special sporting facility restaurant, employee recreational, guest, concession, or bar; and nonprofit golf tournament or public television. These permit types are exempt from publicity requirements under existing law.

PA 03-245—sHB 6471

*General Law Committee
Judiciary Committee*

AN ACT CONCERNING THE RENTAL OF TRUCKS FOR THE TRANSPORTATION OF PERSONAL PROPERTY

SUMMARY: This act requires truck and van rental companies that secure reservations for their vehicles through a check, money order, note, credit card, debit card, or transaction authorization mechanism to deliver the vehicle to the consumer at the time and place specified when the reservation was made. Companies unable to comply must provide an alternative rental truck comparable to the one the customer reserved.

A company that violates the act is liable for damages of up to twice the agreed-upon daily rental rate. Each rental company must post, in a prominent location, a clearly legible sign explaining that failure to provide the reserved truck or a comparable alternative subjects them to this penalty.

EFFECTIVE DATE: October 1, 2003

RENTAL COMPANIES AND RENTAL TRUCKS

Under the act, a rental company is any business that (1) leases trucks or vans to drivers to transport personal property, but not for business use, and (2) has at least five rental trucks, each with a gross vehicle weight of 26,000 pounds or less. The act excludes (1) new car dealers, repairers, or limited repairers and (2) used car dealers not primarily in the car or truck rental business.

PA 03-260—SB 1049

*General Law Committee
Judiciary Committee*

AN ACT CONCERNING GOOD SAMARITAN IMMUNITY FOR PROFESSIONAL ENGINEERS

SUMMARY: This act gives professional engineers who volunteer their services in a declared emergency immunity from civil damages, under specified conditions.

Also, it prohibits the commissioner of motor vehicles from issuing a commercial motor vehicle registration to anyone the consumer

protection commissioner finds is acting as a home improvement contractor but is not registered or does not participate in the Home Improvement Guaranty Fund.

EFFECTIVE DATE: October 1, 2003, except the provision concerning the Home Improvement Act takes effect on July 1, 2005.

PROFESSIONAL ENGINEERS

Civil Immunity

The act gives professional engineers who volunteer their services during declared emergencies immunity from civil damages for personal injury, wrongful death, property damage, or other loss if they provided their services with reasonable care and within professionally recognized standards for the emergency.

The immunity applies to engineers who voluntarily, gratuitously, and other than in the ordinary course of their employment or practice provide structural, electrical, mechanical, or other engineering services. The services must (1) relate to a publicly or privately owned structure, building, or piping system; (2) be provided in connection with an emergency declared by the President or governor; and (3) be provided at the request, or with the approval, of a public official acting in an official capacity.

The immunity applies only to engineering services provided during the declared emergency, including any extensions, and 90 days after the emergency and extensions end.

Public Official

The act defines “public official” as a federal, state, or municipal official (1) having or duly authorized to exercise executive authority; (2) responsible for coordinating emergency assistance, disaster relief, or similar activities to protect the public safety; (3) responsible for law enforcement activities; or (4) responsible for conducting or coordinating building inspections in an area of the state where a declared emergency, disaster, or catastrophic event has occurred.

Public Emergencies

To be covered by the act, the emergency must be caused by a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption,

landslide, mudslide, snowstorm, drought, fire, explosion, collapse, or other disaster or catastrophic event in Connecticut.

HOME IMPROVEMENT ACT

The act requires the consumer protection commissioner to notify the motor vehicle commissioner whenever he finds that an individual has violated the Home Improvement Act by (1) holding himself out as a contractor without being registered with the Department of Consumer Protection or (2) failing to participate in the Home Improvement Guaranty Fund.

The notice must include the individual’s name and address, be on a form prescribed by the motor vehicles commissioner, and comply with the listings and schedules of dates established by him. The act prohibits the motor vehicles commissioner from (1) issuing a registration for a commercial motor vehicle for the next registration period and (2) issuing any further registrations until the consumer protection commissioner sends him a notice stating that the contractor is in compliance with the Home Improvement Act. The act authorizes an individual harmed by the motor vehicles commissioner’s action to appeal under the Uniform Administrative Procedure Act.

PA 03-261—sSB 879

General Law Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE ESTABLISHMENT OF LIMITED LOW VOLTAGE RESIDENTIAL SECURITY ELECTRICAL AND LIMITED SATELLITE DISH TECHNICIAN AND DEALER TECHNICIAN LICENSES AND EXEMPTIONS FROM PROFESSIONAL AND OCCUPATIONAL LICENSING REQUIREMENTS

SUMMARY: This act:

1. requires the Electrical Work Board to authorize someone to install, service, and repair certain residential security systems and sets conditions and terms;
2. narrows an exemption from the occupational licensing law to cover only employees of manufacturers whose main duties concern making industrial production equipment instead of anyone involved in making the equipment;

3. makes certain licensed electricians with limited low-voltage licenses eligible to take the licensure examination for another limited low-voltage electrical license if they have provided the Electrical Work Board with satisfactory evidence that they have experience; and
4. allows the Department of Consumer Protection (DCP), at the direction of the Electrical Work Board, to issue limited electrical licenses for the installation of dish antennas.

EFFECTIVE DATE: October 1, 2003

RESIDENTIAL SECURITY SYSTEMS

The act requires the Electrical Work Board to authorize someone to install, service, and repair residential security systems up to 25 volts and five amperes in one- to three-family dwellings if the person (1) is working for an electrical contractor who holds an unlimited (E-1) or low voltage limited (L-5) contractor license and (2) has successfully completed an apprenticeship training program established and approved by the Labor Department (DOL) with the advice of the Connecticut Apprenticeship Council. The act allows someone authorized under this provision to work on the interface wiring from a residential security system to an existing telephone connection for monitoring purposes but explicitly prohibits any other telecommunications electrical work. It requires anyone authorized under this provision to obtain a limited electrical journeyman's license (L-6) within 15 months after obtaining the authorization.

EXEMPTION FROM OCCUPATIONAL LICENSING LAWS

The act narrows an existing exemption for workers from the requirements of the occupational licensing laws. Prior law exempted anyone making (1) glass products; (2) electrical, plumbing, or fire protection sprinkler systems; or (3) sheet metal, solar, heating, piping, and cooling, and elevator installation, repair and maintenance equipment used to produce goods sold by industrial firms. The act instead exempts only employees of the industrial firms whose main duties consist of this type of work.

LIMITED LICENSES FOR LOW VOLTAGE ELECTRICAL WORK

The act makes someone who has a limited electrical contractor (L-5) or a journeyman's (L-6) license for low-voltage signal work on systems of up to 24 volts eligible to take the licensure examination for licenses (C-5 and C-6, respectively) to work on similar systems of up to 48 volts if he has (1) submitted an application, (2) paid an application fee (\$75 for a contractor and \$45 for a journeyman), and (3) provided satisfactory evidence of experience in telecommunication work to the Electrical Work Board.

LIMITED LICENSES FOR DISH ANTENNAS

The act allows DCP, at the direction of the Electrical Work Board, to issue a limited technician license or a limited dealer technician license to install a dish antenna. It requires an applicant to have (1) successfully completed an apprenticeship training program established and approved by DOL with the advice of the Connecticut Apprenticeship Council and (2) passed an examination administered or approved by DCP. It defines "dish antenna" as a dish of not more than a meter in diameter and designed (1) to receive direct broadcast satellite service, including direct-to-home satellite service, or (2) to receive or transmit fixed wireless signals via satellite.

BACKGROUND

Occupational Licensing System

State law establishes a licensing system for a number of trades overseen by different licensing boards. The boards have the power to determine who qualifies for a license and enforce standards by disciplining licensees. Boards may create limited licenses authorizing their holders to work in a specific area of a trade. Each trade has different levels of expertise—apprentice, journeyman, and contractor. The law establishes many exemptions from licensing requirements, including, government employees and homeowners working on their own homes.

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-7—SB 88

Government Administration and Elections Committee

AN ACT CONCERNING A DEMONSTRATION PROJECT FOR THE USE OF ELECTRONIC EQUIPMENT FOR THE CASTING AND COUNTING OF BALLOTS AND PROHIBITING THE USE OF PUNCH-CARD VOTING MACHINES

SUMMARY: This act permits the secretary of the state to conduct a demonstration project using electronic voting machines in at least three towns during the 2003 and 2004 elections. It authorizes her to conduct an exit poll to solicit voters' reactions to the electronic machines and requires the State Elections Enforcement Commission (SEEC) to survey the volunteers who conduct the exit polls and the participating towns and report to the secretary on the results. The secretary must report to the Government Administration and Elections (GAE) Committee on the demonstration project.

The act prohibits the secretary from approving, and bans the use of, punch-card voting machines at any election, primary, or referendum held in the state.

EFFECTIVE DATE: Upon passage

CONDITIONS FOR THE DEMONSTRATION

A town can participate in the pilot program if its registrars of voters and legislative body (or the board of selectmen in a town where the town meeting is the legislative body) approve the use of the electronic machines. The secretary must be able to acquire enough electronic voting machines and prescribe specifications for (1) their security, testing, set-up, operation, and canvassing; (2) the ballots; and (3) election officials' training. She must conduct the demonstrations in different towns in 2003 and 2004, and she must try to select towns for the project that are located in different regions of the state and represent a range in population.

She cannot approve use of a punch-card-type machine for the demonstration.

EXIT POLL

The act permits the secretary to conduct an exit poll using volunteers to solicit information on voters' experience using the electronic machines. The SEEC must survey the volunteers

and officials in the participating towns and review the exit poll, if there is one.

REPORTS

By January 1 after each election covered by the act, the SEEC must report to the secretary on the demonstration, including its survey results and the exit poll. By February 1, the secretary must send a summary of the SEEC report, along with recommendations, on electronic voting machines to the GAE Committee.

PA 03-20—SB 1009

Government Administration and Elections Committee

AN ACT DESIGNATING THE FREEDOM SCHOONER *AMISTAD* AS THE STATE FLAGSHIP AND TALL SHIP AMBASSADOR

SUMMARY: This act designates the Freedom Schooner *Amistad* as the official state flagship and tall ship ambassador.

EFFECTIVE DATE: October 1, 2003

PA 03-41—HB 5442

Government Administration and Elections Committee

AN ACT DESIGNATING THE AMERICAN SHAD AS THE STATE FISH

SUMMARY: This act designates the American shad, *Alosa sapidissima*, as the state fish.

EFFECTIVE DATE: October 1, 2003

PA 03-54—sSB 646

Government Administration and Elections Committee

AN ACT ESTABLISHING AN OFFICIAL STATE-WIDE STUDENT VOTER REGISTRATION DRIVE

SUMMARY: This act requires the secretary of the state to designate a period of time each year between January 1 and May 31 for a Statewide Student Voter Registration Drive. She must do this in consultation with the state's registrars of voters and she must coordinate and publicize the drive.

EFFECTIVE DATE: October 1, 2003

PA 03-63—HB 6085*Government Administration and Elections Committee***AN ACT ESTABLISHING A STATE CANTATA**

SUMMARY: This act designates the “Nutmeg,” composed by Stanley L. Ralph, as the state cantata. The “Nutmeg” tells Connecticut’s history. A cantata is a choral composition of solos, recitatives, and interludes.

EFFECTIVE DATE: October 1, 2003

PA 03-79—SB 343*Government Administration and Elections Committee
Education Committee***AN ACT DESIGNATING JUNETEENTH INDEPENDENCE DAY**

SUMMARY: This act requires the governor to proclaim the Saturday closest to June 19th each year as Juneteenth Independence Day in recognition of the formal emancipation of enslaved African-Americans by General Order No. 3 issued in Galveston, Texas on June 19, 1865. It requires suitable exercises and observances at the State Capitol and other locations that the governor designates.

EFFECTIVE DATE: Upon passage

PA 03-99—sHB 6619*Government Administration and Elections Committee
Planning and Development Committee***AN ACT CONCERNING PUBLICATION OF PROPOSED CHARTER AND HOME RULE ORDINANCE AMENDMENTS**

SUMMARY: This act allows towns to publish in a newspaper only the amended part of a charter or home rule ordinance, rather than the complete charter, before the vote on it at a referendum. If it does, a town must publish a notice that a complete copy is available in the town clerk’s office or by mail on request. Prior law required a town to publish the entire charter or home rule ordinance being amended at least once in a newspaper with general circulation in the town. The act requires the same publication but only for that portion of the charter or ordinance being amended. The town clerk must mail or otherwise provide a copy of the complete charter, home rule ordinance, and amendment to

anyone who asks for it.

EFFECTIVE DATE: October 1, 2003

PA 03-108—sSB 647*Government Administration and Elections Committee
Education Committee***AN ACT CONCERNING SERVICE BY STUDENTS AS OFFICIAL CHECKERS AT POLLING PLACES**

SUMMARY: This act allows a 16- or 17-year-old to be appointed as a checker in a polling place at an election or a primary without first having to serve as an unofficial checker or a candidate checker. It permits the appointment after the person attends poll worker training and, if the person is a high school student and the primary or election is held on a day when school is in session, has received written permission from a parent, guardian, or the school principal. The act also permits such youth to serve as translators at a polling place and requires the same poll worker training and permission for appointment as a voting machine tender or translator.

By law, a 16- or 17-year-old poll worker must be a U.S. citizen and resident of the town where the primary or election is held. Prior law (1) permitted a youth to serve as a challenger, voting machine tender, unofficial checker, candidate checker, or checker and (2) required the youth to have served as an unofficial checker in an election or as a candidate checker in a primary before being eligible for appointment as a checker in a subsequent election or primary.

EFFECTIVE DATE: July 1, 2003

PA 03-112—HB 5158*Government Administration and Elections Committee***AN ACT CONCERNING THE TRANSMISSION OF ELECTION DAY RESULTS**

SUMMARY: This act expands the way that officials may transmit election results to the Office of the Secretary of the State by (1) allowing them to send results electronically for both state and municipal elections and (2) extending to municipal elections the option that officials have after state elections to send them by facsimile. It gives the moderator in each town (and the head moderator in a town with

more than one voting district) the option to send state and municipal election results electronically to the secretary by midnight on election day. If he does, the moderator must also seal and deliver the results to the secretary by the third day after the election (no later than Friday after a Tuesday election). Otherwise, the moderator must seal and deliver the results as under existing law, that is, by hand to the secretary by 6 p.m., or to the State Police by 4 p.m., on the day after election day. By law, the State Police must deliver any results they receive to the secretary by 6 p.m. on the day after the election.

The law requires moderators to transmit municipal election results to the secretary “forthwith.” The act establishes the same deadlines for delivering results of a municipal election that apply to state election results and applies the same penalty (a \$50 fee) for a late filing.

EFFECTIVE DATE: Upon passage

PA 03-113—HB 5165 (VETOED)

*Government Administration and Elections Committee
Appropriations Committee*

AN ACT REDUCING OUTDOOR LIGHT POLLUTION AT STATE BUILDINGS AND FACILITIES

SUMMARY: This act bans the use of state bond revenues or appropriated or allocated state funds to install or replace an outdoor light or lighting system on state building or facility grounds that:

1. fails to maximize energy conservation and minimize light pollution, glare, and light trespass, which is light that shines beyond the boundaries of the property where it is located;
2. provides light at a surface that exceeds what is adequate for its intended purpose; or
3. has an output of more than 1,800 lumens (the unit for measuring the brilliance of a light source), unless it is equipped with a full cut-off luminaire (a lighting system that allows no direct light emissions above a horizontal plane through its lowest light-emitting part).

The act allows two exceptions to the cut-off requirement. It (1) exempts lighting systems on the grounds of a Department of Correction correctional institution or facility and (2) sets conditions under which the public works commissioner, or his designee, may waive the

cut-off requirement for other state buildings or facilities when necessary. The commissioner must prescribe the form for the waiver request, which must include a description of the lighting plan, the efforts that have been made to comply with the cut-off requirement, and the reasons the waiver is necessary. The commissioner, or his designee, must consider design safety, cost, and other appropriate factors, in his review.

The act also exempts a new or replacement lighting system from its requirements if the Office of Policy and Management secretary finds that a non-complying system is more cost-effective than a system that meets the act’s requirements. The secretary must determine this by comparing the systems’ life-cycle cost analyses and certifying that a system that meets the act’s requirements is not cost-effective or the most appropriate alternative.

EFFECTIVE DATE: October 1, 2003

PA 03-117—sHB 6515

*Government Administration and Elections Committee
Planning and Development Committee*

AN ACT CONCERNING THE STATE-WIDE CENTRALIZED VOTER REGISTRATION SYSTEM

SUMMARY: This act requires registrars of voters to send their voter registration information to the Office of the Secretary of the State by July 1, 2003, for inclusion in the secretary’s statewide centralized voter registration system. The registrars must transmit the information in a format the secretary prescribes. By September 1, 2003, every registrar in the state must participate in the statewide centralized system in the manner the secretary prescribes.

The act allows towns to maintain a separate registry list if (1) the list includes the information required to be in the statewide list and (2) the registrars send voter information to the secretary and comply with the federal law requiring a computerized statewide voter registry list.

EFFECTIVE DATE: Upon passage

STATEWIDE CENTRALIZED VOTER REGISTRATION SYSTEM

The secretary of the state’s statewide voter registration system, as defined in the act, includes information (1) on voter registration that the secretary prescribes; (2) from voter registration application forms; (3) used to

compile voter registry and enrollment lists, including the active and inactive registry lists; and (4) used to comply with state election laws.

BACKGROUND

Federal Law

On October 29, 2002, the federal Help America Vote Act (P.L. 107-252, 42 USC 15301 *et seq.*) was enacted to provide funds to states to replace voting systems, create the Election Assistance Commission, and set minimum election administration standards. It requires states to establish a computerized statewide voter registration list, adopt provisional ballot procedures, use voting machines that meet certain standards, and implement specified identification requirements for voters who register by mail.

PA 03-126—sHB 6513

*Government Administration and Elections Committee
Judiciary Committee
Finance, Revenue and Bonding Committee*

AN ACT CONCERNING COLLECTION OF DEBTS OWED TO THE STATE

SUMMARY: This act increases, from \$10,000 to \$50,000, the maximum value of an estate for which the Department of Administrative Services (DAS) estate administrator may assume responsibility as guardian, conservator, administrator, trustee, or other fiduciary.

By law, the DAS commissioner must appoint someone in her office as the estate administrator. The probate court may appoint this person to act as guardian, conservator, administrator, trustee, or other fiduciary over the estates of any minor, incapable, incompetent, or deceased person who is receiving or previously received state financial assistance. The estates are limited to personal, and not real, property. Personal property includes annual income, other than public assistance.

Among the DAS commissioner's many statutory duties is the duty to bill and collect for the state (1) public assistance overpayments and (2) support payments from the legally liable relatives of people aided, cared for, or treated in state humane institutions.

EFFECTIVE DATE: July 1, 2003

PA 03-139—sHB 6367

*Government Administration and Elections Committee
Planning and Development Committee*

AN ACT CONCERNING STORAGE OF ORIGINAL DOCUMENTS BY MUNICIPALITIES

SUMMARY: This act permits municipalities to store original documents off site if (1) their contents are electronically available on site on demand and (2) the town clerk can provide and certify a copy of the document. Under existing law, the state librarian must approve security storage facilities or establish and operate them for the safe storage of original public records.

EFFECTIVE DATE: October 1, 2003

PA 03-157—sSB 878 (VETOED)

*Government Administration and Elections Committee
Appropriations Committee*

AN ACT CONCERNING MAXIMIZATION OF FEDERAL FUNDS

SUMMARY: This act requires each state agency to maximize its access to federal government funds and, within available resources, annually assess the federal funds it receives, may receive in the future, and could receive but does not, along with the reasons it does not. Each agency, within available resources, must report on its progress, findings, and recommendations to the Office of Policy and Management (OPM), the Office of Fiscal Analysis (OFA), and the Appropriations Committee by January 1 every year.

The act requires OPM to consult with OFA and, within available resources, develop recommendations and a plan to increase the level of federal funds the state receives. OPM must consider:

1. possible applications for competitive grants;
2. qualifications for bonus awards;
3. the maximization of Medicaid funds; and
4. applications for new available health, human service, education, and homeland security resources.

EFFECTIVE DATE: July 1, 2003

PA 03-204—sHB 6370 (VETOED)

*Government Administration and Elections Committee
Planning and Development Committee
Appropriations Committee*

**AN ACT CONCERNING ELECTION DAY
VOTER REGISTRATION AND THE
DUTIES OF REGISTRARS OF VOTERS**

SUMMARY: This act allows people to register to vote during voting hours at sessions the registrars of voters hold on the day of an election, primary, or presidential preference primary. It establishes procedures applicants and registrars must follow for registration on election day. The act also:

1. eliminates the use of presidential ballots for state residents;
2. requires the secretary of the state and the registrars' association to train registrars and poll workers in the new procedures;
3. requires the secretary, in consultation with registrars and the State Elections Enforcement Commission (SEEC), to report to the Government Administration and Elections (GAE) Committee on the act's implementation;
4. designates the registrars of voters as the "administrators of elections held in the municipality";
5. expands and clarifies some of the registrars' duties with respect to voter registration records; and
6. requires identification information on anyone who returns a mail-in registration application on behalf of another just before the deadline.

EFFECTIVE DATE: Upon passage, except for the provision on voter registration records, which is effective October 1, 2003.

ELECTION DAY REGISTRATION

The act requires registrars of voters to conduct a voter registration session on the day of a state, district, or municipal election or primary and a presidential preference primary. The applicant must show the registrars identification with his name, address, and photograph. If the identification has no photograph, the registrars must have one taken. The applicant must also sign a statement swearing or affirming that he meets the eligibility requirements to register and did not register or vote elsewhere. The statement includes a notice of the penalty for signing a

false statement (a perjury conviction and up to five years in prison, a fine up to \$5,000, or both).

If the registrars admit an applicant who registers on election day, they must (1) give the person a notice of acceptance (as prescribed by the secretary), (2) attach a copy of the ID including the photo, and (3) seal and sign the notice and copies. The person can go to his polling place, present the notice and copies, and vote. At the polling place, the assistant registrar adds the person's name to the supplementary list with the notation "ED."

The registrars must keep a copy of the identification (including the photograph) with the registration card until satisfied that the post office has delivered the applicant's confirmation notice. If they cannot validate the application, they must put the person's name on the inactive registry list and notify the SEEC.

PRESIDENTIAL BALLOTS

The act removes the provision for Connecticut residents to vote by presidential ballot, leaving the procedures in place only for former state residents. A former state resident who moved to another state after the deadline to register in that state can apply for a presidential ballot and vote for presidential and vice-presidential electors, but no other offices. The application and voting procedures remain the same as under existing law.

TRAINING

The act requires the secretary of the state, in cooperation with the Registrars of Voters Association of Connecticut, to train people who will train the state's registrars in the registration procedures. In turn, the registrars must train deputy and assistant registrars and other poll workers.

REPORTING REQUIREMENTS

The act requires the secretary of the state, in consultation with SEEC and registrars, to report to the GAE Committee by February 1, 2004 on its implementation. By December 31, 2003, the registrars must submit information the secretary requests for her report. She must review and assess the program for the November 2003 municipal elections and report on (1) the new identification requirements; (2) voters' and election officials' experiences with the procedures, including the length of lines at

registration sites and polling places; (3) the numbers of people who voted, registered on election day, and experienced delays or difficulties with the new procedures; and (4) other related issues. The report must include recommended changes to the procedures or the statutes to address the issues it raises.

REGISTRARS' DUTIES

The act requires all registrars to post their office hours in the town hall, enter voter information in the statewide centralized voter registration system that the secretary of the state maintains, and maintain voter information records for those on the active registry list in a fireproof cabinet in their offices.

The act also modifies the requirement that registrars file voter registration records in the town clerk's office by making the filing in that office monthly and replacing the separate records with an updated list of the active voters in the town. In towns with part-time registrars, the act requires registrars, rather than town clerks, to file voter information in the town clerk's office, just as full-time registrars do. With the elimination of this distinction, the act repeals an exemption for registrars who maintain voter records in their offices from the town clerk's office filing requirement.

It removes an obsolete statutory reference to the space for "place of birth" on the voter registration application form.

MAIL-IN APPLICATION

The act requires anyone who returns a mail-in application between the 28th and 14th days before an election on behalf of an applicant to sign a statement with his printed name, address, and telephone number, indicating that he is returning the form for the applicant. The deadline for submitting a mail-in registration application is 14 days before an election.

BACKGROUND

Presidential Ballots

The 1965 federal Voting Rights Act (42 USC § 1973aa-1) requires state law to provide for those otherwise qualified to vote who fail to meet a residency requirement to vote in an election for U.S. President and vice-president. A person who moved after the deadline for voter registration in his new residence must be allowed

to vote for president and vice-president in the state or town where he lived before moving.

PA 03-205—HB 5660

Government Administration and Elections Committee

AN ACT CONCERNING PUBLIC ACCESS TO BUILDING CONSTRUCTION PLANS

SUMMARY: The law requires building officials to return original plans and specifications for the construction or alteration of single-family dwellings or outbuildings after issuing a certificate of occupancy to homeowners who submit a written request. This act requires the officials to return them immediately, rather than waiting at least two years after the request.

By law, a building permit is required for most construction (and major alterations), other than the construction of certain state buildings. The plans are public records while the building official has them and subject to disclosure under the Freedom of Information Act.

EFFECTIVE DATE: October 1, 2003

PA 03-215—sHB 6417

Government Administration and Elections Committee

Judiciary Committee

Finance, Revenue and Bonding Committee

Appropriations Committee

Labor and Public Employees Committee

AN ACT CONCERNING STATE CONSTRUCTION CONTRACTS

SUMMARY: This act:

1. requires contractors to prequalify to bid on public building construction contracts estimated to cost more than \$500,000;
2. except as otherwise provided in law, redefines "lowest responsible qualified bidder" to include a prequalified contractor;
3. requires advertisements for bids on these contracts to include the financial capacity, prior experience, and workforce required to do the job;
4. requires the Department of Public Works (DPW) commissioner to disqualify contractors who receive advance information about a project;
5. expands the process for starting emergency restoration on state facilities

- under the DPW commissioner's control;
6. establishes Construction Services Award Panels within DPW;
 7. requires state agencies to evaluate contractors after construction is completed and requires the Department of Administrative Services (DAS) commissioner to place the evaluation in the contractor's prequalification file;
 8. requires agencies that award building construction contracts to make annual status reports to the governor and the legislature;
 9. requires the DPW commissioner to adopt implementing regulations for building construction bidding and contracting procedures, including the (a) procedures for evaluating bids after a contractor's prequalification status has been verified and (b) objective criteria for evaluating bidders' qualifications;
 10. prohibits state officials and employees from accepting gifts from prequalified building contractors;
 11. prohibits employees with decision-making authority from communicating with bidders on building construction contracts under certain circumstances;
 12. requires the Department of Transportation (DOT) commissioner to award large building construction contracts to the lowest responsible qualified bidder who is prequalified by DAS;
 13. requires the Department of Consumer Protection (DCP) to issue any prequalified contractor who applies a certificate of registration as a major contractor and prohibits the department from collecting a registration fee during any period the contractor's prequalification is valid; and
 14. changes the requirement for employing construction managers.

EFFECTIVE DATE: October 1, 2004, except contractor prequalification and emergency construction provisions are effective July 1, 2004, and the provision on status reports is effective January 1, 2004.

CONSTRUCTION CONTRACTS OVER \$500,000

Bidders and Awards

Beginning October 1, 2004, the act, with one exception, requires contractors to prequalify before they can bid on a contract funded in whole or part by the state for the construction, reconstruction, alteration, remodeling, repair, or demolition ("building construction") of any state or municipal building estimated to cost more than \$500,000. The requirement does not apply to UCONN 2000.

The authorities authorized by law to award these contracts are the DPW commissioner, the Joint Committee on Legislative Management for work or construction on buildings under its supervision, and public colleges and universities for work or construction on buildings under their supervision or control.

The act requires the affected awarding authorities to award the contract on the basis of competitive bidding to the lowest responsible qualified bidder who is prequalified. By law, the lowest responsible qualified bidder is the person possessing the skill, ability, and integrity necessary for the faithful performance of the work as determined by his past performance, including his experience with projects of the size of the one advertised, and financial ability.

The act eliminates the requirement for the awarding authority to consider the bidder's financial ability and instead requires the authority to consider information contained in the bidder's update statement (see below). It requires awarding authorities to look at a bidder's past experience with projects of the nature and scope, rather than the size, of the one advertised.

Advertisement

The act requires advertisements for bids on contracts that awarding authorities must place in state-circulated newspapers to indicate the prequalification classification and aggregate work ratings required of successful bidders (i.e., the types of work the contractor must be able to perform and the maximum amount of work he can undertake).

Bids

Beginning October 1, 2004, the act requires each bid on the affected large contracts to include a copy of a prequalification statement from the DAS commissioner showing that the bidder has the prequalification classification and aggregate work capacity ratings the contract requires. The bid must also have an update statement in the form the commissioner prescribes. Any bid submitted without these documents is invalid.

At the end of the bidding process, the act requires the bidder to certify under penalty of false statement that (1) the bid information is true; (2) there were no substantial changes in his financial position or corporate structure since his most recent prequalification certificate was issued or renewed, other than those noted in the update statement; and (3) he made the bid without fraud or collusion with anyone.

CONTRACTOR PREQUALIFICATION

Prequalification Application

Contractors, but not subcontractors, can seek prequalification to work on any state or municipal construction project by submitting an application to DAS on a form prescribed by the DAS commissioner together with a nonrefundable fee. The act defines “subcontractors” as people who perform masonry, electrical, mechanical, heating, ventilating, or air conditioning work valued at over \$25,000. PA 03-278 changes the definition to people who perform work valued at \$25,000 for a contractor under a large contract with the state or a municipality.

Applicants for prequalification must include information current at the time of filing, except that the statement of financial condition described below must reflect the most recently completed fiscal year. The applicant must sign the application under penalty of false statement.

The application must, at a minimum, require the applicant to disclose:

1. how he is organized;
2. his principals and key personnel and any business names he or his principals or key personnel used during the immediate past five years;
3. his construction experience over the immediate past five years or on the 10 most recently completed projects and the names of any subcontractors used

- on the projects;
4. any legal or administrative proceedings pending against or concluded adversely to him or his principals or key personnel in the previous five years concerning the procurement or performance of a construction contract;
5. his knowledge of any investigation pending against him or his principals or key personnel;
6. his relationship, whether financial, personal, or familial, with the owner of any construction project he listed as construction experience;
7. whether (a) he has been disqualified from bidding on federal, state, or municipal construction contracts, including those in other states, (b) the Department of Consumer Protection has revoked or suspended his registration, and (c) the matters that gave rise to the disqualification, revocation, or suspension have been remedied or eliminated; and
8. any other information the commissioner deems relevant to determining the applicant’s qualifications and responsibility.

The applicant must include in the application a statement of financial condition prepared by an accountant that shows the applicant’s assets and liabilities, plant and equipment, bank and credit references, bonding company and maximum bonding capacity, and any other information the commissioner deems relevant to the determination of the applicant’s financial capacity and responsibility.

Application Fee

The fee depends on the applicant’s aggregate work capacity rating. It is a graduated fee starting at \$600 and capped at \$2,500.

<i>Aggregate Work Capacity Rating</i>	<i>Fee</i>
\$5,000,000.00 or less	\$600
\$5,000,000.01 to \$8,000,000.00	\$750
\$8,000,000.01 to \$10,000,000.00	\$850
\$10,000,000.01 to \$15,000,000.00	\$1,000
\$15,000,000.01 to \$20,000,000.00	\$1,500
\$20,000,000.01 to 40,000,000.00	\$2,000
\$40,000,000.01 or more	\$2,500

Prequalification Classification and Aggregate Work Capacity Rating

Applicants must indicate the prequalification classifications and aggregate work capacity rating they are seeking. Once prequalified, a contractor can apply at any time for additional prequalification classifications or aggregate work capacity ratings by submitting the applicable fee, a complete update statement, and other information the commissioner requires.

The DAS commissioner may issue to any applicant that meets the requirements a certificate of prequalification that includes his classifications and aggregate work capacity ratings (e.g., the types of work the contractor can perform and the maximum amount of work he is capable of undertaking).

The certificate is effective for one year from the date issued and may be renewed upon receipt of a nonrefundable fee of \$600 or one-half of the application fee for the applicable aggregate work capacity rating, whichever is greater; a completed update statement; and any other material the commissioner requires. Awarding authorities must use the classifications to determine the types of work a contractor is qualified to perform and the aggregate work capacity ratings to establish the maximum amount of work he can undertake.

The commissioner must determine whether to prequalify an applicant based on the application and on relevant past performance in accordance with procedures and criteria that she must adopt in regulations. At a minimum, the criteria must include (1) the applicant's past performance record, including written evaluations of his performance on public or private projects in the previous five years; (2) his experience on projects of various sizes and types; (3) his supervisory personnel's experience and qualifications; (4) his maximum work capacity as demonstrated by his financial condition, bonding capacity, size, or past projects, and present and anticipated work commitments; (5) the skill, ability, and integrity, of the applicant and any subcontractors he has used; and (6) any other relevant information the commissioner prescribes.

The regulations must also (1) provide that the criteria be assigned different numerical values and weights and that each applicant be assigned an overall numerical rating based on all criteria and (2) establish prequalification classifications and aggregate work capacity ratings.

False Applications

The contract awarding authority may terminate a contract with or disqualify any applicant for making a materially false statement on an application or statement update (see below). The awarding authority must give the DAS commissioner written notice of the false statement within 30 days after discovering it. And the DAS commissioner must, in turn, give the DPW and the consumer protection commissioners written notice of it within 30 days after discovery or after receiving notice from the awarding authority.

Decision on Applications and Review Process

Within 60 days after receiving a completed application, the DAS commissioner must notify the applicants by mail of her (1) preliminary determination of the prequalification certification conditions or (2) decision to deny certification, reduce the certification level, or refuse to renew certification.

Any applicant aggrieved by a preliminary determination may, within 10 days after the notice of determination was mailed as indicated by the postmark on the envelope, ask for copies of the information the commissioner relied on to make it. Not later than 20 days after the post-marked date, the applicant can give the commissioner additional information and ask her to reconsider the application.

The commissioner must make a final determination on the application within 90 business days after the date the commissioner mailed her preliminary determination. The initial 90 days may be extended for up to an additional 90 days if the commissioner notifies the applicant, during the initial period, that she needs more time. Any applicant aggrieved by the final determination may appeal to the Superior Court.

Prequalification Revocation

The act requires the commissioner to revoke a contractor's prequalification, after a hearing, if she finds that he (1) included materially false statements in his application or update statement, (2) has been convicted of a crime related to the procurement or performance of any public or private construction contract, or (3) has otherwise engaged in fraud in obtaining or maintaining prequalification within the previous five years. The revocation is effective for two

years, unless the contractor has been convicted of fraud, in which case it is effective for five years. After this time, the commissioner cannot prequalify the contractor until she is satisfied that the revocation has been eliminated or remedied. She must give the DPW and consumer protection commissioners written notice of the revocation or reinstatement within 30 days after the final decision.

The act permits her to revoke a contractor's prequalification or reduce his classification or aggregate work capacity ratings, after a hearing, if she receives additional information that supports the revocation or reduction.

UPDATE STATEMENTS

The commissioner must establish an update statement for certificate renewals and upgrades and for use by contractors who bid on building construction contracts with an estimated value of over \$500,000. The statement must provide space for information on (1) all projects the bidder has completed since his prequalification certificate was issued or renewed; (2) all projects the bidder has under contract at that time, including the percentage incomplete; (3) the names and qualifications of personnel who will supervise the contract; (4) any significant change in the bidder's financial position or corporate structure since the certificate was issued or renewed; and (5) any other relevant information the commissioner prescribes.

DISQUALIFICATION

The act prohibits the DAS commissioner from prequalifying any contractor (1) disqualified for labor law violations or (2) who has a principal or key person who within the past five years has been convicted or has pleaded guilty or *nolo contendere* for any act or omission that could result in disqualification as determined by the commissioner.

The act requires the DPW commissioner, presumably, to disqualify from bidding on a public building construction project anyone who receives information that is not available to the general public from a public official about the project before the bid is published.

EMERGENCY AND NON-BID PROJECTS

By law, the DPW commissioner can select and interview at least three responsible and qualified general contractors and negotiate with

any one of them to complete any of eight special building projects: a community court, Connecticut Juvenile Training School, downtown Hartford higher education center, University of Connecticut library, a correctional facility, two juvenile detention centers, and a student residential facility for the Connecticut State University system. (All of these projects, except the student residential facility, have been completed.)

He can also declare an emergency condition at most state facilities and restore them at a cost of \$500,000 or less without inviting bids. If restoration costs would exceed \$500,000, the law requires him to get the governor's written consent before going forward.

In addition to being responsible and qualified, the act requires non-bid contractors to be prequalified and selected by a construction service award panel (see below). Beginning October 1, 2004, the act requires any agency seeking to have a project awarded without competitive bidding to certify to the Legislative Management Committee the emergency nature of the project and the need for an exception to competitive bidding. The certification must include input from all affected agencies, detail the need for the exception, and include any relevant documentation.

The act requires the commissioner to follow the above-described certification process before starting work on emergency projects that previously required just the governor's written consent.

CONSTRUCTION SERVICES AWARD PANEL

The act establishes a six-member Construction Services Award Panels within DPW. The commissioner must appoint one neutral member and three other members from among current DPW employees. The agency requesting the construction must appoint the remaining two members. The commissioner's appointees serve for one year, beginning on July 1. The DPW commissioner or head of the requesting agency, as appropriate, must appoint people to fill vacancies for an unexpired term. The commissioner must designate one voting member on each panel to serve as chairperson. The chairperson serves as committee moderator, collects votes, and compiles results. The act specifies that the panels are not boards or commissions for the purpose of appointments.

The panels must award state construction contracts, including contracts awarded on a total cost basis and contracts for the eight special building projects authorized by law.

Process

For each applicable contract, the commissioner must designate one panel to screen all proposals and establish a list of bidders to be interviewed and a separate panel to interview them and submit a list of recommended contractors to the commissioner. The commissioner must select a contractor from the list of recommended contractors to complete construction projects, including projects where he enters an agreement with a single developer to complete all phases of the contract (total cost basis). After the commissioner makes the selection, the names of the contractors submitted to him must be available to the public upon request.

Each panel and the commissioner must prepare a memorandum on the selection process and the final phase of the selection process, respectively, indicating how the evaluation criteria were used to determine the most qualified firms. The memoranda must be made publicly available after a contract has been entered into with the selected contractor.

The act requires the commissioner to adopt implementing regulations.

CONTRACTOR EVALUATIONS

The DAS commissioner must adopt regulations to establish a standard contractor evaluation form. At a minimum, the form must include the following evaluation criteria:

1. timeliness and quality of performance;
2. cost containment;
3. safety;
4. quality of the contractor's (a) working relationship with the agency, (b) supervision of the work area, and (c) required documentation;
5. communication with the agency;
6. performance of the contractor's subcontractors to the extent known; and
7. the contractor's and any subcontractor's compliance with state preference, prevailing wage, minimum wage, and other related laws or the federal prevailing wage law (Davis-Bacon Act), as from time to time amended.

Each public agency, other than UCONN, must complete and submit an evaluation form on each contractor, but not subcontractor, at the conclusion of state-funded work on a building under the agency's control. The commissioner must include the evaluation in the contractor's prequalification file. The person certifying the evaluation must mail it to the contractor.

When 50% of the work on the construction project is completed, the agency must give the contractor a written copy of the preliminary evaluation.

A contractor may contest any information in the evaluation by submitting a written response to the DAS commissioner no later than 30 days after the date the evaluation was postmarked. His response must indicate anything that may be relevant to the contractor's performance on the contract. The commissioner must include the response in the contractor's prequalification file.

STATUS REPORTS

By January 1, 2004, and annually thereafter, the act requires each awarding authority, other than UCONN with respect to projects under its control, to prepare a status report on any (1) ongoing building construction contracts estimated to cost more than \$500,000 that will be paid, in whole or in part, with state funds or (2) DPW-awarded property management contract with an annual value of \$100,000 or more. They must submit the reports to the governor and the Government Administration and Elections and Finance, Revenue and Bonding committees.

The act requires the first report submitted after a contract is awarded to indicate:

1. when, where, and how bids were advertised;
2. the bidders;
3. the law governing the contract award and if there was any deviation from standard contract awarding procedures;
4. the people responsible for awarding the contract, including the names of people on any awarding panel;
5. whether an awarding panel was used and its recommendation followed;
6. why any panel recommendations were not followed;
7. the existence and nature of any other contract the authority has with the contractor that is the subject of the report; and
8. the text of any laws authorizing or funding the project.

ETHICS

Gifts to Decision-Makers on Contract Awards

The act prohibits public officials and state employees from knowingly accepting, either directly or indirectly, a gift from any person they know or have reason to know is a prequalified contractor. It also prohibits these contractors from giving them gifts. Public officials and state employees are already prohibited from accepting gifts from people doing business with or seeking to do business with their agencies. The people seeking to do business with the state are also prohibited from giving public officials and state employees gifts. The State Ethics Commission can fine violators up to \$2,000 per violation or issue a cease and desist order.

Prohibited Communications

The act prohibits certain employees of the awarding authorities (i.e., DPW, Legislative Management, or state colleges and universities) from communicating with a bidder on a building contract prior to the contract award, if the communication results in the bidder receiving information about the contract that is not available to other bidders. The prohibition applies to employees with decision-making authority concerning the contract. The prohibition does not apply to negotiations with the lowest responsible qualified bidder when his price exceeds the amount of funds allocated for construction.

DOT CONTRACTS

The act requires the DOT commissioner to advertise and award building construction contracts under his supervision and control and valued at over \$500,000 to the lowest responsible and qualified bidder who has been prequalified by the DAS commissioner. The same requirements apply to construction associated with leases at airports under the commissioner's jurisdiction. The commissioner must adopt regulations that, at a minimum, establish:

1. bid advertisement standards;
2. objective criteria for evaluating bidders' qualifications;
3. evaluation procedures after bidders' qualifications are verified; and
4. panels to screen, interview, and make recommendations on bidders.

REGISTRATION AS MAJOR CONTRACTORS

The act requires DCP to issue any prequalified contractor who applies a certificate of registration as a major contractor and prohibits the department from collecting a registration fee during any period the contractor's prequalification is valid. The act authorizes the department to revoke the registration of any contractor (1) who cannot receive a prequalification certificate because of disqualification or (2) whose prequalification certificate is revoked.

The commissioner must give the DAS commissioner written notice within 10 days after any registration suspension or revocation.

CONSTRUCTION MANAGERS

The act eliminates a requirement for (1) agencies to issue a request for proposals through newspaper advertisements for construction managers and (2) the construction services selection panel to recommend to the awarding authority the respondent most qualified to do the job. It is unclear, under the act, whether an agency seeking to hire a construction manager would have to enter a personal service agreement or follow the process the act establishes for hiring a construction contractor.

PA 03-216—sHB 6418

Government Administration and Elections Committee

AN ACT CONCERNING VACANCIES IN CANDIDATE NOMINATIONS

SUMMARY: This act allows a major political party that did not nominate a candidate for office to do so after the deadline if another party's candidate for the office dies, withdraws, or becomes disqualified. The act requires the party to follow its rules in making the nomination to fill the vacancy. By law, the party whose candidate creates the vacancy can replace its candidate following its party rules, if the vacancy occurs at least 10 days before the election.

A major party's nominee is the winner of a primary or the party-endorsed candidate if no other candidate qualifies for a primary. A party may endorse a state or district office candidate at a convention and for a municipal office by caucus, convention, or town committee. If it fails to nominate a candidate, the position on the

ballot is vacant.

EFFECTIVE DATE: July 1, 2003

BACKGROUND

Major Party

State law defines a “major party” as a political party that at the last election for governor had (1) a candidate for governor who received at least 20% of the votes cast for all gubernatorial candidates or (2) at least 20% of the total number of enrolled members of all political parties in the state.

Related Law

Under existing law and PA 03-241, the deadlines for endorsing candidates are (1) for statewide and Congressional, multi-town legislative, and judge of probate districts, the 98th to 77th days before the primary; (2) for single-town legislative and judge of probate districts, the 84th to 77th days before the primary; and (3) for municipal offices, the 56th to 49th days before the primary. Primaries for (1) and (2) above are held on the second Tuesday of August and for (3) on the 56th day before the election (in September).

PA 03-223—sHB 6661

Government Administration and Elections Committee

AN ACT CONCERNING CAMPAIGN FINANCE REPORTING REQUIREMENTS

SUMMARY: This act:

1. allows a grace-period for forming a committee after a person becomes a candidate for public office or town committee member;
2. adds to reporting and distribution requirements for fundraising events;
3. sets specific dates, rather than floating deadlines, when reports are due for filing some campaign finance statements and distributing a committee surplus;
4. requires campaign solicitors to deposit contributions with campaign treasurers within seven, rather than 10, days after receiving them;
5. applies the state campaign finance laws to primary candidates for delegates to nominating conventions for the offices

of U.S. senator and representative in Congress (a provision made obsolete by another act);

6. restricts the period during which the State Elections Enforcement Commission (SEEC) can audit a candidate’s campaign committee; and
7. eliminates the requirement that campaign finance statements include the name of the chief executive officer for each business that purchases advertising space in a fund-raising events program.

EFFECTIVE DATE: July 1, 2003

FILING REQUIREMENTS

The act gives candidates 10 days to form a candidate committee or file an exemption. A person becomes a candidate for public office or town committee member if he has been endorsed or won a primary as his party’s nominee or has solicited or received contributions or made expenditures to bring about his nomination or election to public office. By law, he need not form a committee if (1) he is a member of a slate of candidates funded by a party committee or a political committee (known as a PAC) whose expenditures are reported by the sponsoring candidate’s committee, (2) he finances his campaign entirely from personal funds, or (3) he does not receive or spend more than \$1,000. Under prior law, a candidate had to form a committee or file the exemption as soon as he became a candidate.

The act makes it clear that a candidate who does not receive or spend any money for his campaign (including his personal funds) is exempt from filing campaign finance statements. The law, as noted above, exempts candidates who receive or spend less than \$1,000 and requires that they file the exemption.

The act requires a campaign treasurer to include the date, location, and description of a testimonial or fundraising affair when reporting the receipts and expenditures in campaign finance statements.

CAMPAIGN FUNDRAISERS

The act requires a political committee established by candidate committees for a joint fundraising event to distribute the event’s proceeds to the candidate committees within 14 days after the event.

DEADLINES

The act sets calendar dates, rather than floating days, for filing campaign finance statements. If a reporting deadline under the act falls on a Saturday, Sunday, or holiday, the statement is due the following business day. It eliminates the report candidate committees had to submit 45 days after an election, but specifies that the January 7 report, due approximately three weeks later, replaces it. It sets a date certain (January 31) as the deadline for distributing a committee surplus after a November election. The deadline was 90 days after the election under prior law and remains 90 days for distributing a surplus after an election or referendum not held in November.

Table 1: Campaign Finance Deadlines

<i>Requirement</i>	<i>Prior Law</i>	<i>The Act</i>
Statement filing for committees other than state party committees	2 nd Thursday in January April July October (Between 8 th and 14 th of the month)	January 7 April 7 July 7 October 7
Reporting period ends for above statements	Seven days before the filing date (Between 1 st and 7 th of the month)	December 31 March 31 June 30 September 30
Statement filing for candidate or referendum committee for election held in November	45 days after election or referendum (December 17-23, depending on election day date)	January 7
Distribution of committee surplus for candidate or referendum committees and certain political committees for election held in November	90 days after election (January 31-February 6)	January 31
Supplemental statement filing for deficit for candidate or referendum committees and certain political committees for election held in November	90 days after election (January 31-February 6)	February 7

CONVENTION DELEGATES

The act applies the state's campaign finance law's provisions to primaries held to elect delegates to nominating conventions for U.S. senatorial and congressional district candidates (primaries that are eliminated by PA 03-241). But a delegate slate need not form a committee if the candidate has filed a committee registration with the Federal Election Commission and that committee is solely financing the delegates' campaign.

SEEC AUDITS

By law, SEEC is responsible for inspecting or auditing campaign accounts and records. The act bars the commission from initiating an audit within the two-month period before an election in which the candidate is running for office and requires that the commission complete any audit it has started for such a candidate by the same date. The act's restrictions on the SEEC activity do not apply when a complaint has been filed involving a committee of a candidate running for office.

PA 03-227—sHB 6533

*Government Administration and Elections Committee
Planning and Development Committee
Appropriations Committee*

AN ACT ESTABLISHING A PILOT PROGRAM FOR REFORMING THE ABSENTEE BALLOT PROCESS TO PREVENT FRAUD AND ABUSE

SUMMARY: This act requires the State Elections Enforcement Commission (SEEC) to establish a pilot program for absentee voting in three municipalities that agree to participate for the 2003 municipal elections and primaries. The act establishes the program specifications, including the creation of the position of absentee ballot coordinator (ABC). Registrars of voters appoint volunteers or nominees but cannot appoint municipal employees or party or campaign workers. The act limits the authority to distribute absentee ballot applications to the new ABCs and to town clerks and registrars of voters, who can already distribute them but, under the program, must sign an application completed in the office.

Under the act's program, only clerks, registrars, ABCs, or designees of an applicant can help an applicant complete the form, and two ABCs must be present to provide assistance jointly. The act requires ABCs to account for blank applications and makes the list of applicants confidential until the Thursday before a Tuesday election or primary.

The statutory requirements of the state's absentee ballot laws apply in the selected towns, with the exception of the procedures established for this program. In enforcing the program's provisions, SEEC may exercise its existing authority and powers. After the 2003 primaries and election, the SEEC must survey the program's election officials and participants in the three towns and report its findings and recommendations to the Government Administration and Elections Committee by January 15, 2004.

EFFECTIVE DATE: Upon passage

PROGRAM TOWNS

The act requires the SEEC to notify towns of the opportunity and select three to participate in the program. Towns may participate if the legislative body (or the board of selectmen in a town whose legislative body is the town meeting) consents. The commission must select one large, one medium-sized, and one small town, based on a population ranking of the towns in the state.

ABSENTEE BALLOT APPLICATIONS

Existing law allows anyone to pick up and distribute an application or ask a town clerk or registrar to mail one to any qualified prospective absentee voter. Under the act's pilot program, distribution is limited to the clerks, registrars, and ABCs and permits them to issue an application only to people who (1) request one for themselves, (2) have been identified by a candidate or political party as potential absentee voters, or (3) are designees of potential absentee voters. The act defines a "designee" as a family member or caregiver (including a doctor or nurse) of someone who is ill or disabled who has been named as a designee and accepts the responsibility.

The act requires a town clerk or registrar of voters who helps an absentee ballot applicant complete the application in the office to sign the application. ABCs who provide assistance must also sign the application. Existing law requires

any person who assists another in completing an application to sign it and print his name, address, and telephone number.

Under the program, the list of absentee ballot applicants remains confidential until the third business day before the election or primary.

ABSENTEE BALLOT COORDINATORS

Appointment

The act authorizes registrars of voters in participating towns to appoint ABCs and file a notice of appointment with the town clerk. Each registrar must appoint at least one for every 200 people who voted by absentee ballot at the last municipal election or primary, as the case may be.

Any town resident, other than a town employee, member of a town committee, or a campaign or party volunteer or employee, can apply for appointment as an ABC or be submitted for appointment by a candidate, slate of candidates, or party.

Duties

Each ABC must account for each application he receives from the clerk and distributes.

Under the act, only ABCs or a voter's designee may be present and provide assistance when an applicant completes the application form outside of the clerk's or registrar's office. If ABCs provide assistance for an election, two of them from different political parties must help the applicant; in the case of a primary, two ABCs representing different slates or candidates must do so. Both ABCs must sign the application. Within two business days, one or both must deliver the application to the town clerk. The act permits those who can return an absentee ballot also to return the application. They are the applicant, his designee, or an immediate family member. The program provisions do not apply to existing procedures for supervised voting at nursing homes and other institutions.

Registrars of voters must train the people appointed as ABCs and swear them to perform their duties faithfully as election officials. Participating towns may pay the ABCs.

PA 03-229—sHB 6657

*Government Administration and Elections Committee
Legislative Management Committee*

**AN ACT CONCERNING THE LATINO
AND PUERTO RICAN AFFAIRS
COMMISSION**

SUMMARY: This act requires the Latino and Puerto Rican Affairs Commission to make available to the General Assembly information on Latino and Puerto Rican populations in the state and further modifies or expands the commission's duties. Specifically, it requires the commission to:

1. give legislators copies of any comments it makes on proposed state legislation or regulations that would affect the Puerto Rican population;
2. advise and provide information to the legislature, just as it already did to the governor, on state policies concerning this population;
3. advise the legislature, just as it already did the governor, on the coordination and administration of state programs serving this population;
4. maintain a liaison between the Latino or Puerto Rican community and the General Assembly;
5. maintain an accessible list of prospective appointees to state boards and commissions from this community;
6. work with the Legislative Management Committee to establish short- and long-term initiatives to meet the community's needs; and
7. give a copy of its annual activities report to the committee by January 1 of each year for distribution to each legislator.

EFFECTIVE DATE: October 1, 2003

PA 03-241—sHB 6372

*Government Administration and Elections Committee
Appropriations Committee*

**AN ACT CONCERNING DIRECT
PRIMARIES AND AMENDMENTS TO
CERTAIN CAMPAIGN FINANCE
STATUTES**

SUMMARY: This act (1) allows candidates for state and district offices to petition onto a primary ballot for their party's nomination for

office; (2) moves the primary date for all offices voted on at a state election from September to the second Tuesday in August; (3) changes some dates for the party convention system for endorsing candidates; and (4) eliminates convention delegate primaries, replacing them with delegate selection by town committees or party caucuses.

The act establishes petition procedures and signature requirements for candidates who want to use that method to get on a primary ballot for their party's nomination. They can challenge the party-endorsed candidate as well as candidates who receive at least 15% of the delegate vote at a convention and file to run in a primary.

The act deletes certain conditions that petition circulators must meet in order to collect signatures for anyone running as a petitioning party candidate in the general election. It adds a warning to petition forms on what constitutes an illegal signing.

The act gives the State Elections Enforcement Commission (SEEC) authority to impose a civil penalty of up to \$2,000 per offense for violations of the new petitioning provisions.

In addition to the changes to the primary laws, the act makes the following campaign finance law changes. It:

1. requires disclosure of a contributor's municipal contract of \$5,000 or more on a municipal chief executive officer candidate's campaign finance statement,
2. expands certain spending provisions in the campaign finance laws,
3. extends a restriction on soliciting campaign contributions,
4. extends the restriction on the use of public funds for promotions or advertisements featuring a candidate for office before an election, and
5. adds to the sanctions the SEEC can impose.

EFFECTIVE DATE: January 1, 2004 and applies to primaries and elections held on or after that date, except the provisions on petition circulators for petitioning party candidates, which are effective upon passage; the petition form warning and the campaign finance provisions, which are effective July 1, 2003, except the provision on campaign contributors with municipal contracts, which is effective October 1, 2003.

PETITIONING CANDIDATES

The act permits a party member, or anyone acting on his behalf, to file a certified nominating petition for a state or district office. (Candidates for single-town districts for legislative and judge of probate offices, i.e., municipal offices, already have access to the primary ballot through a petition process.) Under the act, petitioning candidates for state office must be party members enrolled in the state, and district candidates must be enrolled in any municipality in the district, just as other primary candidates are under existing law. A single petition may be circulated and filed on behalf of candidates for as many different offices as there are nominations to be made.

Petitions are invalid if submitted by a candidate who received his party endorsement or 15% of the vote at a convention.

PETITION AVAILABILITY

Under the act, petition forms for candidates for nomination to state or congressional offices must be available from the Secretary of the State's Office on the 105th day before the August primary. For candidates for the district office of state senator, state representative, or multi-town judge of probate, the forms are available from the secretary the day after the party's endorsement for the office. Under existing law, petitions for single-town district candidates are available on the day after the party makes its endorsement.

REQUESTING A PETITION

The act requires the secretary of the state to fill in identifying information on each petition form page and to give the requestor petition pages that can be duplicated. If the candidate is indigent, the secretary must give the requestor a sufficient number of pages or as many as the person requests. Anyone requesting a petition form must give his name and address and the name, address, and office sought for each petition candidate, along with a consent statement signed by the candidate.

PETITION CIRCULATION

Major Party Nomination

The circulator of a primary petition page must be an enrolled party member in the state.

The act removes a requirement that a petition circulator for a municipal office candidate must be from the same jurisdiction where the primary is to be held. A petitioning candidate can circulate his own petition.

The signers on each petition page must be enrolled party members who live in the same town. They must sign the petition in the circulator's presence. No one can sign more than one petition for the same candidate or candidates.

Each petition page filed with the secretary must contain a certification as to the circulator's qualifications, signed by the registrar where the circulator lives, and a statement as to the authenticity of the signatures, signed by the circulator under the penalties of false statement. A notary public, attorney, judge, family support magistrate, court clerk, town clerk, or justice of the peace must also officially acknowledge each petition page.

The penalty for signing another person's name as a signer or circulator is a fine of up to \$100, up to one year in prison, or both. No one can withdraw a petition signature.

Any information related to primary petitions is a public record.

Petitioning Party

The act deletes certain requirements for anyone who circulates a petition for a candidate who wants to run in the general election as a petitioning candidate (as opposed to the nominee of a major or minor party). Prior law required this petition circulator to be a registered voter and eligible to vote for the person named in the petition (i.e., he had to live in the jurisdiction where the candidate was running for office). The act instead requires the circulator (1) be a U.S. citizen, (2) live in Connecticut, (3) be at least age 18, and (4) not be on parole for a felony conviction. The act makes conforming changes to the circulator's statement on a petition and the subsequent certification and counting requirements.

PETITION FORM

Under the act, the secretary must prescribe and provide the petition forms, and signatures cannot be submitted on any form other than an original from the secretary or a copy. An original petition page may be duplicated, and the copy can be circulated and filed just as an original. The petition form includes instructions, the date

and time it is due, candidate information, and spaces for enrolled party members to sign and print their names and give their street addresses and dates of birth.

The act requires petition forms for major party and petitioning candidates for all offices to include a warning at the top printed in bold that it is illegal (1) for anyone other than an elector to sign the petition or (2) to sign someone else's name without legal authority.

PETITION SIGNATURE REQUIREMENTS

Under the act, in order to qualify to run in a primary, the petition for a candidate for a state office must be signed by at least 2% of enrolled party members in the state. Petitioning candidates for a congressional district office must submit petitions signed by at least 2% of the enrolled members of their party in the district.

Petitioning candidates for multi-town state legislative district and judge of probate offices must submit signatures of at least 5% of the enrolled party members in the district, the same percentage that candidates for single-town legislative and judge of probate offices need under existing law.

The basis for determining the necessary number of signatures of enrolled party members is the number on the latest town enrollment list submitted to the secretary of the state before the primary petitions are available. Town clerks must furnish such lists in February and October each year. Under existing law, the lists do not include voters on a town's inactive registry list.

FILING PETITIONS

Under the act, completed petitions must be filed with registrars of voters within 14 days after the close of the state or district convention held to endorse a candidate for the office. Petitions for municipal offices voted on at a state election must be filed by the 14th day after the party endorsement is made, rather than on the 34th day before the primary.

PETITION RECEIPT AND VERIFICATION

The act establishes procedures for processing petition pages for state and district office candidates. The person who submits the pages gets a receipt in duplicate from the registrar of voters showing the filing date and time and the number of submitted pages and

sends one copy to the secretary of the state. The registrar must (1) write the filing date and time on each petition page, (2) certify the signatures by checking them against the latest voter enrollment list, (3) indicate the number of signers on each page who are enrolled party members, (4) reject names that do not appear on the list, and (5) file the certified petition pages with the secretary by delivering them or sending them by mail or approved commercial carrier or messenger within seven days after receiving them.

The secretary (1) checks for the required certifications and rejects any petition page that does not have them and (2) counts the number of signatures. She must (1) reject any petition page certified by registrars of more than one town and (2) keep petitions for three years.

ELECTION CALENDAR

The act revises the election calendar for state, district, and municipal offices voted on in even-numbered years by (1) scheduling the primary for those offices 12, rather than eight, weeks before the election (in August rather than September) and (2) conducting events associated with the primary earlier than they occurred under prior law. Under the act, convention delegates are selected about two months before the convention; previously, delegate primaries (which the act eliminates) were held six weeks before the conventions began.

SCHEDULE FOR PRIMARY

<i>For Candidates For</i>	<i>Prior Law (2004 Dates)</i>	<i>The Act (2004 Dates)</i>
Petitions available		
State and congressional district	NA	105 th day before primary (Apr. 27)
Legislative and judge of probate multi-town district	NA	Day after close of convention for endorsement (97 th – 76 th day before primary) (May 5-26)
Legislative and judge of probate single-town district	Day after close of period for endorsement (55 th – 48 th day before primary) (July 21-28)	Day after close of period for endorsement (83 rd -76 th day before primary) (May 19-26)
Party endorsement/selection for convention delegates		
State and congressional	56 th -49 th day before	168 th -161 st

district	delegate primary (Mar. 23-30)	day before primary for state office (Feb. 24-Mar. 2)
Legislative and judge of probate multi-town district	56 th -49 th day before delegate primary (Mar. 23-30)	168 th -161 st day before primary for district office (Feb. 24-Mar. 2)
Legislative and judge of probate single-town district	NA	NA
Delegate endorsement/selection certified		
State and congressional district	48 th day before delegate primary (Mar. 31)	160 th day before primary for state office (Mar. 3)
Legislative and judge of probate multi-town district	48 th day before delegate primary (Mar. 31)	160 th day before primary for district office (Mar. 3)
Legislative and judge of probate single-town district	NA	NA
Delegate primary		
State and district	3 rd Tuesday in May (May 18)	Eliminated
Candidate endorsement		
State and congressional district	68 th -50 th day before primary (July 8-26)	98 th -77 th day before primary (May 4-25)
Legislative and judge of probate multi-town district	68 th -50 th day before primary (July 8-26)	98 th -77 th day before primary (May 4-25)
Legislative and judge of probate single-town district	56 th -49 th day before primary (July 20-27)	84 th -77 th day before primary (May 18-25)
Endorsement certified		
State and congressional district	14 days after convention (July 22-Aug 9)	14 days after convention (May 18-June 8)
Legislative and judge of probate multi-town district	14 days after convention (July 22-Aug 9)	14 days after convention (May 18-June 8)
Legislative and judge of probate single-town district	48 th day before primary (July 28)	14 days after endorsement (June 1-8)
Deadline to submit petition to registrars		
State and congressional district	NA	14 days after convention (May 18-June 8)
Legislative and judge of probate multi-town district	NA	14 days after convention (May 18-June 8)
Legislative and judge of probate single-town district	34 th day before primary (Aug. 11)	14 days after endorsement (June 1-8)

Registrars' deadline to submit petitions to secretary		
State and congressional district	NA	7 days after receipt (May 25-June 15)
Legislative and judge of probate multi-town district	NA	7 days after receipt (May 25-June 15)
Legislative and judge of probate single-town district	NA	NA
Primary		
State and congressional district	56 th day before election (Sept. 14*)	2 nd Tuesday in August (Aug. 10)
Legislative and judge of probate multi-town district	56 th day before election (Sept. 14*)	2 nd Tuesday in August (Aug. 10)
Legislative and judge of probate single-town district	56 th day before election (Sept. 14*)	2 nd Tuesday in August (Aug. 10)

*When the day for a primary falls on the Tuesday immediately after Labor Day (which it would in 2004), the primary is held on the following Tuesday (CGS § 9-376).

CONVENTION DELEGATES

Under the act, convention delegates are selected either by caucus or town committee, pursuant to their party's rules, rather than elected at a primary conducted in accordance with the statutes. To be valid, the convention delegate selection must be made according to party rules that must be filed in the secretary's office at least 60 days in advance. The act eliminates delegate slate primaries for all political party conventions, whether held to endorse candidates for office or for any other purpose. It deletes statutory references to convention delegates, including those in provisions that set the time for holding primaries and apply campaign finance provisions to candidates for delegate positions.

The act establishes the requirements for selecting convention delegates to endorse a candidate for a district office from only part of a town. Only the enrolled party members or town committee members from the district can participate in selecting the convention delegates. However, where a town committee makes the selection and it is elected (1) at-large or (2) by district and no member lives in the district for the office that is the subject of the endorsement, the whole town committee selects the convention delegate.

JUSTICES OF THE PEACE

Prior law applied by reference the provisions for convention delegate primaries to primaries

for justices of the peace (JPs). The act inserts JPs in those sections where delegates are removed.

The act also limits an individual's contributions to an exploratory committee or political committee (PAC) for a slate of JPs to \$250.

MINOR CHANGES TO THE PRIMARY LAWS

The act requires registrars' offices to be open at least between 1 p.m. and 4 p.m. on the day when state and district office candidates' petitions are due. Existing law requires this for municipal office petition deadlines.

The act requires the registrar to give duplicate receipts, rather than a single one, to a person filing a petition for municipal office or for the position of member of a town committee. It sets a seven-day deadline for the registrar to file petitions with the town clerk, but retains the requirement that they be filed "forthwith."

The act delays the deadline by which the secretary of the state must notify town clerks if and when there will be a primary for a state or district office by allowing additional time after convention endorsements have been made for registrars to tabulate petition signatures and send petitions to the secretary.

It requires towns to provide one voting machine for every 2,400, rather than 1,200, eligible voters (or fraction thereof) at primaries.

CAMPAIGN FINANCE

Disclosure of Municipal Contracts

The act requires candidates for the office of chief executive officer of a town, city, or borough to report in their campaign finance statements whether a contributor of more than \$400 in total has a contract with the municipality valued at more than \$5,000 or is associated with a business that does.

It requires these contributors to give campaign committees the contract information when they make their contributions and prohibits campaign treasurers from depositing the contributions unless they have the information. If the contributor fails to provide the information, the campaign treasurer must request it by certified mail, return receipt requested, within three business days after receiving the contribution. If the contributor does not provide the information within 14 days after a treasurer's written request or by the end of the reporting

period for the contribution, whichever is later, the treasurer must return the money.

By law, individuals can contribute up to \$1,000 to a candidate for the office of municipal chief executive officer.

Debit Card Payments

The act permits a candidate committee or a PAC to pay for expenditures using a debit card. Under prior law, only party committees were permitted to make payments with a debit card. If they do so, treasurers of candidate committees and PACs must keep the debit card slips for four years from the time payments are made.

Candidate Committees for Governor and Lieutenant Governor

The act makes an exception for candidates for governor or lieutenant governor from the law that prohibits a candidate committee from spending money on behalf of another candidate, unless it is subsequently reimbursed for the other candidate's share of joint expenses. A candidate committee for governor or lieutenant governor may make expenditures on behalf of each other after they have been nominated to run together.

Referendum Committees

The act allows a committee formed for a single referendum to continue and spend money beyond the 90-day deadline by which the committee must distribute its surplus. If another, substantially similar referendum will be voted on in the next six months, the referendum committee can continue to operate. It committee need not terminate and distribute its surplus until 90 days after the last referendum on the same question. It appears that, if a referendum question that is substantially the same is subsequently scheduled to occur within the six months, but after the 90th day following the first referendum, the committee would have to dissolve.

Solicitation

The act bans a municipal employee from soliciting from a person he supervises or that person's spouse or dependent child any campaign contribution for the benefit of (1) any candidate for state, district, or municipal office; (2) a PAC; or (3) a political party. The law already prohibits a state department head or

deputy head from soliciting campaign contributions from any other person for a candidate or a party.

Use of Public Funds

The act extends the ban on state and municipal officials and employees allowing public funds to be spent on promotional campaigns or advertisements featuring a candidate for public office to cover ads that appear in movie theaters or on billboards or bus posters. The current ban applies to advertisements or promotions featuring a candidate's name, face, or voice on television or radio or in newspapers or magazines. By law, the restriction is in effect during the five months before the election (from the beginning of June for a November election).

SEEC Sanction

The act allows the SEEC to impose an additional sanction when it finds an intentional violation of campaign finance laws. It allows the commission to suspend the political activities of a party committee or PAC, but only after it has previously ordered the removal of the committee's treasurer and notified the committee's officers that it is considering the suspension. Under the act, a suspension includes a ban on receiving contributions and making expenditures. The law gives the SEEC authority to sanction a committee by removing a campaign treasurer, deputy treasurer, or solicitor and prohibiting a person from serving in those positions for up to four years. The subject of any sanction has the opportunity for a hearing under the Uniform Administrative Procedure Act.

BACKGROUND

Signature Requirements

Based on October 2002 enrollment figures, petitioning candidates for state offices would have to collect at least the number of signatures shown below. For purposes of calculating the number of petition signatures required, CGS § 9-35c specifies that the number does not include names on the inactive registry lists.

Signature Requirements for State Office Candidates Based on October 2002 Party Enrollment Statistics

	<i>Democratic</i>	<i>Republican</i>
Total Signatures Required	12,588	8,629

For congressional district offices, candidates would have to submit at least the number of signatures shown below, depending on the party and the district.

Signature Requirements for Congressional Office Candidates Based on October 2002 Party Enrollment Statistics

<i>Congressional District</i>	<i>Democratic</i>	<i>Republican</i>
First	3,101	1,462
Second	2,284	1,786
Third	2,787	1,318
Fourth	2,166	2,144
Fifth	2,251	1,918

Offices Covered

State and district offices covered by the act's nominating procedures are the offices of governor, lieutenant governor, secretary of the state, treasurer, comptroller, attorney general, U.S. senator and representative, multi-town state legislator, and multi-town judge of probate. Under existing law, candidates for single-town state senator and representative districts and judges of probate can petition to get on the ballot for a primary.

Related Court Case

On January 29, 2003, a U.S. District Court judge ruled that the state's requirement for running in a primary election (its 15% rule found in CGS §§ 9-400 and 9-416) and the residency requirement for petition circulators (GGC § 9-410) are unconstitutional (*Campbell v. Bysiewicz*, 242 F. Supp. 2d 164).

Business With Which An Individual is Associated

The campaign finance law defines "business with which he is associated" as one in which the contributor is a director, officer, owner, limited or general partner, or holder of 5% or more of the outstanding stock in any class. It limits "officer" to the president, executive or senior vice president, or treasurer.

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-13—HB 6373

*Higher Education and Employment Advancement Committee
Public Health Committee*

**AN ACT CONCERNING PROOF OF
IMMUNIZATION AGAINST MEASLES
AND RUBELLA**

SUMMARY: This act eliminates a requirement that higher educational institutions obtain proof of adequate measles and rubella immunization before enrolling students who (1) have graduated from Connecticut public or private high schools in 1999 or after and (2) when enrolled in those schools were not exempt from this requirement for religious reasons or because immunization would be medically contraindicated.

For students born after December 31, 1956 who do not meet the act's criteria, these institutions must follow existing law and obtain proof of immunization unless the student (1) presents a physician's certificate stating that immunization is medically contraindicated, (2) presents a statement that immunization is contrary to his religious beliefs, (3) presents a statement from a physician or director of health from the student's current or prior town of residence showing that he previously had a confirmed case of measles or rubella, or (4) is enrolled exclusively in a program for which students do not congregate on campus for classes or to participate in institutional-sponsored events.

EFFECTIVE DATE: July 1, 2003

PA 03-66—HB 5841

*Higher Education and Employment Advancement Committee
Education Committee*

**AN ACT CONCERNING DONATION OF
TEACHING SERVICES BY PRIVATE
SECTOR SPECIALISTS**

SUMMARY: This act authorizes local or regional boards of education that elect to expand academic offerings in areas identified as workforce shortage areas to solicit and use qualified private sector specialists, whether or not they are certified to teach, as long as the private sector specialist does not have sole responsibility for a classroom. By law, the Office of Workforce Competitiveness, after consulting with the Labor Department, must annually submit to the governor and designated

legislative committees a report indicating the forecasted workforce shortage areas for the succeeding two- and five-year periods.

Previously, a board of education could use qualified private sector specialists only when it had a demonstrated shortage of qualified teachers in fields designated by the State Board of Education as teacher shortage areas. By law, services must be donated, but a private sector specialist may not work more than one-half of the maximum classroom hours of a full-time certified teacher. Also, by law, (1) no certified teacher may be terminated, transferred, or reassigned because of the use of a private sector specialist and (2) boards of education must annually review the need for private sector specialists and may not renew or place a private sector specialist if a certified teacher is available.

EFFECTIVE DATE: July 1, 2003

PA 03-69—sHB 6599

*Higher Education and Employment Advancement Committee
Appropriations Committee*

**AN ACT AUTHORIZING THE BOARD OF
TRUSTEES OF COMMUNITY-
TECHNICAL COLLEGES TO TRANSFER
GENERAL FUND PERSONNEL
RESOURCES TO THE OPERATING FUND**

SUMMARY: This act requires that the comptroller deposit General Fund appropriations for personal services at community-technical colleges in the Community-Technical Colleges' Operating Fund. It also requires that the comptroller transfer appropriations for fringe benefits and workers' compensation to the operating fund, at the request of the colleges' board of trustees. The transfer must be made with the state treasurer's prior approval and the Office of Policy and Management secretary's annual review and approval. Under prior law, appropriations for fringe benefits were not deposited in the fund, and workers' compensation appropriations were automatically deposited.

If the secretary disapproves transfers, he may require that appropriations for personal services and fringe benefits be excluded from the fund. The act requires the board to establish an equitable policy for allocating appropriations for fringe benefits transferred from the comptroller.

The law already sets similar requirements and procedures for the University of Connecticut and the Connecticut State University system.
EFFECTIVE DATE: July 1, 2003

PA 03-102—sHB 6634

*Higher Education and Employment Advancement Committee
Labor and Public Employees Committee
Education Committee*

**AN ACT CONCERNING ADULT
EDUCATION AND WORKFORCE
DEVELOPMENT**

SUMMARY: This act requires the Connecticut Employment and Training Commission, in cooperation with a consenting regional workforce development board, to establish a pilot program, between July 1, 2003 and June 30, 2006, that allows the board to use its funds to make an existing adult education program available to incumbent workers. The commission must establish the program within available appropriations. The program must be available at a local or regional education board within the workforce development board's region. The act defines "incumbent workers" as Connecticut employees who need additional skills, training, or education to "upgrade employment."

By January 1, 2007, the commission must submit a report to the Education and Higher Education and Employment Advancement committees on the program's establishment and operation.

EFFECTIVE DATE: July 1, 2003

BACKGROUND

Connecticut Employment Training Commission

This commission, created in 1989, is the state workforce development board. It coordinates workforce programs funded by the federal Labor Department and training programs administered by the departments of Education and Housing and Urban Development. It prepares and oversees the implementation of the state's workforce development plan, a comprehensive five-year plan filed with the U.S. labor secretary that details how the state will provide services to targeted populations. The federal Workforce Investment Act (WIA) requires the plan in order for the state to receive federal job training funds.

Regional Workforce Development Board

WIA requires the governor to designate local workforce investment areas. Each such area houses a local workforce development board, called a regional workforce development board. Regional boards are responsible for workforce development activities in their geographic areas, including developing workforce plans, selecting program providers, overseeing programs, negotiating performance measures, establishing worker training education committees, and promoting private-sector involvement.

PA 03-142—sHB 6600

*Higher Education and Employment Advancement Committee
Education Committee
Legislative Management Committee
Government Administration and Elections Committee*

**AN ACT CONCERNING CAREER
LADDER PROGRAMS**

SUMMARY: This act requires the Office of Workforce Competitiveness (OWC) to establish a Connecticut Career Ladder Advisory Committee to promote new, and enhance existing, career ladder programs for occupations in the state with a projected worker shortage, based on the office's forecast. OWC must do this within available appropriations and in consultation with the Permanent Commission on the Status of Women.

By February 1, 2004, the act requires OWC, in conjunction with the advisory committee, (1) to develop a three-year plan to create or enhance career ladder programs for occupations in early childhood education, child care, health care, or other occupations in the state with projected worker shortages for the following five years and (2) submit a report to the Higher Education and Employment Advancement Committee on the program's establishment and advancement.

The act defines "career ladder" as any continuum of education and training that leads to a credential, certificate, license, or degree and results in career advancement or the potential to earn higher wages in an occupation with a projected workforce shortage forecasted by OWC.

EFFECTIVE DATE: Upon passage

**CONNECTICUT CAREER LADDER
ADVISORY COMMITTEE**

The 13-member committee consists of the education, higher education, labor, and public health commissioners, or their designees, and nine public members selected by OWC, in conjunction with the commission, who know about career ladder program issues or projected workforce shortage areas, as follows: three with workforce development expertise; one member each with expertise in developing an early childhood education workforce, job training for women, developing a health care workforce, and labor market analysis; and one each representing health care employers and early childhood education employers. OWC, in conjunction with the commission, must select the public members.

Members must be appointed by October 1, 2003. The committee must elect two of its members as chairpersons and meet at least bimonthly. Members serve two-year terms and public members may serve for only two consecutive terms. All members serve without compensation, except for necessary expenses incurred performing their duties. Appointing authorities fill vacancies.

BACKGROUND*Office of Workforce Competitiveness*

OWC is within the Office of Policy and Management for administrative purposes. It is the governor's principal workforce development policy advisor, acting as a liaison between the governor and other government entities for workforce development matters. It coordinates the state's implementation of the 1998 federal Workforce Investment Act and state agencies' workforce development activities.

By law, OWC, with the Labor Department's assistance, must submit annual reports to the governor and specified legislative committees. The reports must forecast workforce shortages in occupations in the state for the next two- and five-year periods. OWC must also recommend (1) ways to generate enough workers to meet identified workforce needs, including scholarship, school-to-career, and internship programs, and (2) methods industry and secondary and higher education institutions may use to address these needs.

PA 03-207—sSB 1077

*Higher Education and Employment Advancement Committee
Finance, Revenue and Bonding Committee
Appropriations Committee*

**AN ACT CONCERNING THE
APPRENTICE TRAINING PROGRAM**

SUMMARY: This act (1) establishes annual fees for apprentices and sponsors in the Department of Labor's (DOL) apprentice training program and (2) requires the DOL to report to the Labor and Higher Education and Employment Advancement committees by February 4, 2004 on the feasibility of establishing an on-line system for registering apprentices and apprenticeship training programs.

The act requires apprentices who register with DOL to pay a \$25 annual fee. If the apprentice had registered before July 1, 2003 but not completed the apprenticeship by July 9, 2003, the fee must be paid by July 1, 2003 and each July 1 annually thereafter until the apprentice either withdraws his registration or completes an apprenticeship and gets a valid journey person card or occupational license, if one is required. Apprentices who register on or after July 1, 2003 must pay the \$25 when they register and annually each succeeding July 1 until program completion or registration withdrawal.

The act requires anyone sponsoring an apprenticeship program registered with the DOL as of July 1, 2003 to pay an annual \$30 registration fee for each apprentice participating in the program until the apprenticeship is completed and the participant receives a journey person card, if required, or the program is cancelled by the sponsor or deregistered by DOL for cause, whichever is earlier.

Fees collected by DOL must be deposited in the General Fund and credited to a separate nonlapsing appropriation to DOL for administering the apprenticeship training program, the activities of the Connecticut State Apprenticeship Council, and the DOL commissioner's functions regarding formulation of work training standards.

EFFECTIVE DATE: Upon passage

PA 03-237—HB 5837

*Higher Education and Employment Advancement Committee
Government Administration and Elections Committee*

**AN ACT CONCERNING THE BALLARD
INSTITUTE AND MUSEUM OF
PUPPETRY**

SUMMARY: This act designates the Ballard Institute and Museum of Puppetry at the University of Connecticut as the State Museum of Puppetry. It requires the museum to collect, preserve, and research works of puppetry and puppet theater. The museum must also prepare public exhibits on its premises and educational exhibits and programs for use by higher education institutions, public and private schools, libraries, appropriate state agencies, and other public institutions.

EFFECTIVE DATE: October 1, 2003

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-95—SB897

*Select Committee on Housing
Planning and Development Committee
Commerce Committee*

The act also makes a minor change and technical changes.

EFFECTIVE DATE: October 1, 2003

**AN ACT CONCERNING THE
DISPOSITION OF STATE-ASSISTED
HOUSING PROPERTIES IN DEFAULT**

SUMMARY: This act allows the Economic and Community Development (DECD) commissioner, in consultation with the Connecticut Housing Finance Authority, to take two actions when the developer of any state-financed property lawfully dissolves. He can (1) allow the property to participate in any DECD program with the Office of Policy and Management secretary's approval (although it is not clear who owns the property in this scenario) or (2) accept ownership of the property for the state and sell it for a price and on terms he deems proper to an eligible developer. By law, the DECD commissioner acts as the developer for any housing property the state acquires because of DECD action to preserve the state's interest. As the developer, he can operate the property and receive state and federal funds to help him.

In either case, the act requires that any action the DECD commissioner takes preserve most of the property as housing for very low-, low-, or moderate-income people. It makes an exception to this housing preservation provision by requiring the commissioner to allow the continued use of the following specified properties:

1. Bridgeport's Saint Joseph's Residence for Mothers and Children as a day care center,
2. Hartford's House of Bread as a community day care center and corporate office, and
3. Middletown's Rainbow Court Cooperative as rental units for low-income people.

"Housing," under the act, includes facilities and amenities incidental and pertinent to making affordable housing available and intended primarily to serve the affordable housing development's residents. The facilities and amenities include (1) a community room, (2) a laundry room, (3) day care space, (4) a computer center, (5) a management center, or (6) a playground.

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-25—sHB 6487

Human Services Committee

AN ACT CONCERNING TECHNICAL ADJUSTMENTS TO THE EVICTION PREVENTION PROGRAM

SUMMARY: This act eliminates statutory references to a never-implemented loan component of the Department of Social Services' (DSS) eviction prevention program. (The program also includes grants to community organizations to run mediation and rent bank programs.) The revolving loan program was created in 1990 as one of several homelessness prevention strategies, but DSS was unable to start it for a variety of reasons, including its inability to find banks willing to participate.

The act also eliminates DSS's authority to establish repayment terms for both the loan and grant parts of the program. This provision appears to be technical since DSS does not seek grant repayment.

The program is open to families with income up to 60% of the state median income and who are either at risk of becoming homeless or in imminent danger of eviction or foreclosure. EFFECTIVE DATE: October 1, 2003

PA 03-28—SB 976

Human Services Committee

AN ACT CONFORMING STATE LAW WITH FEDERAL WELFARE REFORM

SUMMARY: This act makes a number of changes, mostly technical, in the state's Temporary Family Assistance (TFA) and Medicaid statutes to ensure that they conform to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). One of these addresses the availability of Medicaid benefits to people transitioning off the TFA program, and potentially certain others. Specifically, it substitutes a loss of "Section 1931" medical assistance (i.e., Medicaid) eligibility for a loss of cash assistance eligibility as the basis for extending Medicaid eligibility. The act also removes references to the federal waiver under which the Department of Social Services (DSS) ran its family welfare program.

The act makes it clear that DSS can count any months that someone receives Temporary Assistance for Needy Families (TANF) "benefits" from another state or jurisdiction towards the TFA program's time limits. (TANF benefits can include not only cash assistance but other TANF-funded programs.) Previously, DSS could count only the months someone received TFA benefits issued outside the state.

TANF is the federal block grant that replaced the Aid to Families with Dependent Children program. States can use TANF grants to fund a variety of programs that help poor families, including cash assistance. TFA is Connecticut's cash assistance program for families with children.

The act also removes obsolete provisions. EFFECTIVE DATE: October 1, 2003

TRANSITIONAL MEDICAID

Under prior law, DSS had to extend Medicaid eligibility for two years to families who became ineligible for TFA benefits for any reason as long as an adult in the family (1) was working or (2) became employed within six months of losing cash assistance eligibility. DSS regulations also allow Medicaid coverage for families who lose TFA eligibility due to child-support income.

The act instead extends Medicaid benefits for two years to families who become ineligible for Section 1931 assistance, to the extent permitted by federal law. (Section 1931 of the federal Social Security Act is a Medicaid category that covers families receiving cash assistance and certain others.) Under the act, this transitional coverage is available only to families who lose Medicaid eligibility and an adult in the family is working or begins working within six months of losing eligibility. It is also available to people who lose eligibility because child support income brings them over the Section 1931 limits (PA 03-2 lowered this limit from 150% to 100% of the federal poverty level (FPL)).

By tying eligibility for the transitional benefit to eligibility for Section 1931 coverage, instead of cash assistance, the act limits such coverage to what federal law allows. Thus, families who lose eligibility for Section 1931 medical coverage for any reason other than income (including child support income) cannot get transitional benefits. Under prior law, families who lost their cash assistance due to

things like noncompliance with a documentation requirement could qualify for transitional Medicaid as long as they met the employment or child support income criterion. (The federal law does not allow states to waive a family's non-financial eligibility requirements, which include filing proper forms.)

It appears that under the act, families who lose their 1931 benefits because they have lost eligibility for TFA benefits due to income that puts them above the TFA limits (100% of the FPL) can get transitional Medicaid. It is not clear whether working families who lose their eligibility because of the reduction in the income limits set by PA 03-2 will not qualify for Medicaid as pending litigation has yet to determine the law's effect on them.

BACKGROUND

Section 1931 and Transitional Medicaid

Section 1931 of the Social Security Act (42 USC § 1396u-1) was created under PRWORA, which also established TANF. It essentially de-linked Medicaid from state cash assistance programs, which meant that receipt of cash assistance no longer made someone automatically eligible for Medicaid. While it de-linked the two programs, Section 1931 required states to offer Medicaid to families using standards that were in effect when PRWORA passed (thus ensuring families would not lose coverage they had) but allowed them to use less restrictive eligibility criteria.

Hence, families who are receiving TFA (who, by definition, can have incomes no higher than 100% of the FPL) qualify for Section 1931 coverage. (In 1999, the legislature also created a separate 1931 coverage category for caretaker relatives of children receiving Medicaid with higher incomes (originally 185% of FPL but subsequently lowered to 150%), but PA 03-2 lowers the limit to 100% of the FPL, essentially eliminating the second group.)

In addition to de-linking cash and medical assistance, Section 1931 requires states to provide transitional Medicaid benefits to families as follows. Families who would lose their Medicaid eligibility because their income, due to child support, exceeds the Section 1931 limits must receive up to four months of transitional Medicaid. Families losing eligibility for Medicaid due to hours of, or income from, employment can receive up to 12 months of transitional benefits.

In practice, DSS has offered two full years of transitional benefits by combining a different Section 1931 provision that allows states to use the less restrictive eligibility methodology with the above time-limited coverage provisions. For families with child support income, DSS allows this excess income to be "disregarded" for 20 months, after which the four months of mandatory coverage start. Families with excess earnings have these disregarded for one year. Then, the mandatory year of coverage begins.

Until September 30, 2001, the state operated its transitional Medicaid program under a federal waiver. PRWORA allowed states with waivers to continue them until that date even if they contained elements contrary to PRWORA's provisions.

PA 03-2, Legal Services Suit, Temporary Restraining Orders, and Summary Judgment

PA 03-2 reduces from 150% to 100% of the FPL the income limit for adult caretaker relative coverage under the HUSKY (Medicaid) program, effective April 1, 2003. On March 28, 2003, Connecticut Legal Services filed suit in U.S. district court (*Rabin v. Wilson-Coker*, Docket Case #03-CV-555) against DSS challenging its implementation of this law.

One of the complaints in the suit argued that under federal law, DSS had to offer "Extended Medical Assistance" (another name for transitional Medicaid) to certain individuals who lost their Section 1931 eligibility. The plaintiff adults are those in the state's 1931 coverage group who had incomes between 100% and 150% of the FPL. Plaintiffs asserted that they were entitled to transitional Medicaid because Section 1931 allowed for continued coverage for people who lost their 1931 eligibility due to excess income.

On March 31, the judge hearing the case granted the plaintiffs a temporary restraining order, preventing DSS from proceeding with the income limit reduction. On May 29, 2003, the judge denied plaintiffs' request for a temporary injunction and granted DSS summary judgment, rejecting the plaintiffs' claim that a reduction in the income limits was cause for Transitional Medicaid eligibility. The judge held the DSS position was supported by the federal law's legislative history, which called for Transitional Medicaid only when someone lost her 1931 eligibility due to increased earnings, not because of a reduction in the program's income limits. DSS planned to suspend benefits for these

individuals on July 1.

On June 26, 2003, a U.S. appeals court (2nd Circuit) issued a temporary injunction, pending its review. But the order apparently applies only to adults with earnings who were receiving benefits before April 1. Thus on July 1, adults who were in the higher income range but not working lost their Medicaid benefits, as did adults who applied for assistance after April 1 under the new, lower income limits. (Some of the adults who lose coverage may qualify for Medicaid under a different coverage category.)

PA 03-36—sSB 1053

Human Services Committee

AN ACT CONCERNING ADOPTION OF A STANDARD UTILITY ALLOWANCE BY THE DEPARTMENT OF SOCIAL SERVICES

SUMMARY: This act requires the Department of Social Services (DSS) commissioner, with federal approval, to implement the federal option to mandate use of a standard utility allowance in calculating the excess shelter deduction for applicants' eligibility for the federal Food Stamp program, which the state administers. The utility allowance is added to other shelter costs and amounts above 50% of applicants' income ("excess shelter costs") after certain other deductions are subtracted from income. Previously, state regulations gave people a choice of using their actual utility costs or a standard allowance.

EFFECTIVE DATE: October 1, 2003

PA 03-88—HB 6517

Human Services Committee

*Government Administration and Elections Committee
Judiciary Committee*

AN ACT CONCERNING THE OFFICE OF PROTECTION AND ADVOCACY FOR PERSONS WITH DISABILITIES

SUMMARY: To comply with eligibility requirements for federal funds, this act authorizes the Office of Protection and Advocacy (OPA) director to ensure that all aspects of the agency's operations conform to federal protection and advocacy requirements for program independence and authority. To achieve this goal, the director may:

1. maintain structural independence from other agencies that provide services to people with disabilities;
2. pursue legal and administrative remedies on behalf of people with disabilities;
3. investigate allegations of abuse and neglect of people with disabilities who are receiving care, treatment, or services;
4. have access (a) to people who are living in facilities or are clients of service systems and (b) with appropriate consent, to their care, treatment, or services records;
5. educate policy makers, consumers, and the public about issues affecting people with disabilities;
6. reach out to members of traditionally underserved populations; and
7. develop an annual statement of priorities and objectives and solicit public comment and input on this process.

EFFECTIVE DATE: October 1, 2003

PA 03-89—SB 973

Human Services Committee

Judiciary Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING THE ADMINISTRATION OF THE CHILD SUPPORT PROGRAM

SUMMARY: This act makes numerous changes in the child support enforcement program administered by the Bureau of Child Support Enforcement (BCSE) within the Department of Social Services (DSS). It:

1. requires the state, rather than applicants, to pay the application fee for BCSE services;
2. requires some families who receive child support payments through the state disbursement unit to get notice that BCSE offers free services;
3. allows court support enforcement personnel to require paternity testing in interstate child support cases, rather than only in in-state cases;
4. expands the powers of judges and magistrates to order fathers to pay for paternity tests;

5. imposes “new hire” reporting obligations on certain independent contractor arrangements;
6. permits BCSE investigators to issue income withholding orders as soon as a judge or magistrate orders them, rather than only at the custodial parent’s request or upon delinquency;
7. eliminates automatic stays on income withholding orders currently triggered by court filings challenging the order; and
8. allows DSS to disclose to health insurers otherwise confidential information about certain families receiving BCSE services when the noncustodial parent needs it to comply with a court order directing him to enroll the child in a health insurance plan (e.g., HUSKY).

EFFECTIVE DATE: October 1, 2003

BCSE APPLICATION FEE ELIMINATED

BCSE offers the same services to families who have never requested BCSE enforcement assistance, had a child placed in foster care, or received assistance under various federally funded programs (“non-IV-D”) as it offers to families who have (“IV-D”). Previously, non-IV-D families paid \$25 to apply for these services. Under the act, the state pays the fee.

NOTICE OF FREE SERVICES

The act requires non-IV-D families who receive child support payments through DSS’s disbursement unit but have not applied for BCSE support enforcement services to be notified that the bureau offers these services at no charge. The notice must be given when an income withholding order issued for a noncustodial parent directs the creditor to send the funds to the disbursement unit.

PATERNITY TESTING

Interstate Cases

The act allows court support enforcement personnel to require genetic (DNA) testing to determine the paternity of a child when the putative father lives in Connecticut but the child and parent live elsewhere. Prior law gave them this authority only when all of the parties lived in Connecticut.

Paternity Test Costs

The act authorizes judges and family support magistrates to order a man who requested DNA testing and is found to be the child’s father to repay the state’s costs. By law, the extent of a father’s repayment obligation depends on his ability to pay.

NEW HIRE REPORTING OBLIGATIONS

The act requires people who acquire independent contractors to perform services in Connecticut to notify the Department of Labor, in most cases, within 20 days of doing so. The expected value of the contract must be at least \$5,000 for the calendar year following its effective date. Reports must contain information and be in the format the labor commissioner prescribes.

By law and regulation, the Labor Department maintains a directory of new hires, but the directory previously did not include independent contractors. Agency officials periodically check the registry to identify wage earners who are responsible for paying child support.

INCOME WITHHOLDING ORDERS

The act permits DSS support investigators, in IV-D cases, to issue withholding orders as soon as a judge or magistrate orders this. Under prior law, they could do so only if (1) a custodial parent requested it or (2) the obligor was at least 30 days behind.

Elimination of Automatic Stay

Under prior law, a person responsible for paying child support who received notice of an income withholding order had 15 days to challenge it in court. If he filed a court challenge, the entity that had been directed to withhold funds (creditor) had to stop doing so until a judge or magistrate resolved the dispute.

The act does not change existing procedures for disputing such orders, but eliminates the automatic stay, thus requiring creditors to comply with withholding orders while the court challenge is pending.

DSS DISCLOSURES

With some exceptions, prior law made information about people who apply for or

receive benefits in programs DSS administers confidential. The act authorizes the department to disclose information about a child and his custodial parent to a health insurer when the noncustodial parent is under court order to insure the child but is unable to provide the information.

The act's provisions apply to IV-D support cases only, and require the DSS commissioner to determine that disclosure is in the child's best interests. Before making this determination or disclosing the information, she must give the custodial parent notice and an opportunity to object.

BACKGROUND

Related Acts

PA 03-109 provides additional administrative remedies for delinquent child support collections, and PA 03-258 expands the paternity acknowledgment program and modifies a court formula for calculating past due child support amounts.

PA 03-109—SB 974

*Human Services Committee
Judiciary Committee
Public Safety Committee*

AN ACT CONCERNING ADMINISTRATIVE ENFORCEMENT OF CHILD SUPPORT ORDERS

SUMMARY: This act makes several changes in the child support collection procedures for the Department of Social Services (DSS) child support enforcement program. They apply only to families who are or have been involved in a state's child support enforcement system (sometimes referred to as "IV-D" cases). The act:

1. allows state enforcement officials to seize property of delinquent obligors to satisfy support orders issued by courts in other states,
2. establishes a mechanism allowing DSS to seize lottery winnings,
3. eliminates court discretion to order credit reporting of child support arrearages of \$1,000 or more, and
4. eliminates a statutory formula for distributing intercepted funds.

EFFECTIVE DATE: October 1, 2003

SEIZING PROPERTY IN INTERSTATE CHILD SUPPORT CASES

The act authorizes child support enforcement personnel working for DSS or the Judicial Department's Support Enforcement Services Unit to notify (1) state or local agencies that distribute cash benefits, (2) attorneys, (3) financial institutions, and (4) pension fund administrators about a parent's (obligor's) child support delinquency when a support order from another state is registered here and the obligor is more than \$500 behind. Prior law explicitly authorized this only for support orders issued by Connecticut courts. By law, obligors whose Connecticut creditors are notified of their child support obligations are entitled to notice and a hearing before their funds are paid over to the state.

SEIZING LOTTERY WINNINGS

The act requires the Connecticut Lottery Corporation (CLC) to check a DSS-supplied list of delinquent child support obligors before redeeming winning lottery tickets worth \$5,000 or more. If the name of the person redeeming the ticket is on the list, the CLC must ask DSS to confirm that the person is an obligor. Upon confirmation, CLC must withhold from the winnings the amount of support owed and notify the ticket holder of its reasons for doing so and of his right to a DSS hearing to contest it.

CLC currently withholds past due support only from winnings it pays out over time.

CREDIT REPORTING

By law, DSS sends credit reporting agencies monthly lists of people who are more than \$1,000 behind in their support payments after giving obligors notice and an opportunity to contest the overdue amount. Prior law allowed judges and family support magistrates to exempt specific cases from the reporting mandate. The act eliminates this discretion.

DISTRIBUTING PAST DUE CHILD SUPPORT

When DSS intercepts funds or forecloses on liens and past due support is owed both to the family and the state, prior law directed the agency to apply the proceeds to the family's current and past due support first. Any amount left over went to reimburse the state assistance.

The act eliminates this formula, directing DSS instead to distribute the money as required by Title IV-D of the federal Social Security Act. In some circumstances, the prior law was inconsistent with IV-D distribution rules, and the act conforms statute to agency practice.

BACKGROUND

Related Act

PA 03-89 makes other changes in DSS's child support enforcement program.

PA 03-155—sSB 212

*Human Services Committee
Appropriations Committee*

AN ACT CONCERNING THE DELIVERY OF DENTAL SERVICES UNDER THE MEDICAID PROGRAM

SUMMARY: This act requires the Department of Social Services (DSS) commissioner, by January 1, 2004, to revise the Connecticut Medical Assistance Program Provider Manual to incorporate measures that enhance and expedite dental services delivery to Medicaid-eligible people. The measures must include:

1. simplifying the application process for dental providers to the extent permitted by federal law and
2. streamlining the renewal form for current providers whose information has not changed in the preceding two years.

The act also requires the DSS commissioner to amend DSS's federal Medicaid managed care waiver (HUSKY A) by July 1, 2004, and before implementing a state-wide dental plan to administer the dental services portion of the department's medical assistance program. It requires her to submit the waiver amendment to the Human Services and Appropriations committees in accordance with the state statute that sets procedures for committee approval of Medicaid waivers.

In addition, the act requires the commissioner, before implementing such a state-wide dental plan, to review eliminating prior authorization requirements for basic and routine dental services. If the commissioner adopts regulations to eliminate this prior authorization, the act allows her to implement the policies and procedures while in the process of adopting the

regulations as long as she prints notice of the intention to adopt regulations in the *Connecticut Law Journal* within 20 days of implementing the policies and procedures.

EFFECTIVE DATE: Upon passage, except for the requirement for the commissioner to review eliminating prior authorization and the provisions concerning regulations, which take effect July 1, 2003.

BACKGROUND

Related Act

PA 03-165, which the governor vetoed, modifies the general statutory procedures referred to in this act for committee approval of Medicaid waivers.

PA 03-165—sSB 687 (VETOED)

*Human Services Committee
Appropriations Committee
Legislative Management Committee*

AN ACT CONCERNING LEGISLATIVE OVERSIGHT OF THE FEDERAL WAIVER APPLICATION PROCESS

SUMMARY: This act strengthens legislative oversight of Department of Social Services' (DSS) federal waiver applications. By law, whenever DSS submits an application to the federal government to waive certain requirements in a federal program it administers, it must first submit it to the Human Services and Appropriations committees. The act requires, rather than allows, the committees to advise the DSS commissioner of their approval, rejection, or modification of the application within 30 days of receiving it and deems a failure to do so to be an approval.

The act (1) outlines the action that the commissioner must take if the committees reject or modify an application and (2) creates a procedure to be followed when the committees disagree. If the committees reject the waiver application, the commissioner may not submit it to the federal government. She must modify the application when the committees advise her to do so. If the committees disagree, the act requires appointment of a six-member conference committee.

The conference committee must report to the standing committees, which must in turn vote to accept or reject, but not amend, the report. The

Appropriations Committee must advise the commissioner if both committees accept the report and she must act in accordance with it. If either committee rejects the conference report, the waiver application is deemed approved.

When submitting the application to the federal government, the act requires the commissioner to include a complete transcript of the joint committees' proceedings along with the written comments submitted, which the act directs the committees to transmit to her. She must also include any written comments she receives during the public comment period already established in law.

EFFECTIVE DATE: July 1, 2003

CONFERENCE COMMITTEE

When the committees of cognizance do not agree on the waiver application the act requires the appointment of a conference committee. The committee is comprised of three members from each committee. The Senate president pro tempore and House speaker appoint two members each and the Senate and House minority leaders jointly appoint two members.

BACKGROUND

Public Comment Period for Federal Waiver Applications

By law, DSS must publish notice in the *Connecticut Law Journal* whenever it intends to seek a federal waiver. The commissioner must allow 15 days for written comments on the application before submitting it to the legislative committees for their review and must include the comments with the waiver application she submits to the committees.

PA 03-258—HB 6518

*Human Services Committee
Judiciary Committee*

AN ACT CONCERNING VOLUNTARY PATERNITY ESTABLISHMENT AND THE JOHN S. MARTINEZ FATHERHOOD INITIATIVE

SUMMARY: This act changes the way courts calculate the amount noncustodial parents owe in past due child support (1) when their past or current ability to pay is unknown or (2) while attending high school, incarcerated,

institutionalized, or incapacitated. It directs courts to follow the child support and arrearage guidelines to determine the amounts owed. The act also changes the basis for calculating past due support and deadlines for seeking an adjustment of past due support amounts, but only when the obligor failed to attend the court hearing where the support amount was set.

The act also expands the entities that can participate in the Department of Social Services' (DSS) voluntary paternity acknowledgment program, which previously was restricted to hospitals and other childbirth facilities. It specifies the responsibilities of the DSS commissioner and program protocols that must be implemented by all participants. It also requires more information about putative fathers' rights and the consequences of signing acknowledgments to be contained in the notice such fathers get before signing a paternity acknowledgment.

Within available appropriations, the act also establishes the John S. Martinez Fatherhood Initiative within DSS to promote the positive involvement and interaction of fathers with their children.

EFFECTIVE DATE: October 1, 2003

PAST-DUE CHILD SUPPORT CALCULATIONS

By law, past-due child support is any combination of (1) court-ordered current or arrearage payments that are due but unpaid; (2) unpaid support specified in a court judgment or similar ruling, whether or not presently payable; and (3) support due for periods before an action to establish a support order was filed. Under prior law, courts could establish the past due support amount in cases in the third category as the total amount of state assistance the child received if the father's past or current ability to pay was unknown.

The act, instead, directs them to compute the past-due amount based on the obligor's work history, if known, or else on the state minimum wage that was in effect during the covered periods. It specifies that courts must use actual earnings for past periods during which the obligor was a full-time high school student or was incarcerated, institutionalized, or incapacitated.

ADJUSTMENTS

Under prior law, the court could adjust the amount of past-due support if it did not have information on the obligor's ability to pay when it issued the order and that information subsequently became available. Motions for adjustments had to be filed within four months after the obligor received the court order.

The act instead allows the filing of an adjustment motion within 12 months after the obligor receives the court order, but only if he failed to appear at the hearing. It requires the state to file an adjustment motion in these cases if the Bureau of Child Support Enforcement provided enforcement services and obtains information that would have substantially affected the court's determination of past ability to pay if the information had been available to the court.

The act also requires the parents' copies of support orders that are subject to the adjustment process to state in plain language (1) the basis for the court's determination of past support and (2) their rights to request an adjustment and the consequences of not doing so.

ORDERS FOR CURRENT SUPPORT

When a child support obligor is institutionalized or incarcerated, the act requires a judge or family support magistrate to use his actual income while in the institution or prison when establishing an initial order for current support or modifying an existing one. As in other cases, the court must follow the child support guidelines.

VOLUNTARY PATERNITY ESTABLISHMENT

The act requires the DSS commissioner to amend regulations for the Voluntary Paternity Acknowledgment Program (which the act renames the "Voluntary Paternity Establishment Program.") She must add provisions that specify requirements for program participation.

Protocols

The commissioner must assist each entity agreeing to participate in the program to develop a program protocol and cannot allow them to participate until they do. In addition to assuring that acknowledgments are given voluntarily and without coercion, which the law already requires,

protocols must encourage the positive involvement of both parents in the life of the child and include training for all staff members involved in the paternity establishment process. The purpose of the training is to make staff members understand their obligations to ensure that parents are informed and able to understand and agree to a paternity affirmation or acknowledgment and that their actions are voluntary and free of coercion.

The commissioner must make all protocols and proposed protocols available for public inspection.

She must also add the following information to the notice the putative father is given before he signs the acknowledgment:

1. that he has the right to establish his paternity voluntarily or through court action and to a DNA test to determine paternity before signing an acknowledgment or in conjunction with a court action and
2. that an acknowledgment of paternity may result in rights of custody and visitation being conferred on him.

The notice already advises him of his rights to (1) contest paternity, (2) have a lawyer appointed to represent him, (3) paternity testing, and (4) a trial. It also informs him that signing the acknowledgment will make him liable for child support until the child reaches age 18.

Restrictions on Participating Entities

The act specifies that the DSS commissioner cannot approve program participation by entities and locations at which all or a substantial portion of occupants are present involuntarily, including prisons and mental hospitals. It makes an exception for the fatherhood initiative pilot program currently offered at the Manson Youth Institution, the Department of Correction facility for male offenders between ages 14 and 21.

The act also specifies that the commissioner must withdraw participation approval if she finds that a participant maintains a coercive environment or if the failure to acknowledge paternity could result in the loss of benefits or services controlled by the participant (such as medical or cash assistance), which are unrelated to paternity.

JOHN S. MARTINEZ FATHERHOOD INITIATIVE

The fatherhood initiative the act establishes must emphasize involvement and interaction of fathers with children eligible, or formerly eligible, for cash assistance under the Temporary Family Assistance Program. It must identify services that (1) effectively encourage and enhance responsible and skillful parenting and (2) increase fathers' ability to meet their children's financial and medical needs through employment services and child support enforcement measures.

The act states that the fatherhood initiative's objective must be to:

1. educate the public about the financial and emotional responsibilities of fatherhood;
2. help men prepare for the legal, financial, and emotional responsibilities of fatherhood;
3. promote the establishment of paternity at birth;
4. encourage married and unmarried fathers to foster their emotional connection to, and financial support of, their children;
5. establish support mechanisms for fathers in their relationship with their children, regardless of their marital and financial status; and
6. integrate available state and local services for families.

DSS plans to give the name "John S. Martinez Fatherhood Initiative" to its existing fatherhood initiative, which meets all of the above criteria.

BACKGROUND

Related Acts

PA 03-89 makes many changes in DSS's child support enforcement program and PA 03-108 provides additional administrative remedies for delinquent child support collections.

PA 03-268—sSB 1011

Human Services Committee
Appropriations Committee
Labor and Public Employees Committee
Judiciary Committee
Public Health Committee

AN ACT CONCERNING DEPARTMENT OF SOCIAL SERVICES REPORTING REQUIREMENTS TO THE GENERAL ASSEMBLY

SUMMARY: This act reduces the number, frequency, and scope of reports the Department of Social Services (DSS) must submit to the legislature about programs it runs.

The act requires DSS to submit its report to the governor and Appropriations and Public Health committees on the Connecticut Pharmaceutical Assistance Contract to the Elderly and Disabled (ConnPACE) twice a year instead of quarterly.

It requires DSS and the Labor Department to update the Temporary Assistance for Needy Families (TANF) Advisory Council on the Temporary Family Assistance (TFA) and Employment Services programs at scheduled meetings, instead of monthly. It eliminates a requirement that the commissioner report to the Human Services and Appropriations committees by each November 15th on funding requirements needed to support programs funded by the TANF block grant. (TANF funds pay for TFA and Employment Services.)

By law, DSS must submit a report to the Human Services and Judiciary committees each year on its administration of the state's child support enforcement program. The act requires the report to be submitted by April 1 instead of January 1, and no longer requires it to include performance standard compliance information.

The act eliminates the requirement that DSS submit to the governor and the Human Services Committee an annual report on the number of children receiving Medicaid-funded services, the number of doctors and dentists participating in the program, and a variety of related statistics. It also eliminates a requirement that the department report annually to the Appropriations and Human Services committees on, among other things, field audits it conducts to verify the reasonableness and propriety of payments it makes to providers for drugs dispensed to Medicaid recipients and problems it encounters in running its drug utilization program. And it eliminates DSS' responsibility to report to the Appropriations Committee on a variety of federal funds activities.

The act requires DSS to continue publishing an annual report on the biometric identifier system (fingerprinting of certain public assistance recipients) through January 1, 2004. It must also issue a final report on the program by

that date.

It eliminates a requirement that the DSS commissioner submit an annual report to the Appropriations Committee showing the amount of federal funds accepted to match private contributions and the purpose for which the funds are accepted and used.

The act reduces the scope of an annual report DSS must submit which includes its goals and objectives and its success in meeting legislative mandates.

Finally, the act removes obsolete reporting requirements on (1) nursing home self-pay rates, (2) the Jobs First Employment Services program, (3) welfare dependency, and (4) the revised Medicaid management information system. The act also removes references to an obsolete demonstration program on nursing home prescription drug returns. (The program is now permanent.)

EFFECTIVE DATE: October 1, 2003

DSS REPORTS

Elimination of Miscellaneous Fiscal Reports

The act eliminates DSS's responsibility to report the following to the Appropriations Committee:

1. monthly disproportionate share and emergency assistance to families expenditures and reimbursements;
2. quarterly reconciliation of federal reimbursement awards, state reimbursements requests, and actual claimable revenue due to the state;
3. notice of state plan amendments submitted to and approved by the federal government and their estimated fiscal impact;
4. notice of federal reimbursement initiatives and their fiscal impact; and
5. monthly state expenditures for services for which the state receives federal financial participation (i.e., Medicaid).

Annual Report on Goals, Objectives, and Legislative Mandates

Each year DSS must submit to the legislature a report outlining its goals and objectives and how it has complied with legislative mandates. The act removes a requirement that this report (1) include financial information on all cost disallowances, financial penalty disallowances, sanctions, and fines paid

during the previous fiscal year, and why they occurred and (2) identify all recoveries (presumably of assistance provided) during the fiscal year for previous years.

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-14—HB 6523*Insurance and Real Estate Committee*

**AN ACT CONCERNING THE EDUCATION
REQUIRED TO QUALIFY TO TAKE THE
REAL ESTATE BROKERS AND
SALESPERSONS LICENSING
EXAMINATIONS**

SUMMARY: This act increases from 30 to 60 the minimum number of hours of classroom study in real estate principles and practices applicants for real estate broker and salesperson licenses must satisfy before being admitted to the licensing examination.

EFFECTIVE DATE: October 1, 2004

PA 03-30—sHB 6376*Insurance and Real Estate Committee*

**AN ACT CONCERNING MINIMUM
VALUATION STANDARDS**

SUMMARY: When adopting minimum valuation rules, this act requires the insurance commissioner to adopt and follow the valuation standards published in the latest version of the National Association of Insurance Commissioners' (NAIC) *Accounting Practices and Procedures Manual* and the NAIC's *Annual Statement Instruction Manual*, subject to modifications the commissioner prescribes.

The act specifies that the accounting and minimum valuation standards the commissioner must adopt and follow includes the preamble, appendices, and actuarial guidelines of the practice and procedures manual.

EFFECTIVE DATE: October 1, 2003

PA 03-39—SB 1017*Insurance and Real Estate Committee
General Law Committee*

**AN ACT INCREASING EDUCATIONAL
OPPORTUNITIES FOR REAL ESTATE
BROKERS AND SALESPERSONS**

SUMMARY: This act prohibits the commissioner of consumer protection from disapproving (1) schools, institutions, or organizations that offer current real estate practice and licensing law courses or (2) the

courses themselves solely because they are offered or taught by electronic means.

The law requires real estate licensees to take at least 12 hours of continuing education classroom study every two years to renew their license.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Related Act

PA 03-14, effective October 1, 2003, increases from 30 to 60 hours the minimum classroom study requirement real estate salespersons and brokers must satisfy before being admitted to the licensing examination.

PA 03-49—sHB 6608*Insurance and Real Estate Committee
Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING CLAIMS MADE
PURSUANT TO THE CONNECTICUT
INSURANCE GUARANTY ASSOCIATION
ACT**

SUMMARY: This act modifies the limitation on Connecticut Insurance Guaranty Association Act (CIGA) coverage for claims filed by nonresidents. Prior law required coverage for the claim of a nonresident claimant only if (1) the insured was a Connecticut resident, (2) the insolvent insurer was licensed to conduct business in Connecticut, and (3) the claimant's state of residence has an association similar to CIGA and that association refused the claim.

The act instead, requires coverage for a nonresident claimant only if the insured was a Connecticut resident at the time the incident occurred and the insured had a net worth of \$25 million or less when the policy was issued or any time after that. It defines net worth to include the aggregate net worth of the insured and all of its subsidiaries and calculated on a consolidated basis.

The act establishes a separate rule for workers' compensation. It requires coverage of a nonresident claimant's claim for workers' compensation benefits.

The act eliminates CIGA coverage for any claim by, or on behalf of, an affiliate of the insolvent insurer at the time the policy was

issued or at the time of the insured event.

Finally, the act broadens the definition of an affiliate of an insolvent insurer by eliminating the December 31 of the year preceding the date the insurer became insolvent as the date to determine affiliation.

EFFECTIVE DATE: Upon passage and applicable to claims filed on or after May 23, 2003.

NONRESIDENT WORKERS' COMPENSATION CLAIMS

Under the act, CIGA is secondarily liable for coverage of a nonresident claimant's workers' compensation claim. The act requires the claimant to first seek recovery from the association operating in the claimant's state of residence before filing the claim against the CIGA.

BACKGROUND

Connecticut Insurance Guaranty Association

The association pays the valid property and casualty insurance claims of resident claimants if a member insurer becomes insolvent. The association assesses members to obtain funds for this purpose.

PA 03-53—HB 6378

Insurance and Real Estate Committee

AN ACT CONCERNING MINIMUM NONFORFEITURE PROVISIONS FOR CERTAIN ANNUITIES

SUMMARY: This act replaces the 3% statutory guaranteed minimum interest rate used to calculate individual annuity nonforfeiture benefit amounts (paid-up annuity, cash surrender value, or reduced death benefit) with a formula that uses in part an indexed interest rate tied to the five-year Constant Maturity Treasury Rate reported by the Federal Reserve. The act phases in the indexed interest rate and applies it to annuity contracts issued on or after May 23, 2003. It requires insurers who want to use the indexed rate between the act's effective date and July 1, 2005 to file a written notice with the insurance commissioner. Insurers that wish to continue using the current 3% interest rate can do so but all nonforfeiture benefit amounts for annuity contracts issued after July 1, 2005 must

be determined by the new indexed interest rate.

The act permits, rather than requires, insurers to defer cash surrender benefit payments for up to six months and adds the requirement that they submit a written request to, and receive written approval from, the insurance commissioner before deferring such payments. The request must include an explanation of the deferral's necessity and equity.

The act expands the right of annuity holders to receive nonforfeiture benefits, changes the net consideration percentage used to define minimum nonforfeiture benefit amounts, increases the annual annuity contract charge, and requires the payment of interest on any unpaid annual annuity charge.

Finally, the act authorizes the commissioner to (1) require certain evidence about the present value of any nonforfeiture benefit and (2) adopt implementing regulations.

EFFECTIVE DATE: Upon passage

INDEX INTEREST RATE

The act requires the interest rate used to calculate the minimum nonforfeiture benefit amount to be based on the lesser of 3% or the five-year Constant Maturity Treasury Rate as reported by the Federal Reserve (as of a specific date or average over a period of time, rounded to the nearest 1/20 of 1%) less 125 basis points (1.25%). This calculated interest rate cannot be less than 1%.

The act requires that the redetermination date, basis, and time period be stated in the contract. The indexed interest rate applies for an initial period of time and may be redetermined for additional periods. The act defines the "basis" as the date or average over a specified period that produces the value of the five-year Constant Maturity Treasury Rate used at each redetermination date.

If the annuity participates in an equity index benefit, the act authorizes an increase in the basis point reduction of up to 100 basis points (1%). It also requires, on the contract's issue or redetermination date, that the present value of the additional basis point reduction not exceed the market value of the benefit. And it authorizes the commissioner to require insurers to demonstrate that the present value of the additional reduction does not exceed the benefit's market value. The commissioner may disallow or limit the additional reduction if she determines that the evidence is not acceptable.

NONFORFEITURE BENEFIT

Prior law required annuity contracts to offer a paid-up annuity benefit to an annuity holder who stops making future premium payments. The act permits an annuity holder who submits a written request to receive this benefit as well.

NET CONSIDERATION PERCENTAGE

Prior law required the percentage of the net consideration for any given contract year used to define the minimum nonforfeiture amount to be 65% of the net consideration for the first year and 87.5% for the second and subsequent years. The act changes the net consideration to 87.5% of gross consideration credited to the contract during that year.

ANNUAL CHARGE WITH INTEREST

The act increases from, \$30 to \$50, the annual charge assessed on annuity contracts and subjects unpaid annual charges to the payment of interest calculated according to the indexed interest rate the act authorizes.

EVIDENCE OF PRESENT VALUE

The act prohibits the present value of the additional 100-basis point (1%) reduction on the contract issuance or redetermination date from exceeding the market value of the benefit.

IMPLEMENTING REGULATIONS

The act authorizes the commissioner to adopt implement regulations, including those (1) permitting increases in the additional basis point reduction, (2) providing for adjustments to the calculation of minimum nonforfeiture amounts for annuity contracts that participate in an equity index benefit and other contracts for which the commissioner determines that adjustments are justified, and (3) implementing any other provision of the act.

PA 03-55—sSB 1015

Insurance and Real Estate Committee

**AN ACT REQUIRING NOTICE TO
PERSONAL RISK POLICYHOLDERS
REGARDING SERVICES PROVIDED BY
THE INSURANCE DEPARTMENT**

SUMMARY: This act requires personal risk insurers or their designees, who deny a claim to provide the insured with written notice of the denial. The last paragraph of the notice must include the following statement in at least 12-point type:

IF YOU DO NOT AGREE WITH THIS DECISION, YOU MAY CONTACT THE DIVISION OF CONSUMER AFFAIRS WITHIN THE INSURANCE DEPARTMENT.

The notice must also include the address and toll-free telephone number for the department's Consumer Affairs Division and the department's Internet address.

Personal risk insurance is homeowner, tenant, private passenger automobile, mobile manufactured home, and other property and casualty insurance used to protect personal, family, or household needs.

EFFECTIVE DATE: January 1, 2004

PA 03-57—SB 351

Insurance and Real Estate Committee

**AN ACT CONCERNING DEFICIENCIES
IN INSURANCE CLAIM INFORMATION**

SUMMARY: This act establishes the minimum information needed for a health care provider's claim for payment to be complete for processing under the law requiring timely payment of claims and not considered deficient. The claim must be submitted to an insurer on the standard Health Care Financing Administration (HCFA) 1500 or UB-92 form or their successor forms.

EFFECTIVE DATE: October 1, 2003

CLAIM FORMS

The act establishes the following minimum information for the HCFA claims forms:

HCFA 1500 CLAIMS FORM

<i>Item Number</i>	<i>Item Description</i>
1a	Insured's identification number
2	Patient's name
3	Patient's birth date and sex
4	Insured's name
10a	Patient's condition-employment
10b	Patient's condition-auto accident
10c	Patient's condition-other accident
11	Insured's policy group number (if provided on the identification card)

11d	Is there another health benefit plan?
17a	Identification number of referring physician (if required by insurer)
21	Diagnosis
24A	Dates of service
24B	Place of service
24D	Procedures, service or supplies
24E	Diagnosis code
24F	Charges
25	Federal tax identification number
28	Total charge
31	Signature of physician or supplier with date
33	Physician's, supplier's billing name, address, zip code and telephone number

The act establishes the following minimum information for the U-B 92 claims forms:

UB-92 CLAIMS FORM

Item Number	Item Description
1	Provider name and address
5	Federal tax identification number
6	Statement covers period
12	Patient name
14	Patient's birth date
15	Patient's sex
17	Admission date
18	Admission hour
19	Type of admission
21	Discharge hour
42	Revenue codes
43	Revenue description
44	HCPCS/CPT4 codes
45	Service date
46	Service units
47	Total charges by revenue code
50	Payer identification
51	Provider number
58	Insured's name
60	Patient's identification number (policy or Social Security number)
62	Insurance group number (if on identification card)
67	Principal diagnosis code
76	Admitting diagnosis code
80	Principle procedure code and date
81	Other procedures code and date
82	Attending physician's identification number

BACKGROUND

Timely Payment and Unfair and Prohibited Insurance Practice

The law requires insurers and other entities responsible for paying health care providers under an insurance policy to pay claims within 45 days after the claimant's insurer receives the

proof of loss form or the health care provider's request for payment is filed according to the insurer's practice or procedure. When there is a deficiency in the information needed to process the claim, the insurer must (1) send written notice to the claimant or health care provider of all alleged deficiencies in information needed to process the claim within 30 days after the insurer receives a claim for payment or reimbursement, and (2) pay the claim within 30 days after the insurer receives the information requested.

Insurers and others that fail to pay claims in a timely manner must pay the claim plus 15% interest in addition to other penalties that may be imposed. The failure is also an unfair and deceptive act or practice in the business of insurance. The insurance commissioner, after notice and hearing, may (1) issue a cease and desist order, (2) order the payment of a monetary penalty of up to \$1,000 for each act or practice or up to \$10,000 for egregious acts or practices, (3) suspend or revoke a license, or (4) demand restitution.

PA 03-58—SB 918

*Insurance and Real Estate Committee
Public Health Committee
Appropriations Committee*

AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR INPATIENT DENTAL CARE

SUMMARY: The act requires certain individual and group health insurance policies to cover general anesthesia, nursing, and related hospital services provided to any patient, instead of just those under four. As under existing law, the service must be medically necessary and the patient must have a (1) complex dental condition that requires the procedure to be performed in a hospital or (2) developmental disability that places them at serious risk.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Policies Affected

The coverage mandate applies to individual and group health insurance policies that pay for (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, (4) hospital or medical expenses, and (5) hospital and medical expenses paid by HMOs. The policy

must be delivered, issued for delivery, renewed, or continued in Connecticut on or after October 1, 2003.

PA 03-70—HB 6442

Insurance and Real Estate Committee

AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR ADOPTED CHILDREN

SUMMARY: This act establishes an exception to the prohibition against certain policy provisions that affect insurance coverage for adopted children. It permits insurers, hospital or medical service corporations, or health care centers (HMOs) to evaluate the health (health underwriting) of an adopted child who is being added as a covered beneficiary under his adopted parent's health insurance plan if the required premium or subscription fee and completed application are not received by the insurer, hospital or medical service corporation, or HMO before the expiration of the 31-day period following the date the adopted child was accepted for coverage under the policy.

Under prior law, a legally adopted child could be added to his adoptive parent's individual or group health insurance policy and no preexisting condition, insurability, eligibility, or underwriting approval provision could be imposed on him if the insurer was given notice of the adoption and the parents paid any additional premium within 31 days of the insurer's acceptance of the adopted child.

EFFECTIVE DATE: October 1, 2003

POLICIES SUBJECT TO REQUIREMENT

The act applies to individual and group policies that pay for (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, (4) accident expenses, (5) limited benefit expenses, (6) hospital or medical expenses, and (7) hospital and medical expenses paid by HMOs. The adopted child requirement applies to policies delivered, issued for delivery, amended, renewed, or continued in Connecticut on or after October 1, 2003.

PA 03-71—HB 6522

Insurance and Real Estate Committee

AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO CERTAIN REAL ESTATE STATUTES

SUMMARY: This act makes minor technical changes to the real estate statutes.

EFFECTIVE DATE: October 1, 2003

PA 03-78—SB 71

Insurance and Real Estate Committee

AN ACT CONCERNING MEDICAL SAVINGS ACCOUNTS

SUMMARY: This act exempts high-deductible individual and group policies used to establish federally qualified medical savings accounts (MSAs) from the \$50 maximum home health care deductible required in certain health insurance policies. The exemption applies to policies that pay (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, (4) accident-only expenses, (5) hospital or medical expenses, (6) limited benefit expenses, and (7) hospital and medical expenses covered by HMOs.

EFFECTIVE DATE: July 1, 2003

BACKGROUND

Medical Savings Accounts

The tax provisions of the 1996 federal Health Insurance Portability and Accountability Act (P.L. 104-191) authorized a four-year demonstration program beginning on January 1, 1997 that allowed up to 750,000 high-deductible health insurance policies to be sold to self-employed people and individuals employed at firms with up to 50 employees. The law mandated a series of cut-off dates for the MSA pilot program dependent on the number of accounts established at various times during the year. The pilot program was to end on October 1, 1999, if the number of MSA returns projected to be filed in 1999 exceeded 750,000. The Internal Revenue Service determined that only 44,784 MSA returns were projected to be filed for 1999, consequently the pilot program continues.

PA 03-101—sSB 1013*Insurance and Real Estate Committee***AN ACT CONCERNING REAL ESTATE MARKET ANALYSES PERFORMED BY REAL ESTATE BROKERS AND SALESPERSONS**

SUMMARY: This act allows real estate brokers and salesmen to be compensated for estimating the value of real estate as part of a market analysis. Under current practice, real estate brokers and salesmen estimate the value of real estate as part of a market analysis in connection with (1) a prospective listing or sale or (2) providing information to the seller or landlord under a listing agreement or to a prospective buyer or tenant under a buyer or tenant agency agreement. The act allows brokers and salesmen to perform these analyses on whatever terms the owner or his designee and the broker or salesperson agree to. By law, the estimate of value must not be referred to or construed as an appraisal.

When a fee is charged, the act requires owners of residential property consisting of four or fewer family units to be given a credit against any compensation they owe the broker or salesmen under the listing contract.

EFFECTIVE DATE: October 1, 2003

PA 03-104—sHB 6443*Insurance and Real Estate Committee
Government Administration and Elections Committee***AN ACT CONCERNING THE CONFIDENTIALITY OF CERTAIN INSURANCE COMPANY STATEMENTS FILED WITH THE INSURANCE COMMISSIONER**

SUMMARY: This act expands the scope of confidential information filed with the insurance commissioner. It makes confidential and not available for public inspection any supplemental compensation exhibit or stockholder information in an annual statement prepared in accordance with the National Association of Insurance Commissioner Annual Statement Instructions if submitted to the commissioner by a nonprofit insurer with fewer than 150 employees. The confidentiality requirement does not apply to exhibit or supplemental information about the insurer's three most highly compensated officers.

By law, insurance company, fraternal benefit society, and health care center financial analyses, financial examination work papers, and operating and financial condition reports prepared by, on behalf of, or for the use of the insurance commissioner or Insurance Department examiners are confidential unless (1) they are otherwise a matter of public record or (2) the commissioner determines it is in the public interest to disclose or otherwise make them available for public inspection.

EFFECTIVE DATE: October 1, 2003

PA 03-119—HB 5499*Insurance and Real Estate Committee
Labor and Public Employees Committee***AN ACT CONCERNING HEALTH INSURANCE UNDERWRITING AND BENEFITS AND DISCLOSURE OF HEALTH BENEFIT AND CLAIM EXPERIENCE DATA TO CERTAIN BARGAINING AGENTS**

SUMMARY: This act prohibits, with one exception, insurers, fraternal benefit societies, hospital and medical service corporations, HMOs and other insurance-related entities that issue individual policies from (1) moving an insured from a standard to a substandard underwriting classification after the policy is issued or (2) increasing an insured's premium because of his claims experience or health status. The act authorizes an insurer to increase premium rates for an insured's classification only when the entire underwriting classification is subject to an increase because of its claim experience or health status as a whole.

The act broadens coverage for certain employees by requiring group policies offered by employers to satisfy 40 benefit requirements, instead of the 10 benefits required under prior law. The new benefit requirements apply to a covered employee group where 51% of the employees are employed in Connecticut.

Finally, the act requires insurers and third party administrators (TPAs) to provide the same health plan information the law already requires to exclusive bargaining agents of an employee group to exclusive bargaining agents of an employee subunit within an employee multi-bargaining group. It specifies that if the employees constitute a subunit of a multi-bargaining group, the insurer must provide their exclusive bargaining agents with the health plan

information for either (1) the entire multi-bargaining unit, as it currently does or (2) the subunit within the multi-bargaining unit, at the request of the exclusive bargaining agent.

EFFECTIVE DATE: October 1, 2003

GROUP POLICIES

The act increases from 10 to 40 the number of mandated benefits that apply to group policies covering Connecticut employees under an employer-sponsored health insurance plan. The act applies to group policies that pay basic hospital, medical, and major medical expenses, which on or after October 1, 2003, are delivered, issued for delivery, renewed, or continued in another state where 51% of the employees covered under the policy are employed in Connecticut.

MANDATED BENEFIT COVERAGE UNDER GROUP POLICY

Prior law required coverage for 10 benefits denoted with an asterisk (*). The act requires coverage for the following additional 30 benefits:

1. preexisting medical condition
2. mental and nervous condition*
3. mentally or physically handicapped children
4. newborn infants*
5. early intervention services
6. accidental ingestion of a controlled drug*
7. hypodermic needles and syringes
8. cancer drugs
9. prescription foods
10. diabetes
11. home health care*
12. comprehensive rehabilitation services
13. occupational therapy
14. ambulance service*
15. emergency services and care
16. physician assistants and nurse practitioner services*
17. complications of alcoholism*
18. veterans
19. mammography*
20. people with breast cancer histories
21. direct access to OB GYNs
22. maternity and postpartum care
23. mastectomy of lymph node dissection
24. preventive pediatric care*
25. dependent and employee

26. tumors and leukemia and breast implant removal and reconstruction
27. chiropractic services
28. continuation, extension and conversion rights*
29. maternity benefit continuation
30. prospective adoptive children
31. prescription birth control
32. diabetes self-management training
33. lyme disease
34. prostate cancer screening
35. in-hospital dental services
36. ostomy
37. pain management
38. cancer clinical trials
39. colon cancer screening
40. hearing aids

BACKGROUND

Underwriting Classification

Underwriting classification refers to the factors insurers consider in rating an applicant for insurance. The standard underwriting classification considers the insured's age, gender, occupation, marital status and geographic location. A substandard underwriting classification may also consider an insured's claims experience or health status in developing a premium rate.

Bargaining Agent

By law, insurers or TPAs that provide insurance or administrative services must provide, at the request of the exclusive bargaining agent for an employee bargaining unit (1) a description of the health benefits the employer makes available, (2) the claims experience relating to such benefits, and (3) the cost to the employer for insurance or administrative services the insurer or TPA provides.

PA 03-121—sSB 836

*Insurance and Real Estate Committee
Government Administration and Elections Committee*

AN ACT CONCERNING THE CONFIDENTIALITY OF INSURANCE DEPARTMENT INFORMATION

SUMMARY: This act requires the insurance commissioner to maintain certain records as

confidential if (1) they are protected from disclosure under federal or state law or (2) in her opinion, they would disclose, or would reasonably lead to the disclosure of, certain investigative, personal, financial, or medical information.

EFFECTIVE DATE: October 1, 2003

CONFIDENTIAL INFORMATION

The act requires the commissioner to maintain as confidential (1) information obtained, collected, or prepared in connection with an examination, inspection, or investigation and (2) public complaints received by the Insurance Department. The act prohibits the disclosure of this information if federal law or state statute protects it. It also prohibits disclosure if, in the commissioner's opinion, it would reveal or would reasonably lead to the disclosure of:

1. investigative information that would prejudice an investigation, until the investigation is concluded or
2. personal, financial, or medical information about a person who has filed a complaint or inquiry with the Insurance Department, unless written consent is obtained first.

PA 03-127—sHB 6377

*Insurance and Real Estate Committee
Judiciary Committee
Government Administration and Elections Committee*

AN ACT CONCERNING FINANCIAL OVERSIGHT OF INSURERS

SUMMARY: This act authorizes the insurance commissioner to use the services of attorneys, actuaries, accountants, and other experts necessary to help her (1) conduct a financial analysis of an insurer, (2) review an insurer's license application, or (3) review transactions within an insurance holding company system domiciled in Connecticut. The use of outside experts is authorized only when they are not otherwise available on the commissioner's staff. The act prohibits any outside attorney, actuary, accountant, or expert from performing the duties of any person employed by the Insurance Department on November 1, 2002. The domestic, out-of-state, or foreign insurer subject to the examination or review must pay the cost of these experts.

EFFECTIVE DATE: October 1, 2003

PA 03-149—sSB 353

*Insurance and Real Estate Committee
Finance, Revenue and Bonding Committee*

AN ACT EXPANDING COVERAGE UNDER THE STATE EMPLOYEE HEALTH PLAN

SUMMARY: This act adds employees of small employers to the list of employees for whom the comptroller, with the attorney general and the insurance commissioner's approval, is authorized to arrange group hospital, medical, and surgical health insurance under the state employee health plan.

The act requires (1) any coverage arranged for small employers to continue to be underwritten according to the small employer community rating law and (2) small employers to comply with the same state employee plan participation requirements that apply to employees of community action agencies, nonprofit corporations, and municipalities.

The act defines a "small employer" as any person, firm, corporation, limited liability company, partnership, or association actively engaged in business for at least three consecutive months that, on at least 50% of its working days during the preceding 12 months, employed no more than 50 employees, half of them employed in the state. A small employer includes a self-employed individual.

The act also makes minor changes with regard to insurance plan options and reporting requirements.

EFFECTIVE DATE: Upon passage

STATE EMPLOYEE HEALTH INSURANCE PLAN

Participation Requirements

The act requires small employers to comply with the following requirements:

1. Participation in the plan must be voluntary.
2. Where an employee organization represents employees of a small employer, both parties must agree on participation and neither may submit the issue of participation to binding arbitration, where available, except by mutual agreement.

3. No group of employees may be denied participation because of past or future health care costs or claims experience.
4. Rates paid by the state for its employees may not be adversely affected, and the state cannot pay administrative costs to the plan.
5. Participation in an amount determined by the state must be for the plan's duration or such other period mutually agreed upon by the small employer and the comptroller.

Plan Options and Reporting

The act expands the comptroller's authority to arrange a plan that varies from the plan offered to state employees by including small employers and community action agencies and allows her to do so without having to obtain the Office of Policy and Management secretary's approval. She can already do this for municipal employees. The act also gives her the authority to offer standard or alternative plans, except small employer plans, on either a fully underwritten or risk pool basis. Under prior law, alternative plans had to be fully underwritten. Under the act, small employer plans must be offered on a fully underwritten basis.

Beginning February 1, 2004, the act adds nonprofit corporations, community action agencies, and small employers to the list of plans the comptroller must review annually and submit a report to the General Assembly. It eliminates a requirement that the comptroller review and report annually to the Insurance and Real Estate Committee on the plan arranged for employees of community action agencies.

BACKGROUND

Small Employer Law

Small employer plan premiums are based on a community rate, adjusted for age, gender, geographic area, industry, group size, and family composition. Rates cannot be based on the health status or claims experience of the small employer or its employees and their dependents.

Community Action Agency

The statutes define a "community action agency" as a public or private nonprofit agency previously designated by, and authorized to accept funds from, the federal Community

Service Administration for community action agencies under the 1964 Economic Opportunity Act or a successor agency established under law.

PA 03-152—SB 916

Insurance and Real Estate Committee

General Law Committee

Judiciary Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING VIATICAL SETTLEMENTS

SUMMARY: A viatical settlement transaction involves a life insurance policy owner with a catastrophic or life-threatening illness who assigns or otherwise transfers the policy's death benefit to a third party in return for the immediate payment of a percentage of the policy's death benefit.

This act strengthens the viatical settlement law and broadens its scope to regulate life insurance settlement transactions involving the sale of a life insurance policy's death benefit by healthy individuals to a purchaser. In such a transaction, the insured, or viator is the owner of the policy who enters into a viatical settlement contract for its sale or other disposition.

The act expands the licensing requirements applicable to viatical settlement providers ("provider") (people who enter into or arrange a viatical settlement contract) and viatical settlement brokers ("broker") (people who represent the viator and negotiate a contract between a viator and a provider for a fee), to include viatical settlement investment agents ("agent") (people appointed or contracted by a provider and who acts on the provider's behalf to solicit or arrange funding for a viatical settlement purchaser to invest in a viatical settlement). A viatical settlement purchaser ("purchaser") is a person who (1) gives a sum of money as consideration for a life insurance policy or interest in the death benefit, (2) owns or acquires beneficial interest in a trust that owns a viatical settlement contract, (3) or is a beneficiary of a policy that is the subject of a viatical settlement contract. The act applies to agents the same standards used to determine the qualifications for issuing a license to providers and brokers.

The act broadens the prohibition against using certain forms without satisfying filing and approval requirements and adds authority for the commissioner to disapprove them. It also broadens contractual rescission rights; adds

exceptions to the prohibition against revealing a viator's personal identity; and expands disclosure obligations for providers, brokers, and agents. The act establishes advertising requirements, including content rules and restrictions when making viatical settlement offers to the public.

Finally, the act authorizes the insurance commissioner to adopt implementing regulations and establish bonding or other financial accountability requirements for providers and brokers. It also designates the commissioner as agent for service of process for providers, brokers, or agents.

EFFECTIVE DATE: October 1, 2003

VIATICAL SETTLEMENT INVESTMENT AGENT LICENSING

Licensing Requirement

The act expands to agents licensing requirements that already applied to providers and brokers. Specifically, it prohibits any person from acting as an agent without a license and requires applicants to file a written application with the insurance commissioner along with a \$13 filing, and \$20 license, fee.

The commissioner must investigate applicants and issue a license if she determines they have satisfied certain requirements. An applicant must show:

1. a detailed plan of operation;
2. competence, trustworthiness, and an intention to act in good faith;
3. adequate experience, training, or education and a good business reputation;
4. a certificate of good standing from its state of domicile, if a business or other legal entity, or if domiciled in Connecticut, a Connecticut certificate dated no more than 15 days before or after the application filing date; and
5. no felony conviction for any partner, key manager, director, officer, or majority stockholder.

An agent's license issued to a business entity entitles all of the entity's stockholders, partners, key managers, directors, officers, and employees named in the license application to act on the entity's behalf as if they were licensed. This authorization terminates upon license expiration, revocation, or suspension. Licenses expire on March 31 annually and may be renewed for \$20. Failure to make timely

payment within 15 days after notice of nonrenewal automatically revokes the license. The commissioner may deny a license application if, upon request, the applicant fails to disclose the identity of stockholders, partners, key managers, directors, officers, members, or employees, and the commissioner determines that any such people, who may materially influence the applicant's conduct, fails to meet statutory standards for a license. The act adds (1) authority for the commissioner to deny any licensing application for violating the act's advertising rules and (2) agents to the list of licensees the commissioner must maintain and make public.

The act requires all providers, brokers, and agents to provide the commissioner, no later than 30 days after the change, new or revised information about officers, stockholders holding 10% or more of the company's shares, partners, directors, members, and designated employees.

License Denial, Suspension, Revocation, or Refusal to Renew, and Fine

The act expands to agents the commissioner's authority to deny, suspend, revoke, or refuse to renew their license if she determines that the:

1. license application or other information filed with her contained a material misrepresentation;
2. agent, or his partner, key manager, director, officer, or majority stockholder was convicted of a felony, is subject to a final administrative action to suspend or revoke an insurance license from another state, or is otherwise untrustworthy or incompetent;
3. agent willfully violated the act or no longer meets the requirements for initial licensing;
4. agent was found guilty of, or pleaded guilty or no contest to, a felony or to a misdemeanor involving fraud or moral turpitude;
5. agent entered into an unapproved contract;
6. agent failed to honor obligations under a contract or purchase agreement; or
7. agent assigned, transferred, or pledged a policy to someone other than another licensed provider, purchaser, accredited investor, qualified institutional buyer, financing entity, special purpose entity, or related provider trust.

The act expands to agents the commissioner's authority to assess a fine of up to \$1,000 for each willful violation of the act or related regulations concerning providers.

Appeal and Hearing

The act extends to agents the right that providers and brokers have to appeal a denial, suspension, revocation, or refusal to renew a license in accordance with the Uniform Administrative Procedures Act. It specifies that the commissioner or her designee may act as the hearing officer, and if a designee acts in that capacity, the designee must submit a memorandum of findings and recommendations to the commissioner upon which she may base her decision.

CONTRACTUAL REQUIREMENTS

Under the act, a contract is a written agreement establishing the terms under which compensation or anything of value is paid that is less than the expected death benefit of a policy, in return for the viator's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the policy. It includes (1) contracts for a loan or other financing transaction with a viator that is secured by an individual or group life insurance policy, but excludes loans by life insurers under the terms of the policy or those secured by the policy's cash value, and (2) agreements with a viator to transfer ownership or change the beneficiary at a later date regardless of the date compensation is paid.

Contract Form Approval and Right to Rescind

Prior law prohibited licensees from using contract forms or disclosure statements unless they were filed with, and approved by, the commissioner. The act broadens this restriction to prohibit any person, not just a licensee, from using forms or disclosure statements that have not been filed with or approved by the commissioner. Filed contracts are deemed approved unless within 60 days after filing, the commissioner sends notice of disapproval by first class mail.

The act eliminates the "deemer" provision (i.e., automatic approval after passage of time) for contract and disclosure statement form approval and broadens the commissioner's disapproval authority. If she determines the

forms are not in the public interest, she can reject them. Under prior law she could disapprove only if provisions of the contract or disclosure statement were unreasonable, failed to comply with statutory requirements, or were misleading to the viator or the public.

Prior law also required each contract to provide the viator with the right to rescind within 15 days after he received the proceeds. Rescission was effective only if the viator delivered notice of rescission to the provider and returned the funds in full to the provider before the rescission period expired.

The act adds the requirement that if an insured dies during the rescission period, the contract is deemed to have been rescinded, subject to repayment to the provider or purchaser of the proceeds, premiums, loans, or loan interest he has paid. It also adds the right of a purchaser to rescind the contract until the end of the third day after the purchaser receives certain disclosures.

DISCLOSURE REQUIREMENTS

Disclosures by Provider and Broker to Viator

The act expands the disclosure that providers and brokers must make to viators and specifies that it must be made by the time the parties sign the contract. It also requires them to distribute a brochure authorized by the commissioner describing the viatical settlement process. The document must contain the following language:

All medical, financial or personal information solicited or obtained by a provider or broker about an insured, including the insured's identity or the identity of family members, a spouse or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years.

The act adds the following disclosure and requires that it be provided in a separate document that the provider or broker and viator

sign:

Either the provider or broker or their authorized representative may contact the insured to determine his health status. This contact is limited to once every three months following the date the viatical settlement proceeds are released to the viator if the insured has a life expectancy of more than one year, and no more than once per month if the insured has a life expectancy of one year or less.

Disclosure by Provider to Viator

The act requires the provider to disclose certain information to the viator by the date the parties sign the contract. The provider or broker and viator must sign the disclosure, which must conspicuously disclosed in the contract itself or in a separate document. The provider must disclose:

1. the affiliation, if any, between the provider and the issuer of the insurance policy to be viaticated;
2. the provider's name, address, and telephone number;
3. if the insurance policy to be viaticated is a joint policy or involves family riders or coverage on a life other than the insured, the viator must be informed of the possible loss of coverage on the other lives and be advised to consult with his insurance producer or the issuing insurer for advice on the proposed settlement;
4. the dollar amount of the death benefit paid to the provider and, if known, the availability of any additional guaranteed insurance benefit, the dollar amount of any accidental death and dismemberment benefit, and the provider's interest in those benefits; and
5. the name, business address, and telephone number of the independent third-party escrow agent, and the right of the viator or owner to inspect or receive copies of the escrow or trust document.

The act requires the provider to inform the viator about any transfer of ownership or change in the beneficiary he makes no later than 20 days after the transfer or change is made.

Disclosures by Provider or His Agent to Purchaser

A purchase agreement is a contract, entered into by a buyer, to purchase a life insurance policy or an interest in a policy to derive an economic benefit. A viator is not a party to the contract.

Before the date the parties sign the contract, the act requires the provider or his agent to make the following disclosures to the purchaser either by conspicuously displaying it in the contract itself or in a separate document signed by them:

1. The purchaser will receive no return, including, but not limited to, dividends and interest, until the insured dies.
2. Actual annual rate of return on a contract depends on an accurate projection of the insured's life expectancy and actual date of the insured's death. An annual guaranteed rate of return cannot be determined.
3. A viaticated life insurance contract should not be considered a liquid asset because it is impossible to predict the exact timing of the contract's maturity and the funds may not be available until the death of the insured. There is no established secondary market for resale of these contracts by the purchaser.
4. If the insurer goes out of business during the term of the investment, the purchaser may lose all benefits or may receive substantially reduced benefits.
5. The purchaser is responsible for paying the premiums or other costs related to the policy if required under the contract and such payments may reduce the purchaser's return. If a party other than the purchaser is responsible for the payment, the name and address of that party must be disclosed.
6. The purchaser is responsible for paying the premiums or other costs if the insured returns to good health. The amount of such premiums must be disclosed, if applicable.
7. Name and address of any person providing escrow services and the person's relationship to the broker.
8. The amounts of any trust fees or other expenses charged to the purchaser.
9. If the policy is later determined to be null and void, whether the purchaser is entitled to a refund of all or part of his investment.

10. Group policies may contain limitations or caps on conversion rights, additional premiums may be required if converted, the party responsible for the payment of additional premium must be named, and, if a group policy is terminated and replaced, there may be no right to convert the original policy.
11. Risks associated with policy contestability, including the risk that the purchaser will have no or only a partial claim to death benefits if the insurer rescinds the policy within the contestability period.
12. Whether the purchaser will be the owner of the policy in addition to being the beneficiary, and if the purchaser is the beneficiary only, the special risks associated with that status, including the risk that the beneficiary may be changed or premiums may not be paid.
13. The (a) experience and qualifications of the person who determines the life expectancy of the insured, such as in-house staff, independent doctors or specialty firms that weigh medical and actuarial data; (b) information life expectancy is based on; and (c) relationship of the person making the determination to the provider, if any.
 4. type of policy offered or sold, such as whole life, term life, universal life, or group policy certificate, any additional benefits contained in the policy, and its current status;
 5. if the policy is term insurance, the special risks associated with it, including the purchaser's responsibility for additional premiums if the viator continues the policy at the end of the current term;
 6. whether the policy is contestable;
 7. whether the insurer that wrote the policy has any additional rights that could negatively affect or extinguish the purchaser's rights, what rights they are, and under what conditions are they activated; and
 8. name and address of the person responsible for monitoring the insured's condition, a description of how often the monitoring is done, how the date of death is determined, and how and when this information will be transmitted to the purchaser.

The act gives a purchaser the right to void the contract at any time before the end of the third day after he receives the disclosures required by the provider or his agent are received.

Additional Disclosures by Provider or Agent to Purchaser

No later than the time of assignment, transfer, or sale of all or a portion of an insurance policy, the act requires the provider or his agent to disclose to the purchaser, in a document signed by them, the following:

1. all life expectancy certifications obtained by the provider in the process of determining the price paid to the viator;
2. whether premium payments or other costs related to the policy have been escrowed, and if so, the date the escrowed funds will be depleted and whether the purchaser will be responsible for paying premiums after that date and in what amount, if applicable;
3. whether premium payments or other costs related to the policy have been waived, and if so, whether the investor will be responsible for paying premiums and the amount if the insurer that wrote

EXCEPTIONS TO DISCLOSURE OF INSURED'S IDENTITY

The act extends to agents the prohibition against disclosing the identity of the insured and adds several exceptions to the rule against disclosure.

It authorizes disclosure of the insured's identity when it is (1) necessary to effect an agreement between the purchaser and provider and both the viator and insured have provided prior written consent to the disclosure; (2) a term of or condition to the transfer of the policy by one provider to another; (3) necessary to permit a financing entity, related provider trust, or special purpose entity to finance the purchase of policies by a provider, and both the viator and insured have provided prior written consent to the disclosure; (4) necessary to allow the provider or broker or their representatives to make contact with the insured to determine health status; or (5) required to purchase stop-loss coverage.

The act specifies that all medical information a licensee solicits or obtains is subject to the law relating to the confidentiality of medical record information.

NOTICE, DOCUMENT DELIVERY, COVERAGE VERIFICATION, AND CONSENT

Notice

The act requires a provider to give written notice to the insurer that issued the policy that the policy has or will become viaticated within 20 days after the viator executes documents that transfer rights under it, or no later than 20 days after entering into an agreement, option, promise, or other expressed or implied understanding to viaticate the policy. Notice must be accompanied by the delivery of the following documents: (1) a copy of the medical release, (2) a copy of the viator's application for the contract, (3) notice of rights transfer, and (4) a request to the issuing insurer for coverage verification.

Document and Proceeds Delivery

The act requires the provider to instruct the viator to send executed documents necessary to effect the change in ownership, assignment, or change in the beneficiary directly to the independent escrow agent. Within two business days after the date the escrow agent receives the documents, or within two business days after the date the provider receives them, the provider, even if the viator erroneously sent the document directly to the provider, must pay or transfer the proceeds of the settlement into an escrow or trust account maintained in a state or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation. The escrow agent must deliver the original change of ownership, assignment, or change in the beneficiary forms to the provider or provider trust when the proceeds are paid into the escrow account. Upon the escrow agent's receipt of the acknowledgment of transfer of ownership, assignment, or designation of beneficiary from the insurer, the escrow agent must pay the settlement proceeds to the viator. Failure to pay the proceeds within the time specified renders the contract voidable by the viator for lack of consideration until the time the consideration is paid to, and accepted by, the viator.

Coverage Verification

The act requires the insurer to respond to a verification request submitted on a form approved by the provider within 30 calendar days after the date the request was received and indicate whether, based on the medical evidence and documents provided, it intends to investigate the policy's validity.

Consent

Under prior law, before or at the time of execution of the contract, the viator had to (1) acknowledge that the person whose life is insured by the viator's policy had a catastrophic or life-threatening illness and (2) consent to the release of his medical records if he was the insured under the policy. The act eliminates these requirements and instead requires the viator to acknowledge any illness or chronic condition the insured has and whether the illness or condition was diagnosed after the life insurance policy was issued.

The act requires the viator's consent for the release of medical records to the insurance company only if the policy covering the insured was issued within 48 months of the date of the viator's application for the contract.

The act specifies that (1) if a broker performs any of the activities required of the provider, the provider is deemed to have fulfilled the act's requirements and (2) the provider and broker are responsible for the actions of their representatives.

EXCEPTION TO TWO-YEAR RESTRICTION ON VIATICAL SETTLEMENT CONTRACTS

The act prohibits anyone from entering into a contract within the first two years after the policy is issued, unless the viator certifies (provides independent evidence) to the provider that one or more of the following conditions have been satisfied within the two-year period:

1. The policy was issued on the viator's exercise of a conversion right from a group or individual policy, provided the total time covered under the conversion policy and the previous policy is at least 24 months. If coverage has been continuous and under the same group sponsorship, the time covered under a group policy must be calculated without regard to any change in insurance carrier.

2. The viator or insured is terminally or chronically ill.
3. The viator disposed of his entire ownership interest in a closely held corporation pursuant to the terms of a buyout or other similar agreement in effect at the time the insurance policy was initially issued.

Independent Evidence

The act specifies that copies of the independent evidence and related documents must be filed with the insurer when the provider files a request for coverage verification. A letter must accompany the copies attesting that they are true and correct copies of the document received by the provider.

It also specifies that if the provider files with the insurer a copy of the owner's or insured's independent evidence when the provider files a request to effect the transfer of the policy, the copy is conclusively deemed to establish that the contract satisfies the two-year restriction and the insurers must timely respond to the request.

ADVERTISING VIATICAL SETTLEMENT CONTRACTS

The act requires viatical settlement licensees to establish and maintain a system of control over the content, form, and method of advertising their contracts, products, and services. It specifies that each advertisement is the responsibility of the licensee and the person who creates or presents it, regardless of who wrote, created, or designed it.

The system of control must include regular routine notification, at least once a year, to agents and other authorized people who disseminate ads of the requirements and approval procedures before the use of any advertisement not furnished by the licensee.

The act requires advertisements to be truthful and not misleading in fact or by implication. The form and content of any advertisement for a contract or agreement, product, or service must be sufficiently complete and clear so as to avoid deception. The advertisement must not have the capacity or tendency to mislead or deceive. Whether an advertisement does so is determined by the commissioner from the overall impression it is reasonably expected to create on a person of average education or intelligence within the segment of the public to which it is directed.

False and Misleading Advertisements

The act specifies that certain advertisements are deemed false and misleading on their face and are prohibited. False and misleading advertisements include those that contain the following representations:

1. guaranteed, fully secured, 100% secured, fully insured, secure, safe, backed by rated insurance companies, backed by federal law, backed by state law or state guaranty funds, or similar representations;
2. no risk, minimal risk, low risk, no speculation, no fluctuation, or similar representations;
3. qualified or approved for individual retirement accounts, Roth IRAs, 401(k) plans, simplified employee pensions, 403(b) plans, Keogh plans, TSA or other retirement account rollovers, tax deferred, or similar representations;
4. use of the word "guaranteed" to describe the fixed return, annual return principal, earnings, profits, investment or similar representations;
5. no sales charges or fees, or similar representations;
6. high-yield, superior return, excellent return, high-return, quick profit or similar representations; or
7. purported favorable representations or testimonials about the benefits of a contract or purchase agreements as an investment, taken out of context from newspapers, trade papers, journals, radio and television programs, and all other forms of print or electronic media.

Prohibited Advertising Content

The act requires the disclosure of certain information in advertisements and prohibits them from being minimized, rendered obscure, presented in an ambiguous fashion, or intermingled with the text to confuse or mislead.

It specifies that an advertisement may not omit material information or use words, phrases, statements, references, or illustrations if it has the capacity, tendency, or effect of misleading or deceiving viators, purchasers, or prospective purchasers as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence. The fact that the contract or purchase agreement offered is made available for inspection before the sale, or an

offer is made to refund the payment if the viator is not satisfied, or that the contract or purchase agreement includes a “free look” period that satisfies or exceeds legal requirements does not remedy misleading statements.

An advertisement may not:

1. use the name or title of a life insurance company or a life insurance policy unless the company has approved the advertisement;
2. represent that premium payments will not be required to be paid on the policy that is the basis of a contract or purchase agreement in order to maintain the policy, unless it is the fact;
3. state or imply that interest charged on an accelerated death benefit or policy loan is unfair, inequitable, or in any manner an incorrect or improper practice;
4. include the words free, no cost, without cost, no additional cost, at no extra cost, or words of similar meaning with respect to any benefit or service unless true, although it may specify the charge for a benefit or a service or may state that a charge is included in the payment or use other appropriate language; and
5. include testimonials, appraisals, or analyses that are not genuine.

Testimonials, appraisals and analyses must (1) represent the current opinion of the author; (2) be applicable to the contract or purchase agreement, product, or service advertised; and (3) be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective viators or purchasers as to the scope of the testimonial, appraisal, analysis, or endorsement. In using testimonials, appraisals, analyses, or endorsements, licensees may make their own statements and are subject to the act’s advertising requirements.

Testimonials and Endorsements

The act requires (1) individuals making testimonials, appraisals, analyses, or endorsements who have a financial interest in the provider or related entity as a stockholder, director, officer, employee, or otherwise, or who receive any benefit other than union scale wages, to prominently disclose it in the advertisement; (2) any entity making an endorsement or testimonial that is owned, controlled, or managed by a licensee, or receives any payment or other consideration from the licensee for making the

endorsement or testimonial, to disclose it in the advertisement; (3) retention of all pertinent information for five years when an endorsement refers to benefits received under a contract or purchase agreement; (4) the name of the licensee to be clearly identified in all advertisements about the licensee or its contracts or purchase agreements, products, or services, and if any specific contract or purchase agreement is advertised, that the contract or purchase agreement must be identified either by form number or some other description; and (5) the licensee’s name to appear in all of its advertisements.

Prohibited Advertising Practices

The act prohibits advertisements:

1. containing statistical information unless it accurately reflects recent and relevant facts and identifies in the advertisement the source of all statistics used;
2. that disparage insurers, providers, brokers, agents, insurance producers, policies, services, or methods of marketing;
3. using a trade name, group designation, name of the licensee’s parent company, name of a particular division of the licensee, service mark, slogan, symbol, or other device, or reference in an advertisement without disclosing the licensee’s name, if the advertisement would have the capacity or tendency to mislead or deceive with respect to the licensee’s true identity, or to create the impression that a company other than the licensee would have any responsibility for the financial obligation under a contract or purchase agreement;
4. stating or implying that a contract or purchase agreement, benefit, or service has been approved or endorsed by a group of individuals, society, association, or other organization unless it is true and the relationship between the organization and the licensee is disclosed;
5. creating the impression that the provider, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its contract or purchase agreement forms are recommended or endorsed by any government entity; or

6. creating the impression that any division or agency of the state or the U.S. government endorses, approves, or favors (a) any licensee or its business practices or methods of operation, (b) the merits, desirability, or advisability of any contract or purchase agreement, (c) any contract or purchase agreement, or (d) any life insurance policy or company.

The act specifies that an advertisement may state that a licensee is licensed in the state where the advertisement appears without exaggeration implying that competing licensees may not be so licensed. The advertisement may ask the audience to consult the licensee's web site or contact the Insurance Department to find out if the state requires licensing and, if so, whether the provider, broker or agent is licensed.

The act requires advertisements to disclose the average time between a complete application and the offer date and between offer acceptance and the receipt of funds by the viator, if the advertisement emphasizes the speed with which viatication occurs. It also requires advertisements to disclose the average purchase price as a percent of the face value obtained by the viator during the past six months, if the advertisement emphasizes the dollar amount available to viators.

LICENSEE REPRESENTATION

The act specifies that a broker is deemed to represent the viator and has a fiduciary duty to act according to viator's instructions and in the viator's best interest, regardless of how the broker is compensated. It also specifies that an agent is deemed to represent the provider for whom he is appointed or under contract. Agents are prohibited from having any contact with the viator or knowledge of his identity, either directly or indirectly.

PROVIDER TRUST

A "related provider trust" is a titling or other trust established by the provider or a financing entity for the purpose of holding the ownership or beneficial interest in policies purchased in connection with a financing transaction.

The act requires related provider trusts to have a written agreement with a provider under which the provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to

make all records and files related to viatical settlement transactions available to the commissioner as if they were maintained directly by the provider.

REGULATIONS

The act authorizes the commissioner to adopt regulations prescribing the forms to be used for verification of coverage. It also authorizes her to adopt regulations to implement the viatical settlement law, including (1) establishing standards for evaluating the reasonableness of payments under contracts for people who are terminally or chronically ill; (2) regulating the discount rate used to determine the amount paid in exchange for the assignment, transfer, sale, devise, or bequest of a benefit under a life insurance policy; (3) establishing appropriate licensing requirements and standards for continued licensing of providers, brokers, and agents; and (4) establishing rules governing the relationship and responsibilities of insurers, providers, brokers, and agents during the viatication of a life insurance policy.

The act also gives the commissioner authority to require providers and brokers to post a bond or other instrument for financial accountability.

PA 03-169—sSB 917

*Insurance and Real Estate Committee
Public Health Committee
Finance, Revenue and Bonding Committee
Appropriations Committee*

AN ACT CONCERNING PREFERRED PROVIDER NETWORKS

SUMMARY: This act revises the law regulating preferred provider networks (networks), requiring formal licensing by the insurance commissioner, instead of an annual informational filing. It modifies the definition of a network, limiting it to entities that pay claims for the delivery of health care services; accept the financial risk for the delivery of those services; and establish, operate, or maintain an arrangement or contract with health care providers relating to (1) the health care services they provide and (2) the amount of compensation they receive for such services. Networks include health care services covered under a self-insured employee welfare benefit plan established under the federal Employee Retirement Income

Security Act. They exclude managed care organizations (MCOs), workers' compensation preferred provider organizations, individual practice associations, and physician hospital associations whose primary function is to contract with insurers and provide services to providers.

The act establishes licensing procedures, expands the information networks must file with their application, and subjects networks to examination by the commissioner. It establishes (1) minimum net worth, financial solvency, and other financial requirements for networks; (2) mandatory provisions in contracts between networks and MCOs; (3) certain contractual obligations that MCOs must satisfy in their arrangements with networks; (4) procedures for network enrollees to lodge complaints; and (5) protections for enrollees, employees, and providers who disclose information to the commissioner about violations of the law.

The act also (1) prohibits MCOs contracting with networks and networks and their providers from seeking compensation from, or having any recourse against, network enrollees for the payment of benefits; (2) requires networks to follow existing utilization review procedures when deciding whether to approve certain health care services; (3) requires MCOs contracting with networks to file certain financial information with the commissioner; and (4) specifies that MCOs contracting with networks are ultimately responsible for health care services.

Finally, the act extends to networks the commissioner's enforcement authority over insurers and MCOs, requires her to investigate complaints referred from the managed care ombudsman, broadens her reporting responsibility to the governor and General Assembly committees, and authorizes her to adopt implementing regulations.

EFFECTIVE DATE: October 1, 2003, except for the provisions on (1) licensing, (2) financial security and financial information filing, (3) MCO monitoring of network financial stability and management expertise, (4) contractual provisions between networks and MCOs, and (5) MCO information submittal to networks, which are effective May 1, 2004.

LICENSING REQUIREMENTS

The act prohibits (1) beginning May 1, 2004, networks from entering into or renewing any contractual relationship with a managed care

organization unless the commissioner licenses the network and (2) beginning May 1, 2005, any network from conducting business in this state unless it is licensed by the commissioner.

To obtain or renew a license, the act requires networks to submit an application to the commissioner on a form she prescribes and pay a \$2,500 new or renewal license fee. The fee must be used solely to regulate networks. Applications must be submitted by March 1 annually to meet the May 1 issuance or renewal date. The application must include most of the same information networks previously filed with the commissioner, as well as the following new items of information:

1. the identity of the network and the name and business address of a contact person of the company or organization controlling the network's operations;
2. a description of the controlling company or organization;
3. a certificate of good standing from the secretary of the state regarding an in- or out-of-state network or controlling company or organization;
4. a copy of the network's and controlling company's or organization's financial statement and audited financial report for the most recently concluded fiscal year, and the name and address of the accounting firm or internal accountant that prepared the statement;
5. the names, official positions, and occupations of members of the network or controlling company or organization's board of directors or other policymaking body, their owners and executive officers responsible for the network, company or organization's activities regarding the health care service network;
6. a report of any suspension, sanction, or other disciplinary action relating to an in- or out-of-state network, controlling company, or organization;
7. the identity, address, and current relationship of any related or predecessor controlling company or organization where a substantial number of the board or policymaking body members, executive officers, or principal owners of both companies are the same;
8. a list of all entities on whose behalf the network has contracts or agreements to provide health care services and a table

- listing all major categories of health care services the networks provides;
9. the approximate number of all enrollees served under network contracts or agreements, a list of the network's subcontractors that assume financial risk, and the extent to which each assumes such risk, excluding individual providers;
 10. a contingency plan describing how health care services will be provided in the event of insolvency;
 11. the geographic area and the names of the hospitals included in the network's plan of operation;
 12. the number of primary care and specialty care doctors and other contracting providers and the percentage of each group's capacity to accept new patients; and
 13. any other information the commissioner requests.

EXAMINATION

Under the act, networks must allow the commissioner to inspect their books and records and to examine, under oath, any network officer or agent and any company or organization that controls the network about the use of network, controlling company, or organization funds and compliance with (1) the act's financial accountability provisions and (2) the terms and conditions of its contract to provide health care services. Networks must notify the commissioner of any material modification of any matter or documents furnished or filed under the act and include any supporting documents necessary to explain the modification.

NET WORTH AND FINANCIAL SOLVENCY REQUIREMENTS

The act requires networks to maintain a minimum net worth of either (1) the greater of (a) \$250,000, or (b) an amount equal to 8% of its annual expenditures as reported on its most recent completed financial statement filed with the commissioner or (2) another amount the commissioner determines.

The act requires networks and MCOs that contract with networks to post, maintain, or arrange for a letter of credit, bond, surety, reinsurance, reserve, or other financial security acceptable to the commissioner to pay any outstanding debt they owe network providers in

the event of insolvency or nonpayment. Networks must maintain the security in an amount at least equal to the greater of (1) an amount calculated on the basis of the two quarters within the past year with the greatest amounts the network owed to participating providers, (2) the actual outstanding debt owed providers, or (3) another amount determined by the commissioner. The amount may be credited against the network's minimum net worth requirement, and the commissioner must review the amount and the calculation on a quarterly basis.

MCOs must post or maintain the security or require the network to post or maintain it. The amount is calculated in the same manner as for networks. In the event of insolvency or nonpayment, the network or another entity designated by the commissioner must use the security to pay any outstanding debt owed providers. Any remaining balance may be used to reimburse the MCO for payments it may have made to providers on behalf of the network.

The act also requires MCOs, when they enter into a contract with a network and annually thereafter, to provide the network with the following information: (1) the amount and method it will use to compensate network providers; (2) how it will inform the network about any financial risk the network assumes under the contract, including information about enrollment data, primary care provider-to-covered person ratios, provider-to-covered person ratios by specialty, services the network is responsible for, expected or projected utilization rates, and factors used to adjust payments or identify risk-sharing targets; (3) the annual statement for MCOs that the National Association of Insurance Commissioners' prepares; and (4) any other information the commissioner may require.

The act requires networks to examine the outstanding debt they owe providers each quarter. If they determine that the amount exceeds 95% of the security required under the act, they must mail notice to each participating provider about the status of incurred claims and send notice to each MCO with which they contract and the commissioner on a form she prescribes. The commissioner must meet with the MCOs and the networks to ensure continued services to enrollees and payment to providers.

MANDATORY CONTRACT PROVISIONS

The act requires MCOs to ensure that any contract they enter into with a network includes the following provisions.

1. At the time a contract is entered into, and annually thereafter, the network must provide the MCO, at the MCO's request, with a complete and audited financial statement; an accurate list of providers; and documentation, satisfactory to the MCO, that the network has (a) sufficient ability to accept financial risk; (b) appropriate management expertise and infrastructure; (c) an adequate provider network, taking into account the geographic distribution of enrollees and providers and whether the providers will accept new patients; and (d) the network's ability to ensure the delivery of health care services as required under the contract.
2. Networks must provide the MCO with quarterly status reports that include (a) updated financial statement information; (b) a report showing the amount paid providers; (c) an estimate of payments due providers but not yet reported; (d) amounts owed providers for that quarter; and (e) the number of utilization review determinations not to certify an admission, service, procedure, or extension of a hospital stay made by or on behalf of the network and the outcome of any determination appeal.
3. Networks must notify the MCO no later than five business days after (a) any change in its ownership structure; (b) concerns about its financial or operational viability are raised; or (c) the loss of its license in this or another state.
4. If the network fails to pay for health care services, enrollees are not be liable to providers or the MCO for any amount owed by either the network or MCO because of the MCO's nonpayment, insolvency or breach of contract between the MCO, and the network and that such payments may be made or reimbursed from the security posted and maintained.
5. Networks must include in all contracts between themselves and providers a provision that if the network fails to pay for health care services for any reason, enrollees are not liable to providers or the network for any sums owed by either the network or MCO because of nonpayment by, or insolvency of, the MCO or breach of contract between the MCO and the network.
6. Networks must provide information, satisfactory to the MCO, about its reserves for financial risk.
7. MCOs must maintain or require the network to maintain a letter of credit, bond, surety, reinsurance, or other financial security acceptable to the commissioner, in order to satisfy the risk accepted by the network. This security must be in an amount at least equal to the greater of (a) an amount calculated on the basis of the two quarters in the past year with the greatest amounts owed by the network to participating providers, (b) the actual outstanding amount owed providers, or (c) another amount determined by the commissioner. In the event of insolvency or nonpayment, the security must be used by the network or other entity designated by the commissioner for paying any outstanding debt owed providers.
8. The MCO may pay providers directly in the event of insolvency or mismanagement by the network (payments may be made or reimbursed from the security posted).
9. In the event of a network becoming insolvent, otherwise ceasing to conduct business, as determined by the commissioner, or demonstrating a pattern of nonpayment of authorized claims, as determined by the commissioner, for a period greater than 90 days, the MCO may transfer or assign contracts between the network and providers to the MCO for future services.
10. Contracts between a network and providers must include a provision transferring and assigning the contract to the MCO for the delivery of future health care services to enrollees in the event of a network becoming insolvent, otherwise ceasing to conduct business, as determined by the commissioner, or demonstrating a pattern of nonpayment of authorized claims, as determined by

the commissioner, for a period greater than 90 days.

11. Networks must pay for the delivery of health care services and operate or maintain contracts with providers in a manner consistent with the law that applies to MCO's contracts with enrollees and providers.
12. Networks must ensure that utilization review determinations are made in accordance with state law, except that initial appeals of a determination not to certify an admission, service, procedure, or extension of a hospital stay must be reviewed by a practitioner in a specialty related to the condition that is the subject of the appeal, and in cases where an appeal to reverse a determination not to certify is unsuccessful, the network must refer the case to the MCO, which must conduct the subsequent appeal using a practitioner in a specialty related to the condition that is the subject of the appeal (see below).
13. Contracts between networks and providers must contain a provision that specifies that if the network fails to pay for health care services as required under the contract, enrollees are not liable to providers for any amount owed them or any amount owed by the MCO because of nonpayment, insolvency, or breach of contract between the MCO and the network.

UTILIZATION REVIEW DETERMINATIONS

The act requires any utilization review determination made by or on behalf of a network to be made according to state law, except that any initial appeal of a determination not to certify an admission, service, procedure, or extension of a hospital stay must be conducted by a practitioner in a specialty related to the condition that is the subject of the appeal. Any subsequent appeal to the MCO on whose behalf the network provides service must also be conducted by a practitioner in a specialty related to the condition that is the subject of the appeal.

ENROLLEE HOLD-HARMLESS

The act prohibits, under any circumstance, including an MCO's nonpayment, insolvency, or breach of contract with a network, a network

from (1) billing; (2) charging; (3) collecting a deposit from; (4) seeking compensation, remuneration, or reimbursement from; or (5) having any recourse against an enrollee or his designee, other than the MCO, for covered benefits provided. The prohibition does not include the copayments, deductibles, or other out-of-pocket expenses the enrollee is required to pay under the managed care plan.

MCO'S CONTRACTUAL OVERSIGHT OBLIGATIONS

The act requires MCOs that contract with networks to:

1. have adequate procedures in place to notify the commissioner, no later than five days after discovery, that a network has experienced an event that may threaten its ability to materially perform its contractual obligations;
2. monitor and maintain systems and controls for monitoring the financial health of a network with which it contracts;
3. provide the commissioner with an annually updated contingency plan describing how health care services will be provided to enrollees in the event of the network's insolvency or mismanagement, including a description of what contractual and financial steps have been taken to ensure continuity of care;
4. verify the information in the quarterly status report submitted by the network and submit such information to the commissioner, on a form she prescribes, no later than 10 days after receiving her request for such information;
5. demonstrate to the commissioner's satisfaction that it can fulfill its obligation to provide health care services to enrollees in the event of the failure of a network, for any reason;
6. annually certify to the commissioner, on a form she prescribes, that the MCO has reviewed the documentation submitted by the network and determined that the network maintains an adequate number of providers to ensure the delivery of health care services as required under the contract, and if the commissioner determines that the certification was not submitted in good faith, she may deem the MCO as having not complied with

the requirement take corrective action; and

7. provide coverage, in the event of a network failure, for the enrollee to continue treatment with the treating provider under the network contract regardless of whether the provider participates in the MCO's plan until the earlier of (1) the date the enrollee's treatment is completed under an authorized treatment plan in effect on the date of failure or (2) the date the contract between the enrollee and the MCO terminates. The act specifies that a MCO must compensate the provider for such continued treatment at the rate due the provider under his contract with the failed network.

The act specifies that MCOs must remain fully responsible under the managed care plan and applicable state or federal law for providing health care services to its enrollees. It requires MCOs to exercise due diligence in their selection and oversight of a network.

The act specifies that if a MCO determines that the number of network providers is inadequate and must be increased, the MCO must give the commissioner written notice of its determination. The notice must describe (1) any plan in place for the network to increase its provider network and (2) the MCO's contingency plan in the event the network does not satisfactorily increase its providers.

Networks are not required to share with the MCO with which they contract proprietary information about their contractual arrangement with providers who are not part of its network and other networks and MCOs.

ACCESS TO CARE

The act prohibits a network under contract with a MCO to provide health care services to enrollees from establishing terms, conditions, or requirements for access, diagnosis, or treatment that are different than the terms, conditions, or requirements for access, diagnosis, or treatment under the MCO's plan. But, a network may not be required to provide an enrollee access to a provider who does not participate in its network unless required under its contract with the MCO. A network must pay for the delivery of health care services and operate and maintain arrangements or contracts with providers that are consistent with the law that applies to the MCO's contract with enrollees and providers.

COMPLAINT PROCEDURE

The act requires the commissioner to receive and investigate any (1) grievance filed by an enrollee or his designee against a network, MCO, or both concerning matters governed by the preferred provider network statute, as amended by the act, and the utilization review and unfair insurance practice laws or (2) referrals from the Office of Managed Care Ombudsman. She must code, track, and review each grievance or referral, and the network, MCO, or both must provide her with all relevant information necessary for her to investigate the grievance or referral.

The commissioner must maintain as confidential information she collects in the course of her investigation and may not disclose it except to the extent necessary to (1) ensure compliance with the preferred provider network statute, certain provisions of the act and the utilization review, or unfair insurance practices laws; (2) bring an enforcement action under current law; (3) inform the managed care ombudsman; or (4) disclose, as a public record, information concerning the nature of any grievance or referral and the commissioner's final determination. The act excludes personal information from disclosure under the public record disclosure requirement. The act requires the commissioner to report to the managed care ombudsman resolutions of any matter he refers to her.

MANAGED CARE OMBUDSMAN'S DUTIES

The act expands the managed care ombudsman's authority to make referrals to the commissioner if he finds that a network may have engaged in a pattern or practice that violates the preferred provider network, utilization review, or unfair insurance practice laws.

The act also requires the ombudsman and the commissioner to jointly compile a list of complaints received against MCOs and networks and the commissioner to maintain such list. It prohibits the disclosure of a complainant's name if it violates the whistleblower law or the confidentiality requirement the ombudsman must adhere to.

ENFORCEMENT AUTHORITY

The act specifies that if the commissioner determines that a network, MCO, or both have

failed to comply with the preferred provider network statute, certain provisions of the act and the utilization review or unfair insurance practice laws, she may bring the following enforcement actions: (1) issue a cease and desist operations order against the network, MCO, or both; (2) terminate or suspend a network's license; (3) institute a corrective action against the network, MCO, or both; (4) order the network, MCO, or both to pay a civil penalty up to \$1,000 for each act or violation; (5) order the payment of reasonable expenses necessary to compensate the commissioner for the cost of any investigation or enforcement action; and (6) use any existing enforcement authority to obtain compliance.

The act authorizes the commissioner to hold a hearing on any matter governed by the preferred provider network statute, utilization review, or unfair insurance practices laws.

It also authorizes the commissioner, subject to the confidentiality and liability protections under existing law authorizing her to conduct insurance company examinations, to engage the services of attorneys, appraisers, independent actuaries, certified public accountants, or other professionals and specialists to assist her in conducting investigations. The MCO, network, or both must pay the cost for such professionals.

To ensure that covered benefits are provided, the act authorizes the commissioner to assign or require the network to assign its rights and obligations under any contract with providers if it fails to comply with the preferred provider network statute, as amended by the act, or the utilization review and unfair insurance practice laws.

ANTI-RETALIATION PROVISION

The act prohibits health insurers, HMOs, utilization review companies, and networks from taking or threatening to take any adverse personnel or coverage-related action against any enrollee, provider, or employee in retaliation for (1) filing a complaint with the commissioner or managed care ombudsman or (2) disclosing information to the commissioner about a violation of the preferred provider utilization review, or unfair insurance practice laws, unless the disclosure violates the Connecticut Insurance Information and Privacy Protection Act or the federal Health Insurance Portability and Accountability Act of 1996 or regulations adopted under them. The act authorizes an aggrieved enrollee, provider, or employee to bring a civil action in Superior Court to recover

damages and attorney's fee and costs.

IMPLEMENTING REGULATIONS

The act authorizes the commissioner to adopt implementing regulations, including those to implement provisions requiring (1) networks to provide certain forms of financial security and information, (2) MCO and network contract provisions, (3) enrollee hold-harmless provisions, (4) MCO contractual obligations, (5) enforcement authority, and (6) complaint procedures.

ANNUAL REPORTS

The act broadens the type of information the commissioner must annually report to the Governor and the Insurance and Real Estate and Public Health committees. It adds the requirement that she provide a summary of her procedures and activities in conducting market conduct examinations of networks, including a description of complaints and violations involving networks that provide services to enrollees on behalf of MCOs.

It also broadens the type of information MCOs must report to the commissioner. It requires each MCO to include in its quality assurance plan report to the commissioner the number of utilization review determinations not to certify an admission, service, procedure, or extension of a hospital stay that are made by or on its behalf. The act requires each MCO to file with the commissioner (1) a model contract that contains the provisions currently in force in contracts between MCOs and networks, (2) a written statement of the types of financial arrangements or contractual provisions a MCO has with a network, and (3) the number and nature of participating preferred provider networks.

BACKGROUND

Connecticut Insurance Information and Privacy Act

The act establishes standards for the collection, use, and disclosure of personal information obtained in connection with insurance transactions and gives to certain individuals specific rights with respect to the collection, use, or disclosure of personal information involving them.

Health Insurance Portability and Accountability Act

The federal law establishes basic patient privacy rights with respect to protected health information, including the right to: (1) receive a written notice of privacy practices from health insurance plans and covered providers; (2) access or request an amendment to health records; (3) receive an accounting of the instances where personal health information is disclosed for other than treatment, payment, or health care operations if authorization was not required to make the disclosure; and (4) inquire or make complaints to health care providers or plans regarding the privacy and confidentiality of health information.

PA 03-182—sHB 5480

*Insurance and Real Estate Committee
Banks Committee*

**AN ACT CONCERNING THE
CONNECTICUT INSURANCE GUARANTY
ASSOCIATION**

SUMMARY: This act prohibits the Connecticut Insurance Guaranty Association from recovering from a municipality the amount of any covered claim the association paid on behalf of the municipality's insolvent insurer. It does so by excluding municipalities from the definition of "insured" under the Connecticut Insurance Guaranty Association Act.

EFFECTIVE DATE: Upon passage

BACKGROUND

Connecticut Insurance Guaranty Association

The association pays the valid property and casualty insurance claims of resident claimants in the event of the insolvency or other financial impairment of a member insurer. The association assesses members to obtain funds for this purpose.

PA 03-199—SB 837

Insurance and Real Estate Committee

**AN ACT CONCERNING MINOR AND
TECHNICAL CHANGES TO THE
INSURANCE STATUTES**

SUMMARY: This act makes several technical revisions and minor changes to the insurance statutes. It:

1. expands the definition of insurer by including a receiver of an insurer and any person, except a fraternal benefit society, doing any kind or form of insurance business, instead of just corporations, associations, and partnerships doing any kind or form of insurance business;
2. revises the annual electronic statement filing that insurers make with the National Association of Insurance Commissioners (NAIC) to (a) include any additional information prescribed by the insurance commissioner, (b) allow for future changes in filing format and scope, and (c) require filing of financial analyses and examination synopses with NAIC rather than NAIC's Insurance Regulatory Information System;
3. requires health care centers with capital stocks to obtain the commissioner's approval, after notice and hearing, to amend their certificate of incorporation to change their name;
4. permits, rather than mandates, adoption of implementing regulations governing utilization review companies, managed care companies, and preferred provider networks;
5. clarifies that HMOs must offer to continue an insured's group coverage when coverage is lost under a master policy; and
6. revises the definition of a swap agreement under NAIC's model insurance insolvency law to include rate cap agreements, rate floor agreements, and rate collar agreements.

The act also deletes obsolete references, redundant language and obsolete date references.

EFFECTIVE DATE: October 1, 2003

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-6—HB 5101
Judiciary Committee

AN ACT CONCERNING THE PENALTY FOR ASSAULT OF CIVILIAN DETENTION OFFICERS

SUMMARY: This act extends an enhanced penalty for assaults on public safety and emergency medical personnel to assaults on reasonably identifiable civilian municipal police department employees when they are providing security at the department’s lockup and holding facility. The actor must intend to prevent the employee from performing his job and (1) injure him; (2) throw potentially harmful objects, offensive substances like paint, dye, or bodily fluids at him; or (3) use gas, mace, or similar substances.

The act makes the assaults class C felonies (see Table on Penalties). Depending on the specific activity, they were previously either class A or B misdemeanors.

It is already a class C felony to commit these acts against peace officers, firefighters, emergency medical service personnel, emergency room physicians and nurses, Department of Correction employees, Board of Parole members and employees, probation officers, Judicial Department employees providing pretrial secure detention or programming services to delinquent children, and some Department of Children and Families employees.

The act also repeals a provision in PA 03-2 which had delayed until July 1, 2003 the opening of a new prison in Somers.

EFFECTIVE DATE: October 1, 2003, except for the provision concerning the Somers prison, which is effective on passage.

PA 03-9—SB 858
Judiciary Committee

AN ACT CONCERNING THE REWARD FOR INFORMATION REGARDING THE THEFT OF ANY MOTOR VEHICLE, LIVESTOCK OR POULTRY

SUMMARY: This act eliminates a court’s duty to award up to \$100 for information leading to the arrest and conviction of anyone for theft of a

motor vehicle, mule, ass, cattle, horse, or poultry. The duty applied to the court in which the conviction occurs. The comptroller paid the reward upon certification of the amount by the court clerk.

EFFECTIVE DATE: October 1, 2003

PA 03-10—SB 870
Judiciary Committee

AN ACT CONFIRMING AND ADOPTING VOLUMES 1 TO 13, INCLUSIVE, OF THE GENERAL STATUTES, REVISED TO 2003

SUMMARY: This act formally adopts, ratifies, confirms, and enacts the General Statutes revised to 2003.

EFFECTIVE DATE: Upon passage

PA 03-18—sHB 5096
Judiciary Committee

AN ACT CONCERNING PROFESSIONAL SERVICE CORPORATIONS, BUSINESS CORPORATIONS, NONSTOCK CORPORATIONS, LIMITED PARTNERSHIPS, LIMITED LIABILITY COMPANIES AND PARTNERSHIPS

SUMMARY: This act allows stock corporations to merge with a broader range of business entities. Under prior law, stock corporations, limited liability companies, and limited partnerships organized under Connecticut law could merge only with their own type of entity. Partnerships could merge only with partnerships or limited partnerships. The act allows corporations also to merge with partnerships; limited partnerships; limited liability partnerships; limited liability companies; joint ventures; joint stock companies; and business, statutory, and real estate investment trusts. It grants similar authority to limited partnerships, limited liability companies, and partnerships.

The act applies the laws that currently apply to these mergers to mergers with the other entities. It makes a few adjustments to these laws to reflect mergers that involve other entities.

The act authorizes stock corporations to exchange their shares with these other business entities for shares, cash, or other types of

property. It also authorizes a corporation to exchange its shares for other types of property owned by another corporation.

It changes the conditions under which stock corporations may sell their assets, other than in the ordinary course of business, without shareholder approval. Prior law required shareholder approval if a disposition involved all, or substantially all, of the corporation's property. The act instead requires such approval if a disposition would leave the corporation without a significant continuing business activity. It establishes a test to determine if this new standard has been met. It establishes a similar test for nonstock corporations.

The act makes numerous changes in the laws relating to dissolved corporations, including procedures to deal with known and unknown claims.

The act makes numerous changes to stock corporation laws relating to corrections of filed documents, the corporation's acquisition of its own shares, distributions to shareholders, removal of directors by judicial proceeding, liability for unlawful distributions, and amendments to certificates of incorporation and bylaws. It makes similar changes for nonstock corporations with respect to correcting filed documents, liability for unlawful distributions, and amendments to the certificates of incorporation.

It makes numerous changes in the laws dealing with nonstock corporations relating to ex-officio directors, staggered terms for directors, and court-appointed board members. It eliminates the ability of a nonstock corporation to merge with a foreign nonstock corporation.

The act validates any certificate of amendment for stock corporations, or certificates of merger or share exchange filed between January 1, 1997, and the act's passage, if they were otherwise valid except for an incorrect or incomplete statement of the information required by the laws under which they were filed with respect to shareholder approval.

The act reduces the fees for filing a certificate of merger or consolidation between limited partnerships from \$30 for each limited partnership that is involved to one \$30 fee. It establishes a \$30 fee for mergers or consolidations between limited partnerships and other entities.

It makes similar changes for filing a certificate of merger or consolidation for limited liability companies and limited liability partnerships. It establishes a \$30 fee for filing a

certificate of merger or consolidation involving a statutory trust and other statutory trusts or other entities.

Finally, the act makes numerous conforming and technical changes.

EFFECTIVE DATE: July 1, 2003, except for the validating provision, which is effective upon passage.

PROFESSIONAL SERVICE CORPORATIONS (§ 1)

Prior law allowed professional service corporations to consolidate or merge with other professional corporations organized under Connecticut law. The act allows these corporations to consolidate or merge with a Connecticut limited liability company, partnership, or limited liability partnership, if it is organized to render the same specific professional service.

CORRECTING FILED DOCUMENTS (§§ 3 & 33)

Prior law allowed a Connecticut or foreign corporation (incorporated under a law other than Connecticut's) to correct a document filed by the secretary of the state if (1) it contained an inaccuracy; (2) it was defectively executed, attested, sealed, verified, or acknowledged; or (3) the electronic transmission was defective. The act allows the corporation to correct a document that is defectively made as well. It makes a similar change to the nonstock corporation law.

CORPORATION'S ACQUISITION OF ITS OWN SHARES (§ 4)

The law allows a stock corporation to acquire its own shares. Once acquired, they constitute authorized but unissued shares. Under the act, if the certificate of incorporation prohibits the reissue of acquired shares, the acquisition automatically reduces the number of authorized shares by the number of shares acquired. Under prior law, the number of shares was reduced only when the corporation amended its certificate of incorporation.

Prior law authorized the board of directors to adopt a certificate of amendment without shareholder action and deliver it to the secretary of the state for filing. The certificate had to specify the (1) corporation's name; (2) reduction in the number of authorized shares, itemized by class and series; and (3) total number of

authorized shares, itemized by class and series, remaining after reduction. The act eliminates this authority (As noted above, under the act, the reduction occurs automatically.)

DISTRIBUTION TO SHAREHOLDERS (§ 5)

The act specifies that the rules and requirements relating to distributions to shareholders do not apply to distributions in the course of dissolution, which are covered by dissolution rules.

REMOVAL OF CORPORATION DIRECTORS BY JUDICIAL PROCEEDING (§ 6)

The act changes the standards the court may use to remove a director from a stock corporation's board and expands the right of small shareholders to initiate the proceeding. Under prior law, the corporation, or shareholders holding at least 10% of the outstanding shares of any class, could ask the court to do so. The act eliminates the 10% requirement, thus allowing any shareholder to make such a request.

The act eliminates the court's authority to remove a director it finds engaged in gross abuse of authority or discretion with respect to the corporation. It allows the court to remove a director it finds (1) grossly abused the position of director or (2) intentionally harmed the corporation. Before removing a director, it requires the court to consider the inadequacy of other remedies and the director's course of conduct when deciding whether removal is in the corporation's best interest. By law, unchanged by the act, the court may remove a director it finds engaged in fraudulent or dishonest conduct with respect to the corporation.

The act specifies that a shareholder who initiates a lawsuit to remove a director must comply with all the rules that apply to shareholders suing in the name of the corporation except the requirement that he (1) was a shareholder at the time of the act complained of or (2) became a shareholder through transfer by operation of law from one who was a shareholder at the time. It eliminates the requirement that a shareholder make the corporation a defendant to such a lawsuit.

Finally, the act specifies that its authority to remove a director does not limit the court's authority to order other appropriate relief.

LIABILITY FOR UNLAWFUL UNAUTHORIZED DISTRIBUTIONS (§§ 7 & 38)

By law, a director who fails to follow statutory standards and votes for, or assents to, a distribution that violates the law governing distributions to shareholders or the certificate of incorporation is personally liable to the corporation for any amount distributed over what could have been distributed without the violation. The act also makes a director personally liable to the corporation if he votes for, or assents to, a distribution that violates the act's requirements for setting aside security for unknown or contingent claims.

By law, a lawsuit involving a stock corporation to enforce this liability must be filed within two years after the distribution date. The act also allows it to be filed within two years after the date (1) the violation of the corporation law occurred as a consequence of disregarding a restriction in the certificate of incorporation or (2) on which the distribution of assets to shareholders or members was made pursuant to the act's provisions regarding setting aside security for unknown or contingent claims.

The act makes a similar change for nonstock corporations except that it does not change the statute of limitations for lawsuits to enforce the director's liability to the corporation, which is three years from the date of the distribution, and the change maintains this three-year period.

The law gives directors who are liable for improper distributions the right to recover from certain other directors (contribution) and certain shareholders (recoupment). The act requires that the lawsuit for recovery be filed within one year after the liability of the claimant has been finally adjudicated in the lawsuit against the director for improper distribution of assets. (The term "contribution" refers to the legal principal that when one of several people liable for the same judgment or obligation is called upon to satisfy it, the others may be required to reimburse him (make contribution) to the extent of their share of the total liability. The term "recoupment" refers to the legal proceeding to force shareholders or recipients to pay back distributions that were improperly made to them by directors.)

The act makes a similar change for nonstock corporations.

AMENDMENT OF CERTIFICATE OF INCORPORATION BY BOARD OF DIRECTORS (§ 9)

Unless the certificate of incorporation provides otherwise, the act authorizes a stock corporation's board of directors to adopt, without shareholder approval, amendments to the corporation's certificate of incorporation to:

1. increase the number of authorized shares of the class of stock, when there is only one class of stock outstanding, to the extent necessary to permit the issuance of shares as a share dividend;
2. reflect a reduction in authorized shares as a result of the corporation acquiring its own shares, when its certificate of incorporation prohibits the reissuance of the acquired shares; and
3. delete a class of shares from the certificate of incorporation as a result of the corporation acquiring all shares of a class of stock and the certificate of incorporation prohibits the reissuance of acquired shares.

VOTING ON AMENDMENTS BY VOTING GROUPS (§ 11)

By law, holders of the outstanding shares of a class of stock are entitled to vote as a separate voting group on a proposed amendment to the certificate of incorporation if the amendment would do certain things. The act eliminates this right to vote as a separate group when the amendment would:

1. increase or decrease the aggregate number of authorized shares of the class;
2. change the designation of all or part of the shares of the class;
3. create a new class of shares having rights or preferences substantially equal to the shares of the class;
4. increase the rights, preferences, or the number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or dissolution that are substantially equal to the shares of the class; or
5. cancel or otherwise affect rights to dividends that have accumulated but not yet been authorized on all, or part of, the shares of the class.

By law, if a proposed amendment to a certificate of incorporation entitles the holders of two or more series of shares to vote as a separate voting group and it would affect them in the same or substantially similar way, the holders of those shares must vote together as a single voting group on the proposed amendment. The act specifies that they would not vote as a single voting group if the certificate of incorporation or the board of directors required otherwise. Also, the act specifies that the rule about voting as a single voting group applies to the holders of two or more classes of shares in the same way that it applies to holders of two or more series of shares.

AMENDMENT BEFORE ISSUANCE OF SHARES (§ 12)

The act limits the ability of the incorporators to amend a stock corporation's certificate of incorporation. Under prior law, they could do so before the corporation had issued shares. Under the act, they may do so during this period only if the corporation has no board of directors.

CERTIFICATE OF AMENDMENT (§§ 13 & 40)

By law, a corporation amending its certificate of incorporation must deliver a certificate of amendment to the secretary of the state for filing. When the shareholders approve an amendment, the act eliminates the requirement that the certificate include the designation, number of outstanding shares, number of votes entitled to be cast by each voting group entitled to vote separately on the amendment, and the number of votes of each voting group indisputably represented at the meeting. It also eliminates the requirement that the certificate contain either (1) the total number of votes cast for and against the amendment by each voting group entitled to vote separately or (2) the total number of undisputed votes cast for the amendment by each voting group, and a statement that the number cast for the amendment by each voting group was sufficient for approval by that voting group. The act instead requires that, if an amendment requires shareholder approval, the certificate must include a statement that it was duly approved by the shareholders as required by law and by the certificate of incorporation.

The act makes a similar change for nonstock corporations.

RESTATED CERTIFICATE OF INCORPORATION (§§ 14 & 41)

By law a corporation's board of directors may restate a certificate of incorporation at any time, with or without shareholder action. The act specifies that the board may do so just to consolidate all amendments into a single document. The law requires that a restated certificate of incorporation must be delivered to the secretary of the state for filing and contain certain information. The act requires that this information include a statement specifying that the restated certificate consolidates all amendments into a single document. If a new amendment is included in the restated certificate, the statement also must include the information required when new amendments are submitted to the secretary. The act eliminates the board's duty to notify shareholders who do not have the right to vote. The act makes a similar change for nonstock corporations.

AMENDMENT OF BYLAWS (§ 16)

The act eliminates the authority of a stock corporation's board of directors to amend or repeal a corporation bylaw if, when the shareholders adopted it, they expressly provided that the board could not do so. It also eliminates the board's authority to reinstate a bylaw contrary to the shareholders express direction.

MERGER OF CORPORATIONS INTO OTHER ENTITIES (§§ 17, 18, & 42)

By law, one or more domestic or foreign corporations may merge into another domestic corporation under certain circumstances. (A domestic corporation is one formed under Connecticut law. A foreign corporation is formed under the law of another jurisdiction.) The act broadens this authority by allowing one or more domestic corporations to also merge with "other entities" pursuant to a merger plan. Under the act, "other entities" are any association or legal entity, other than a corporation, organized to conduct business, including partnerships, limited partnerships, limited liability partnerships (LLP), limited liability companies (LLC), joint ventures, joint stock companies, business trusts, statutory trusts, and real estate investments trusts.

The act allows an other entity to be a party to a merger with a corporation, or to be created by the terms of a merger plan with a corporation, only if (1) the law of the state or country under

which it is organized or by which it is governed permits the merger and (2) in effecting the merger, the corporation or entity complies with that law and its certificate of incorporation or organizational documents.

The act applies the laws that currently apply to corporation mergers to mergers with other entities. It makes a few adjustments to these laws to reflect mergers that involve other entities.

What a Merger Plan Must Include

The merger plan between a corporation and other entities must include:

1. the name of each party that will merge and the name of the survivor;
2. its terms and conditions;
3. the manner and basis of converting the shares of each merging party into shares or other property;
4. the certificate of incorporation of any corporation, or the organizational documents of any other entity, to be created by the merger or, if a new corporation or other entity is not to be created, any amendments to the survivor's certificate of incorporation or organizational document (which, under current law is permitted, but not required, when corporations merge); and
5. any other provisions required by the law of the state or country under which any party to the merger is organized or governed, or by the certificate of incorporation or organizational documents of any such party.

Plan's Terms

The act allows the terms of the merger plan to be made dependent upon objectively ascertainable facts outside the plan. Under the act, "facts" include the occurrence of any event, including a determination or action by any person or body, including the corporation.

Plan Amendment

The act also allows the plan to include a provision allowing it to be amended before a certificate of merger is filed with the secretary of the state. But, if the shareholders of a domestic corporation that is a party to the merger must, or may, vote on the plan, the plan must provide

that, after the shareholders approve it, it may not be amended to:

1. change the amount or kind of shares or other securities, interests, or other property to be received by the shareholders or owners of interests in any party to the merger upon conversion of their shares or interests under the plan;
2. change the certificate of incorporation of any corporation, or the organizational documents of any other entity, that will survive or be created as a result of the merger, except for (a) changes the law explicitly permits boards to make without shareholder approval, unless the certificate of incorporation provides otherwise or (b) changes comparable provisions of the law of the state or country under which the foreign corporation or foreign entity is organized or governed permit boards to make without shareholder approval; or
3. change any of the plan's other terms or conditions if the change would adversely affect shareholders in any material respect.

The act makes similar changes to the merger plans governing the merger of nonstock corporations, except nonstock corporations may merge only with other nonstock domestic corporations.

SHARE EXCHANGE (§ 19)

The law authorizes a domestic corporation to acquire through a share exchange all of the shares of one or more classes or series of shares of another domestic corporation. The act expands this authority to allow it to acquire through a share exchange plan all of the interests of one or more classes or series of interests of a foreign corporation or domestic or foreign "other entity," in exchange for shares or other property.

The act allows a domestic corporation's shares to be acquired by a foreign corporation or another entity, in exchange for shares or other securities, interests, obligations, or rights to acquire shares or other property, pursuant to a share exchange plan. The act allows a foreign corporation, or a domestic or foreign other entity, to be a party to a share exchange only if (1) the law under which the corporation or other entity is organized or governed permits it and (2) in effecting the share exchange, the corporation or other entity complies with the law and its

certificate of incorporation or organizational documents.

The act requires the share exchange plan to include (1) the name of each corporation or other entity whose shares or interests will be acquired and the name of the corporation or other entity that will acquire such shares or interests; (2) the terms and conditions of the share exchange; (3) the manner and basis of exchanging shares of a corporation or interests in another entity whose shares or interests will be acquired into shares or other securities, interests, obligations, rights to acquire shares or other securities, cash or other property, or any combination of them; and (4) any other provisions required by the law of the state or country under which any party to the share exchange is organized or governed or by any party's certificate of incorporation or organizational documents.

The act allows the share exchange plan's terms to be made dependent on objectively ascertainable facts outside the plan.

It allows the plan also to include a provision allowing it to be amended before a certificate of share exchange is filed with the secretary of the state. But, if the shareholders of a domestic corporation that is a party to the share exchange must or may vote on the plan, it must provide that after the shareholders approve the plan, it may not be amended to (1) change the amount or kind of shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, or other property to be issued by the corporation or to be received by the shareholders or owners of interests in any party to the share exchange or (2) change any of the plan's terms or conditions if they would adversely affect such shareholders in any material respect.

The act specifies that it does not limit a domestic corporation's power to acquire interests in another entity in a transaction other than a share exchange.

ACTION ON PLAN OF MERGER OR SHARE EXCHANGE (§ 20)

By law, after adopting a merger plan, the board of directors of each domestic corporation must submit the merger or share exchange plan for shareholder approval. Prior law always required shareholders approval for share exchange. The act establishes exceptions.

For either plan to be approved (1) the board must recommend it to the shareholders, unless the board determines that because of conflict of

interest or other special circumstances it should make no recommendation, in which case it must submit the plan to the shareholders and inform them of the basis for its determination and (2) the shareholders entitled to vote must approve it.

The act requires a board of directors of a domestic corporation that is a party to a merger or a share exchange to adopt the merger plan before submitting it to its shareholders. The law allows the board to condition its submission of the merger or share exchange plan to the shareholders on any basis.

Under the act, if the shareholders must approve the plan at a meeting, the corporation must notify each shareholder of the meeting at which the plan is to be submitted for approval. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the plan and contain or be accompanied by a copy or summary of the plan.

If the corporation is to be merged into a new or existing corporation or other entity, the notice must also include or be accompanied by a copy or summary of each party's certificate of incorporation or organizational documents. If it is to be merged into a corporation or other entity that is to be created by the merger, the notice must include or be accompanied by a copy or a summary of the certificate of incorporation or organizational documents of the new corporation or other entity.

Unless the law, the certificate of incorporation, or the board of directors requires a greater vote or a vote by voting groups, the plan must be approved by each voting group entitled to vote separately on it by a majority of all the votes that group is entitled to cast on the plan.

The act requires separate voting by voting groups:

1. on a merger plan by each class or series of shares that (a) are to be converted under the merger plan into shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, or other property, or any combination of these or (b) would have a right to vote as a separate group on a provision in the plan that, if contained in a proposed amendment to the certificate of incorporation, would require action by separate voting groups;
2. on a share exchange plan, by each class or series of shares included in the exchange, with each class or series

constituting a separate voting group; and

3. on a merger or share exchange plan, if the voting group is entitled under the certificate of incorporation to vote as a group to approve a plan of merger or share exchange.

Under the act, unless the certificate of incorporation provides otherwise, the corporation's shareholders do not have to approve a merger or share exchange plan if (1) the corporation will be the survivor in the merger or is the acquiring corporation in the share exchange; (2) except for amendments that the law permits boards to make without shareholder approval, its certificate of incorporation will not be changed; or (3) each shareholder whose shares were outstanding immediately before the effective date of the merger or share exchange will hold the same number of shares, with identical preferences, limitations, and relative rights, immediately after the effective date.

The act requires that if, as a result of a merger or share exchange, one or more shareholders of a domestic corporation would become personally liable for the obligations or liabilities of any other person or entity, approval of the plan of merger or share exchange must require each such shareholder to execute a separate written consent to become subject to such personal liability.

The act retains the existing approval provisions for a merger or share exchange plan authorized by a corporation incorporated under Connecticut law before January 1, 1997. It requires that the plan be approved by the affirmative vote of at least two-thirds of the voting power of each class of stock of such corporation outstanding before January 1, 1997, and not otherwise entitled to vote on it, unless the certificate of incorporation expressly provides otherwise. But, the act does not require approval by the holders of such class or series not otherwise entitled to vote if the corporation is the surviving corporation of the merger and the merger or share exchange plan does not contain any provisions which, if contained in a proposed amendment to its certificate of incorporation, would entitle any class or series of its shareholders to vote as a class or series.

MERGER OF SUBSIDIARY (§ 21)

The law allows a parent corporation owning at least 90% of the outstanding shares of each class of a subsidiary corporation's stock to

merge the subsidiary into itself without approval of shareholders of the parent or the subsidiary.

The act allows a domestic parent corporation that owns shares that carry at least 90% of the voting power of outstanding shares to merge with the subsidiary or to merge the subsidiary with another such subsidiary. But the merger is not allowed if (1) the certificate of incorporation of any of the corporations provides otherwise and (2) in the case of a foreign subsidiary, approval by the foreign subsidiary's board of directors or shareholders is required by the law under which the subsidiary is organized or governed.

With respect to mergers with a subsidiary, the act eliminates the rules that apply to the merger plan, notice to shareholders, and filing the certificate of merger with the secretary of the state. But the general merger rules apply, which have certain similar requirements.

Under the act, if the subsidiary's shareholders are not required to approve the merger, the parent corporation must, within 10 days after the merger's effective date, notify each of the subsidiary's shareholders that the merger has become effective. Otherwise, the act makes the laws that apply to any merger apply to a merger between a parent and a subsidiary.

CERTIFICATE OF MERGER OR SHARE EXCHANGE (§§ 22 & 44)

The act requires that after a merger or share exchange plan has been adopted and approved as required by law, an officer or other representative of each party must execute a merger or share exchange certificate on behalf of each party. Under prior law, the certificate of merger or stock exchange involving domestic corporations had to include specific things, such as the plan; if applicable, a statement that shareholders approval was unnecessary; and certain voting information if shareholder approval was necessary. The act instead requires the certificate to specify:

1. the parties' names;
2. the name of the corporation or other entity that will be the survivor of the merger or that will acquire the shares or interests of the other party to the share exchange;
3. the merger's or share exchange's effective date;
4. the amendments to the survivor's certificate of incorporation, if any, or the certificate of incorporation of the

new corporation if one is created as a result of a merger;

5. if the merger or share exchange plan required approval by the shareholders of a domestic corporation, a statement that it was and, if voting by any separate voting group was required, by each separate voting group, in the manner required by law and the certificate of incorporation;
6. if the plan did not require approval by the shareholders of a domestic corporation, a statement to that effect; and
7. as to each foreign corporation and each other entity that was a party to the merger or share exchange, a statement that the plan and the performance of its terms were duly authorized as required by the law of the jurisdiction under which the corporation or other entity is organized or by which it is governed, and by its certificate of incorporation or organizational documents.

The act makes it take effect on the effective date of the merger or the share exchange, instead of on the effective date of the certificate of merger or share exchange.

The act makes similar changes with respect to the certificate of merger involving nonstock corporations.

EFFECT OF MERGER OR SHARE EXCHANGE (§ 23 & 45)

Under the act, when a merger becomes effective:

1. the corporation or other entity designated in the merger certificate as the survivor continues or comes into existence, as the case may be;
2. the separate existence of every party merged into the survivor ceases;
3. all liabilities of each party merged into the survivor are vested in the survivor;
4. all property owned by, and every contract right possessed by, each party that merges into the survivor is vested in the survivor without reversion or impairment;
5. the survivor's name may be substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger;
6. the survivor's certificate of incorporation or organizational

- documents are amended to the extent provided in the certificate of merger;
7. the certificate of incorporation or organizational documents of a survivor that is created by the merger become effective; and
 8. the shares of each corporation that is a party to the merger and the interests in another entity that is a party to a merger that are to be converted under the merger plan into shares or other securities, interests, obligations, rights to acquire shares or other securities, cash or other property, or any combination of them, are converted.

Similar requirements apply for mergers of nonstock corporations.

The former holders of these shares or interests are entitled only to the rights provided to them in the merger plan or to any rights they may have under Connecticut's corporation laws.

When a share exchange becomes effective, under the act the shares of each domestic corporation that are to be exchanged for shares or other securities, interests, obligations, rights to acquire shares or other securities, cash or other property, or any combination of them are entitled only to the rights provided to them in the share exchange plan or to any rights they may have under Connecticut law.

The act specifies that any shareholder of a domestic corporation that is a party to a merger or a share exchange and, before the merger or share exchange, was liable for the corporation's liabilities or obligations, is not released from these because of the merger or share exchange.

Under the act, when a merger becomes effective, a foreign corporation or a foreign other entity that is the survivor of the merger is deemed to (1) appoint the secretary of the state as its agent for service of process in a proceeding to enforce the rights of shareholders of each domestic corporation that is a party to the merger who exercises appraisal rights and (2) agree that it will promptly pay the amount, if any, to which such shareholders are entitled to under the laws governing appraisal rights. (Appraisal rights give shareholders the right to dissent from certain corporate actions, including mergers and consolidations, that affect their rights materially and adversely. It also gives them the right to obtain payment for the fair value of their shares following such actions.)

ABANDONMENT OF MERGER OR SHARE EXCHANGE (§§ 24 & 46) (STOCK & NONSTOCK CORPORATIONS)

The act allows any party to the merger or share exchange plan adopted and approved under the act to abandon it without action by the party's shareholders or owners of interests, in accordance with any procedures included in the plan. If no such procedures are in the plan, the parties may abandon the plan in the manner determined by the board of directors of a corporation, or the managers of another entity, subject to any contractual rights of other parties to the merger or share exchange. The act allows this action unless the plan provides otherwise or the law of the state or country under which a foreign corporation or a domestic or foreign entity that is a party is organized or governed provides otherwise. The parties may do so at any time before the merger or the share exchange becomes effective.

The act requires that if a merger or share exchange is abandoned after a certificate of merger or share exchange has been filed with the secretary of the state, but before either becomes effective, a statement of the abandonment must be executed on behalf of a party to the merger or the share exchange by an officer or other duly authorized representative of such party. It must be delivered to the secretary for filing before the merger's or share exchange's effective date. The statement takes effect upon filing and the merger or the share exchange is deemed abandoned and does not become effective.

The statement must contain the name of each party to the merger or exchange, the date it was to become effective, and the date it was abandoned.

The act establishes similar changes regarding the abandonment of a merger between nonstock corporations.

TRANSFER OF ASSETS (§§ 25 & 47)

Unless a corporation's certificate of incorporation provides otherwise, the act allows it, without shareholder approval, to (1) distribute assets pro rata to the holders of one or more classes or series of its shares and (2) transfer assets to any entity, instead of just to any corporation, as long as it owns all its shares or other interests. It makes the second of these changes, for nonstock corporations as well.

SALE OF ASSETS OTHER THAN IN THE
ORDINARY COURSE OF BUSINESS (§§ 26
& 48)

Stock Corporations

The act changes the standard for determining whether a corporation's disposition of assets, other than in the usual or ordinary course of business, needs shareholder approval. Prior law required approval if all or substantially all of the corporation's property was involved. The act, instead, requires approval if a disposition would leave the corporation without a significant continuing business activity. The act establishes a non-exclusive safe harbor test to make this determination.

The corporation is conclusively deemed to have retained a significant continuing business activity if it retains a business activity that represents (1) at least 25% of total assets at the end of the most recently completed fiscal year and (2) 25% of either income from continuing operations before taxes or revenue from continuing operations for that year for the corporation and each of its subsidiaries on a consolidated basis. The act specifies that the assets of a direct or indirect consolidated subsidiary are the assets of the parent corporation for the purposes of this requirement. It specifies that these rules do not apply to disposition of assets in the course of dissolution.

The act requires that a disposition that requires shareholder approval must be initiated by an authorizing resolution of the board of directors.

It specifies that the notice to shareholders of the meeting to approve the disposition must include the terms and conditions and the consideration the corporation will receive. Prior law required only that the notice describe the disposition.

The law allows the corporation to abandon the disposition after the shareholders approve it, without shareholder approval, subject to any contractual rights. The act specifies that it may be abandoned at any time before it has been consummated.

Nonstock Corporations

The act changes the standard under which a nonstock corporation may dispose of its property, outside its ordinary course of affairs, without member approval.

Under prior law, the members could approve a transfer of corporate property if it was not in the corporation's ordinary course of affairs and it disposed of all or substantially all of its property. Under the act, unless the certificate of incorporation provides otherwise, member approval is required if a transfer would leave the corporation without a significant continuing activity.

The act establishes the same non-exclusive safe harbor test for stock corporations to determine whether a nonstock corporation will be left without a significant continuing activity. If a corporation retains an activity that represented at least 25% of total assets at the end of the most recently completed fiscal year, and 25% of either income from continuing operations before taxes or revenue from continuing operations for that fiscal year for the corporation and each of its subsidiaries on a consolidated basis, the corporation will be conclusively deemed to have retained a significant continuing activity. The act specifies that assets of a direct or indirect consolidated subsidiary are the assets of the parent corporation for this purpose.

CERTIFICATE OF DISSOLUTION (§§ 27 &
49)

The law allows stock corporations to dissolve by filing a certificate of dissolution with the secretary of the state. Under prior law, the certificate for a dissolved stock corporation had to include (1) the number of votes entitled to be cast on the proposal to dissolve and (2) either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that this number was sufficient for approval. If voting by voting groups was required, the information had to be provided separately for each voting group entitled to vote separately. Instead, the act requires the certificate to include a statement that the proposal to dissolve was duly approved by the shareholders, as required by law and by the certificate of incorporation.

The act defines a "dissolved corporation" as a corporation whose certificate of dissolution has become effective and the successor entity to which the remaining assets of the corporation are transferred subject to the corporation's liabilities for purposes of liquidation. The act applies this definition to the laws governing the dissolution of a stock corporations.

The act makes similar changes for nonstock corporations.

NEW & OTHER CLAIMS AGAINST DISSOLVED CORPORATION (§§ 31 & 52)

The act allows a dissolved stock or nonstock corporation that has published a dissolution notice and asked people with claims to present them to file an application with the Superior Court for a determination of the amount and form of security to be provided for payment of claims that are (1) contingent or have not been made known to the dissolved corporation or (2) based on an event occurring after the effective date of dissolution but that, based on the facts known to the corporation, are reasonably estimated to arise after the effective date of dissolution. The act specifies that the provision does not have to be made for any claim that is or is reasonably anticipated to be barred. The application must be filed with the Superior Court for the judicial district where the dissolved corporation's principal office or, if there is none in this state, where its registered office, is located. Within 10 days after it files an application, the dissolved corporation must notify each claimant holding a contingent claim shown on the corporation's records.

The court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any such proceeding. The act requires the corporation to pay the guardian's reasonable fees and expenses, including all reasonable expert witness fees.

Under the act, a dissolved corporation that provides security in the amount and form the court orders satisfies its obligations for claims that (1) are contingent, (2) have not been made known to the corporation, or (3) are based on an event occurring after the effective date of dissolution. These claims may not be enforced against a shareholder or member who received assets in liquidation.

The act establishes similar provisions for nonstock corporations.

NEW DIRECTORS' DUTIES (§§ 32 & 53)

The act requires directors of a dissolved corporation to have the corporation discharge or make reasonable provision for paying claims and distributing assets to shareholders after paying or providing for claims. Under the act, directors of a dissolved corporation that has properly disposed of claims are not liable for claims against the dissolved corporation that are barred or satisfied under the law or the act. The act

establishes the same requirements for nonstock corporations.

SPECIAL PROVISIONS REGARDING DIRECTORS OF NONSTOCK CORPORATIONS (§§ 34 & 35)

The act allows a nonstock corporation's bylaws to provide that people occupying certain positions within or outside the corporation are ex-officio directors. The law allows the certificate of incorporation to do so. But, unless otherwise provided in the certificate of incorporation or bylaws, ex-officio directors may not be counted in determining a quorum and are not entitled to vote.

Under the act, if a corporation's members are entitled to vote on the adoption, amendment, or repeal of its bylaws, any bylaw providing for ex-officio directors must require approval, either before, on, or after July 1, 2003, by the same vote necessary to amend its bylaws.

The act allows a nonstock corporation's bylaws to provide for staggering the terms of directors, other than ex-officio directors, in the same manner that current law allows its certificate of incorporation to do so. Under the act, if the corporation has members entitled to vote on the adoption, amendment, or repeal of its bylaws, any bylaw providing for staggering the terms of directors must require their approval, either before, on, or after July 1, 2003, by the same vote necessary to amend the bylaws.

COURT ORDER FOR NEW BOARD (§ 36)

The act authorizes any corporate officer to petition the Superior Court for the judicial district where the nonstock corporation's principal office is located for an order appointing a new board of directors, if a nonstock corporation's board ceases to exist and there are no members to elect a new board. If the corporation does not have a principal Connecticut office, the petition may be filed in the judicial district where its registered office is located. If there are no officers, the act authorizes the attorney general, any officer of any organization holding the corporation's funds or other assets, or any other person having dealings with the corporation to file the petition.

The petition must specify the relevant circumstances, propose the names of three or more people willing to serve as directors under the circumstances, and contain their addresses and a brief statement of their backgrounds. The

petitioner must provide a copy to the attorney general. The court may require additional information about the corporation and the proposed directors. It may order a hearing and notice to such people as it deems appropriate under the circumstances. It may give the notice in whatever manner it deems appropriate.

The act authorizes the court to appoint and set the terms of office of a new board of directors. The new board may include some or all of the people proposed in the petition or may be composed entirely of others the court deems appropriate. Board members serve for terms of office the court specifies in the order. They have the power, authority, duties, and responsibilities, and are subject to the same standards of conduct, as if they had been otherwise validly elected and serving under the provisions of the certificate of incorporation, bylaws, and applicable statutes.

PLAN OF MERGER (§ 43)

By law, a domestic nonstock corporation that is a party to a merger must submit the plan to its members for approval. The law requires that the notice for the members' meeting to vote on the plan contain certain information. The act requires that if the corporation is to be merged into an existing corporation, the notice must also include or be accompanied by a copy or summary of the existing corporation's certificate of incorporation. If the corporation is to be merged into a corporation that is to be created pursuant to the merger, the notice must include or be accompanied by a copy or a summary of the new corporation's certificate of incorporation.

The act specifies that members' approval of the merger plan may precede or follow its adoption by the board of directors and the board's sending a recommendation to the members to approve it.

The law requires separate voting on a merger plan by a class of members of a corporation if the plan contains a provision that, if contained in a proposed amendment to its certificate of incorporation, would require separate voting. The act also requires separate voting by a class on a plan of merger if (1) the class is entitled under its certificate of incorporation to vote separately to approve a merger plan or (2) the memberships of the class are to be converted under the merger plan into memberships of a different class or into membership of any class of any other corporation.

EFFECT OF MERGER (§ 45)

The law specifies what occurs when a merger between nonstock corporations becomes effective. The act also specifies that when a merger becomes effective (1) the name of the survivor may be substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger and (2) the certificate of incorporation of a survivor that is created by the merger becomes effective.

LIMITED PARTNERSHIPS

Merger of Limited Partnerships (§ 55)

The law allows a domestic (formed under Connecticut law) limited partnership to merge with or into one or more limited partnerships formed under Connecticut law or the law of other states pursuant to a properly approved merger plan, which must name the surviving or resulting limited partnership. The act expands this authority to allow mergers with other types of business entities and entities organized under the laws of foreign countries or other foreign jurisdictions. Specifically, it allows any domestic limited partnership to merge with or into any one or more limited partnerships or any one or more "other entities" formed or organized under the laws of this state, any other state, any foreign country, or other foreign jurisdiction, or any combination of them. Under the act, "other entity" means any association or legal entity, other than a domestic or foreign limited partnership, organized to conduct business, including, corporations, general partnerships, limited liability partnerships, limited liability companies, joint ventures, joint stock companies, business trusts, statutory trusts, and real estate investment trusts.

The act requires the merger plan to name the survivor. Under the act, "survivor" means, in a merger or consolidation, the limited partnership or other entity into which one or more other limited partnerships or other entities are merged or consolidated.

The act requires the merger plan to include:

1. the name and jurisdiction of organization of each party to the merger and the survivor's name;
2. any changes in the survivor's certificate of limited partnership or organizational documents;

3. the merger's effective date or time, if it is not to be effective when the certificate of merger is filed; and
4. the terms and conditions of the merger, including the manner and basis of converting the shares or interests of each party to the merger into shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, or other property, or any combination of these (The plan may include provision for any merging party to distribute cash, securities, or other property in lieu of, in addition to, in exchange for, or upon conversion of all or part of the interests of a party that is not the survivor in the merger.)

The act allows the plan to include other provisions regarding the merger as are deemed necessary or desirable. It specifies that if the merger involves one or more other entities, a written merger plan meets the act's merger requirements if it meets the requirements of the statutes the other entity is organized under or governed by.

Consolidation of Limited Partnerships (§ 56)

The law allows domestic limited partnerships to consolidate with one or more limited partnership formed under Connecticut law or the laws of another state into a new limited partnership, pursuant to a properly approved consolidation plan.

The act allows any domestic limited partnerships to consolidate with any entities formed or organized under the laws of this state or any other state, any foreign country, or other foreign jurisdiction, or any combination of these, into a new limited partnership or other entity.

It requires the consolidation plan to include:

1. the name and jurisdiction of organization of each party and of the new limited partnership or other entity, which may be that of any of the consolidating limited partnerships or other entities or any other name available under the provisions of the limited partnership laws;
2. if the survivor is a limited partnership, a certificate of limited partnership complying with Connecticut laws;
3. the effective date or time, which shall be a date or time certain, of a consolidation if it is not to be effective

when the consolidation certificate is filed; and

4. the terms and conditions of the consolidation, including the manner and basis of converting the shares or interests of each party into shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, or other property, or any combination to these. The plan may provide for the distribution by any consolidating limited partnership of cash, securities of any limited partnership, or other property in lieu of, in addition to, in exchange for, or upon conversion of all or part of the interests in any consolidating party or of the new limited partnership or other entity.

It also allows it to include whatever other provisions deemed necessary or desirable.

The act specifies that if the consolidation involves one or more other entities, a written consolidation plan satisfies the act's requirement if the plan meets the consolidation requirements of the statutes under which the other entity is organized or governed.

Certificate of Merger and Consolidation (§ 57)

The act requires that after a merger or consolidation plan is approved, the survivor must file a certificate of merger or consolidation with the secretary of the state. With respect to a merger, the survivor must file a certificate of merger properly executed by any merging limited partnership. With respect to a consolidation, it must file a consolidation certificate properly executed by any consolidating limited partnership together with an appointment of statutory agent for service of process. The act specifies that general partners executing a certificate of merger or consolidation do not have to sign or swear to facts set forth in it that do not pertain to the limited partnership of which they are general partners.

The act requires that the merger or consolidation certificate include (1) the merger or consolidation plan and (2) as to each merging or consolidating limited partnership, a statement of the vote of limited partners required to adopt the plan and the vote for the plan.

If the survivor is a foreign limited partnership that will transact business in Connecticut, the certificate must include a statement that it will comply with the state's limited partnership law. It must also include a

statement irrevocably appointing the secretary of the state as its attorney to accept service of process in any proceeding to enforce any obligations of any domestic merging or consolidating limited partnership for which it is liable under (1) Connecticut law, (2) the plan of merger or consolidation, or (3) the laws of its own jurisdiction that govern it.

If it does not appoint the secretary of the state, the act allows legal process in any such proceeding to be served upon the secretary of the state as provided by existing law as attorney for the survivor.

The act specifies that these requirements are in addition to the statutory requirements for a certificate of merger or consolidation under which any other entity that is a party to the merger or consolidation is organized or governed.

Under the act, a certificate of merger or consolidation acts as a certificate of cancellation for a domestic limited partnership that is not the survivor in the merger or consolidation. A certificate of merger acts as a certificate of amendment for a domestic limited partnership that survives the merger, to the extent provided by the merger plan. If the new entity after a consolidation is a limited partnership, the certificate set forth in the consolidation certificate is the certificate of the new limited partnership.

Effect of Merger (§ 58)

The act specifies that in a merger, the survivor is that limited partnership or other entity the plan designates as the survivor. In a consolidation, the survivor is the new limited partnership or other entity provided for in the consolidation plan. The consolidation or merger acts to eliminate the separate existence of each party except the survivor.

The act gives the survivor, to the extent consistent with its certificate of limited partnership or other organizational documents in effect when the merger or consolidation occurred, all the rights, privileges, and powers of each of the limited partnerships and other entities that have merged or consolidated. It also provides that all property owned by and all debts due to any of the parties automatically vest in the survivor. The act specifies that title to any real estate, or any other interest in it, vested in any of the parties to the merger or consolidation does not revert or is not in any way impaired, because of the merger or consolidation.

The act also specifies that any interest contained in a will or in another instrument, made before or after the merger or consolidation, to or for the benefit of any party to the merger or the consolidation benefits the survivor.

The act (1) makes the survivor responsible for all the liabilities, obligations, and penalties of each party to the merger or the consolidation; (2) allows any existing or proceeding civil or criminal claim pending by or against any party to be prosecuted as if the merger or consolidation had not taken place; (3) allows the survivor to be substituted for any party; (4) allows any judgment rendered against any party to the merger or the consolidation to be enforced against the survivor; and (5) specifies that the merger or consolidation may not impair the rights of a party's creditors or any liens on its property.

The act specifies that any general partner of a limited partnership or holder of an interest in any other entity that is a party to a merger or a consolidation who, before the merger or consolidation, was obligated for any of the party's liabilities or obligations is not released from those liabilities or obligations because of the merger or consolidation.

LIMITED LIABILITY COMPANIES

Merger (§§ 61 and 63)

The law allows limited liability companies (LLCs) to merge or consolidate with or into one or more LLCs. The act allows them to merge or consolidate with or into one or more other entities formed or organized under Connecticut law or the laws of any other state, foreign country, or other foreign jurisdiction, or any combination of them.

The act defines "other entity" as any association or legal entity, other than a domestic or foreign LLC, organized to conduct business, including corporations; general partnerships; limited liability partnerships; limited partnerships; joint ventures; joint stock companies; and business, statutory, and real estate investment trusts.

Professional Service LLCs (§ 63)

The law allows an LLC organized under Connecticut law to render professional services to merge or consolidate with another LLC organized under Connecticut law to provide the same professional services. The act allows such

LLC also to merge or consolidate with a Connecticut professional service corporation, a partnership, or a limited liability partnership if that business is organized to render the same professional service. The law prohibits a merger or consolidation of a Connecticut professional services LLC with any foreign LLC. The act prohibits mergers or consolidations with any other entity organized under the laws of some other state, country, or jurisdiction.

Approval of Mergers (§ 64)

By law, unless the articles of organization provide otherwise, a proposed merger or consolidation plan must be authorized and approved by each LLC that is a party to it by the affirmative vote of members who own at least two-thirds of the LLC. The act applies this same requirement for mergers and consolidations the act authorizes, but eliminates the vote requirement if the LLC's operating agreement provides otherwise. By law an "operating agreement" is any written or oral agreement for conducting an LLC's business and affairs that is binding on all of its members.

Plan of Merger and Consolidation (§ 65)

The act requires each LLC and other entity that is a party to a proposed merger or consolidation to enter into a written plan of merger or consolidation. The plan must include (1) the name of each LLC and other entity that is a party to the merger or consolidation and the name of the survivor in a merger or the new LLC in a consolidation; (2) the terms and conditions of the proposed merger or consolidation; (3) the manner and basis of converting the interests in each LLC or other entity in the merger or consolidation into interests of the surviving or new LLC or other entity or, in whole or in part, into cash or other property; (4) in the case of a merger, any amendments to the survivor's organizational documents as are desired to be effected by the merger, or that no such changes are desired; (5) in the case of a consolidation, all statements required to be set forth in the survivor's organizational documents; and (6) whatever other provisions relating to the proposed merger or consolidation deemed necessary or desirable.

The act defines "survivor" as the LLC or other entity into which one or more other LLC's or other entities are merged or consolidated. It defines "organizational documents" as the basic

document or documents that create, or determine the internal governance of, another entity.

If the merger or consolidation involves an other entity, the act specifies that a plan meets the act's requirements if it meets the requirements for merger or consolidation of the statutes under which the other entity is organized or governed.

Articles of Merger and Consolidation (§ 66)

After a merger or consolidation plan is approved, the act requires the survivor to deliver to the secretary of the state for filing articles of merger or consolidation duly executed by each LLC and other entity that is a party specifying:

1. the name and jurisdiction of formation or organization of each LLC and other entity;
2. the effective date of the merger or consolidation, if later than the filing date;
3. the survivor's name;
4. a statement that the plan of merger or consolidation was duly authorized and approved by each LLC in accordance with Connecticut law and by each other entity in accordance with its applicable organizational documents;
5. amendments, if any, to the surviving LLC's articles of organization, or, if a new LLC results, its articles of organization;
6. the address of the survivor's business place where a copy of the plan is on file; and
7. that the survivor will furnish a copy of the plan of merger or consolidation, on request and without cost, to anyone holding an interest in any LLC or other entity that is a party to the merger or consolidation.

The act specifies that a merger or consolidation takes effect when filed or on the date specified in the plan, whichever is later.

It requires each LLC or other entity that is a party to the merger or consolidation to execute the articles of merger or consolidation. It requires the survivor to file the articles with the secretary of the state in order for them to become effective. Under the act, these articles act as articles of dissolution for a LLC that is not the survivor.

Effect of Merger and Consolidation (§ 68)

Under the act, when the merger or consolidation of an LLC and another entity becomes effective:

1. the survivor becomes a single LLC or other entity which, in the case of a merger, is the one designated in the merger plan as the survivor and, in the case of a consolidation, is the new one provided for in the consolidation plan;
2. the separate existence of each party, except the survivor, terminates;
3. the survivor possesses all the rights and powers of each of the merging or consolidating parties and is subject to all the restrictions, disabilities, and duties of each one;
4. any property interest of the parties automatically vests in the survivor and does not revert or become impaired;
5. the survivor is responsible and liable for all liabilities and obligations of each of the parties, and any claim existing or action or proceeding pending against any party may be prosecuted as if the merger or consolidation had not taken place, or the survivor may be substituted in the action;
6. the rights of creditors or lien holders of the parties are not impaired by the merger or consolidation; and
7. the membership or other interests in a party that are to be converted or exchanged into interests, cash, obligations, or other property under the terms of the merger or consolidation plan are so converted, and the former holders of these interests are entitled only to the rights the plan or law provides.

Merger or Consolidation with Foreign Entity (§ 68)

If the survivor of a merger between a Connecticut LLC and a foreign entity is to be governed by the laws of any other state, the District of Columbia, or of any foreign country, the act requires the survivor to agree (1) that it may be served with process in this state in any proceeding to enforce any obligation of a party to the merger or consolidation that was formed under Connecticut's laws, as well as for enforcement of any obligation of the survivor and (2) to irrevocably appoint the secretary of

the state as its agent for service of process in any such proceeding. The survivor must specify the address to which the secretary may mail a copy of the process.

The act specifies that if the survivor is to be governed by the laws of any jurisdiction other than Connecticut, the effect of the merger or consolidation is the same as for a survivor governed by Connecticut law, except to the extent that the laws of the other jurisdiction provide otherwise.

PARTNERSHIPS

Merger of Partnerships (§§ 69 and 70)

The law allows partnerships to merge with one or more partnerships or limited partnerships. The act allows one or more partnerships to merge with or into one or more other entities formed or organized under the laws of this or any other state or any foreign country or other foreign jurisdiction. The act defines "other entity" as any association or legal entity, other than a domestic or foreign partnership, organized to conduct business, including, corporations; limited partnerships; limited liability partnerships; LLCs; joint ventures; joint stock companies; and business, statutory, and real estate investment trusts.

The act requires the merger plan between a partnership and an other entity to specify:

1. each party's name;
2. the name of the survivor into which the other partnerships or other entities will merge;
3. whether the survivor is a partnership or another entity and, if the survivor is a partnership or a limited partnership, the status of each partner;
4. the merger's terms and conditions;
5. the manner and basis of converting the shares or interests of each party to the merger into the survivor's shares, interests, or obligations or into money or other property;
6. the street address of the survivor's chief executive office;
7. the merger's effective date or time, if it is not to be effective when the certificate of merger is filed; and
8. whatever other provisions that are necessary or desirable.

The act requires that a merger plan be approved:

1. in the case of a partnership that is a party to the merger, by all of the partners or by a number or percentage specified for merger in the partnership agreement, and
2. in the case of an other entity that is a party to the merger, by the vote required for merger approval by the law of the jurisdiction in which the other entity is organized or by which it is governed (in the absence of such a specific law for a limited partnership, the merger plan must be approved by all of the partners, notwithstanding a provision to the contrary in the partnership agreement).
2. all other obligations of the survivor incurred before the merger by a party to the merger, but those obligations may be satisfied only out of the survivor's property; and
3. all obligations the survivor incurred after the merger takes effect, but these may be satisfied only out of property of the survivor if the partner is a limited partner.

As under existing law, after a merger plan is approved and before it takes effect, it may be amended or abandoned according to its provisions.

Under existing law, the merger takes effect (1) when all parties approve it, (2) when all documents required by law to be filed are filed, or (3) on the effective date the plan specifies.

If the merger involves one or more other entities, the act specifies that its requirements regarding merger plans are satisfied if they meet those of the laws under which the other entities are organized or by which they are governed.

Effect of Merger (§ 71)

Under the act, when a merger between a partnership and another entity takes effect:

1. the separate existence of every party other than the survivor ceases;
2. all property owned by each party vests in the survivor;
3. all obligations of every party become the obligations of the survivor; and
4. an action or proceeding pending against a party may be continued as if the merger had not occurred, or the survivor may be substituted as a party to the action or proceeding.

Under the act, the secretary of the state is the agent for service of process in an action or proceeding against a survivor to enforce an obligation of a party to a merger. Upon receipt of process, the secretary must mail a copy to the survivor.

The act makes a partner of a surviving partnership or limited partnership liable for:

1. all obligations of a party to the merger for which the partner was personally liable before the merger;

Under the act, if a partnership or limited partnership incurred obligations before merging with another entity and those obligations are not satisfied out of the survivor's property, the general partners of that party immediately before the merger's effective date must contribute the amount necessary to satisfy that party's obligations to the survivor. They must do so immediately before the effective date of the merger in the manner provided in Connecticut law or the law of the jurisdiction in which the party was organized, as the case may be, as if the merged party were dissolved.

Under the act, any partner of a partnership or holder of an interest in another entity that is a party to a merger who, before the merger, was obligated for any of the liabilities or obligations of the partnership or other entity is not released because of the merger from liabilities or obligations that arose before the merger's effective date.

Statement of Merger (§ 72)

Under the act, if the survivor of a merger between a partnership and another entity, is a partnership, it may file a statement that one or more partnerships or other entities have merged into the surviving partnership.

The act requires the statement to contain, in addition to the statutory requirements for a certificate of merger or consolidation applicable to another entity that is a party to the merger:

1. the name of each party to the merger and of the survivor into which the other parties were merged;
2. the street address of the survivor's chief executive office and of an office in this state, if any; and
3. the type of entity the survivor is.

The act specifies that property of the survivor partnership or entity that before the merger was held in the name of another party to the merger is property held in the survivor's name when the merger statement is filed, or in the case of real estate, when a certified copy of

the statement of merger is filed in the office for recording transfers of that real estate.

A filed and, if appropriate, recorded statement of merger, executed and declared to be accurate pursuant to Connecticut law, stating the name of a partnership or other entity that is a party to the merger in whose name property was held before the merger and the name of the survivor, is effective with respect to the partnerships or other entities named to transfer property, even if it does not contain all of the other information the act requires.

The act requires that, if the survivor is a limited liability partnership, a certificate of merger must be filed with the secretary of the state.

PA 03-19—HB 6352

Judiciary Committee

**AN ACT CONCERNING THE REVISOR'S
2002 TECHNICAL CORRECTIONS TO
THE GENERAL STATUTES**

SUMMARY: This act makes numerous technical changes in the statutes and public acts to correct erroneous or obsolete references and grammatical or typographical errors.

EFFECTIVE DATE: Upon passage

PA 03-21—SB 355

Judiciary Committee

**AN ACT CONCERNING ASSAULT OF A
PREGNANT WOMAN**

SUMMARY: This act makes it a class A felony (see Table on Penalties) for anyone to assault a pregnant woman and cause her pregnancy to terminate without a live birth. The offender must (1) intend to cause serious physical injury and (2) cause the injury with a deadly weapon or dangerous instrument.

It is an affirmative defense that the offender did not know the victim was pregnant at the time of the offense. By law, defendants must prove an affirmative defense by a preponderance of the evidence.

EFFECTIVE DATE: October 1, 2003

PA 03-22—SB 1063

Judiciary Committee

**AN ACT CONCERNING THREATENING
IN THE FIRST DEGREE**

SUMMARY: This act expands the crime of 1st degree threatening to include threats to commit a violent crime with intent to cause, or with reckless disregard of the risk of causing, (1) evacuation of a building, place of assembly, or public transportation facility or (2) serious public inconvenience. This crime is a class D felony (see Table on Penalties).

Under existing law, someone commits this crime when he threatens to commit a crime involving the use of a hazardous substance with intent to cause, or acting with reckless disregard of causing, terror; evacuation of a building, place of assembly, or public transportation facility; or public inconvenience.

Under existing law, a person commits 2nd degree threatening when he (1) intentionally places or attempts to place another person in fear of imminent serious physical injury by a physical threat, (2) threatens to commit a violent crime with intent to terrorize another person, or (3) threatens to commit a violent crime in reckless disregard of the risk of causing terror. This is a class A misdemeanor (see Table on Penalties).

EFFECTIVE DATE: October 1, 2003

PA 03-31—HB 6392

Judiciary Committee

Public Health Committee

**AN ACT CONCERNING A TIME LIMIT
ON SHOCK THERAPY ORDERED BY THE
PROBATE COURT**

SUMMARY: This act establishes a 45-day limit on probate court orders authorizing electroshock therapy for people unable to give informed consent. The law already set a 30-day limit on voluntary consents, but did not limit the duration of involuntary orders.

Before issuing an involuntary order, the act requires probate court judges to find, after a hearing, that there is no less intrusive, beneficial treatment. Under prior law, the court had instead to find that no other reasonable alternative procedure existed.

EFFECTIVE DATE: October 1, 2003

PA 03-43—HB 5024

Judiciary Committee

AN ACT CONCERNING INTERFERENCE WITH EMERGENCY CALLS

SUMMARY: This act makes it a crime to verbally or physically prevent or hinder another person from making or completing a (1) 9-1-1 call or (2) phone call or radio communication to any law enforcement agency to request police protection or report a crime. The actor must intend to prevent the call's completion.

The act makes this offense a class A misdemeanor (see Table on Penalties).

EFFECTIVE DATE: October 1, 2003

PA 03-48—HB 6571

Judiciary Committee

AN ACT CONCERNING SPECIAL ALTERNATIVE INCARCERATION FOR YOUNG MALE DEFENDANTS

SUMMARY: This act repeals the law authorizing courts to sentence young men convicted of less serious offenses to a special boot camp-type Correction Department housing unit. The department never established this type of alternative facility.

EFFECTIVE DATE: October 1, 2003

PA 03-62—sHB 5099

Judiciary Committee

AN ACT CONCERNING ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE REGARDING SECURED TRANSACTIONS

SUMMARY: This act makes several changes regarding secured transactions, particularly in Article 9 of the Uniform Commercial Code (UCC), which deals with security interests created by contracts in personal property that secure payment or other performance that the debtor is obligated to make. The changes include (1) making government transactions subject to Article 9 if permitted by other applicable statutes and (2) establishing new bank execution procedures to reflect Article 9 changes that allow security interests in deposit accounts.

The act also changes provisions relating to (1) use of electronic self-help in security or lease

agreements, (2) security interests in deposit accounts and inventory, (3) assignments, (4) recording security interests in local land offices, (5) fees, and (6) judgment liens on personal property.

The act also makes technical changes.

EFFECTIVE DATE: October 1, 2003

GOVERNMENT TRANSACTIONS

The act eliminates the blanket prohibition on Article 9 applying to transfers by a government subdivision or agency. Instead, it specifies that Article 9 does not apply to the extent that another statute expressly governs the creation, perfection, priority, or enforcement of a security interest created by the state or one of its government units. Thus, statutes providing other rules would prevail over Article 9, but Article 9 can apply in other circumstances.

The act makes initial filing statements filed in public finance transactions valid for 30 years.

DEPOSIT ACCOUNTS

By law, Article 9 applies to a security interest in a commercial (non-consumer) deposit account, unless the deposit account is a payroll or trust account titled or clearly identified as one. The act specifies that, subject to the above exception, Article 9 applies to a security interest in a deposit account (1) of a debtor that is a statutory or foreign statutory trust registered under state law or (2) if another statute makes it applicable.

By law, a statutory trust is an unincorporated association created by a trust instrument under which property is held, managed, controlled, invested, or operated, or business or professional activities carried on by a trustee for the benefit of those entitled to a beneficial interest in the trust property. A statutory trust can be organized to carry on any lawful business or activity, whether for profit or not, and for any lawful purpose. A foreign statutory trust is a business trust, association, or similar entity that is not organized under Connecticut law.

INVENTORY

By law, filing a financing statement under Article 9 is not effective to perfect a security interest in property that is subject to (1) certificate of title statutes covering cars, trailers, mobile homes, boats, farm tractors, and similar items where the security interest is indicated on

the certificate as a condition of perfection or (2) non-UCC filing statutes.

Prior law made a financing statement effective when the collateral was inventory for sale or lease by someone or leased by a person in the business of selling or leasing those kind of goods. The act limits this provision by making it inapplicable to inventory held by people in the business of leasing the type of goods.

The act also applies Article 9, rather than the certificate of title provisions, to a security interest in a motor vehicle that is inventory held for sale or lease by someone or leased by a person in the business of selling motor vehicles.

ASSIGNMENTS

The act specifies that the provisions in existing law restricting anti-assignment clauses in an account, chattel paper, payment intangible, or promissory note prevail over any inconsistent statute or regulation unless a statute expressly refers to these provisions and states that it prevails over them. A similar restriction already applied to assignments of general intangibles, health care receivables, and associated promissory notes. By law, these provisions are subject to other rules for (1) consumer account debtors, (2) leases, (3) health care insurance receivables, (4) lottery winnings, (5) structured settlements, (6) workers' compensation benefits, (7) Medicaid benefits, and (8) damages for physical injuries or sickness.

RECORDING SECURITY INTERESTS ON LAND RECORDS

The law requires the filing of a financing statement to perfect a security interest in collateral. The statement is filed at the (1) secretary of the state's office or (2) local town office where mortgages are recorded on land if the collateral is "as-extracted" collateral, timber to be cut, or the collateral is or will become a fixture (goods so related to real estate that an interest in them arises under real estate law). The act specifies that whenever Article 9 refers to filing in the local office, it means recording in that office. (Recording is the term usually used when referring to local land records rather than filing.)

To amend a filing statement recorded on local land records, the law requires the amendment to identify the initial filing statement by book and page or date. The act specifies that if identifying it by book and page, it must

include the page number, and if identifying by date, it must include the time as well.

FILING FEES

The act specifies that the fees for responding to requests for information and providing copies of documents apply only to requests to the secretary of the state's office and not to other filing offices.

ELECTRONIC SELF-HELP

The law allows a secured party to use electronic self-help to exercise his rights after default only if the debtor separately agrees to a term in the security agreement that authorizes electronic self-help and requires notice. The act specifies that, except in a consumer transaction, the debtor is considered to have separately agreed to a term if a clause is included in the security agreement that specifically states that electronic self-help is authorized.

Leasing (UCC Article 2A)

The act limits the circumstances under which electronic self-help can be used with regard to leases under Article 2A. Prior law defined electronic self-help as using electronic means to exercise a term of the lease agreement with respect to the lessor's rights. The act instead limits its use to exercising the lessor's right to take possession of the leased goods or, without removal, to render them unusable on the lessee's premises. As under prior law, electronic self-help includes using electronic means to locate leased goods.

By law, electronic self-help is permitted only if the lessee separately agrees to a term of the lease agreement authorizing it and requiring certain notices before its use. The act provides that, except in a consumer lease, a clause in the lease agreement that specifically authorizes electronic self-help satisfies this requirement.

BANK EXECUTIONS

By law, a debtor, except in a consumer transaction, can grant a security interest in a deposit account by entering a control agreement with the secured party and the bank. A creditor who wins a court judgment can also get an execution order to collect debt from the debtor's bank account. The act creates new procedures to account for the possibility of a security interest

in an account that is also subject to an execution and to provide notice and an opportunity for a secured party to request a hearing to determine its interest in the deposit account before the funds in the account are paid under the execution. These provisions, for debtors that are not natural persons, are similar to the provisions in current law relating to natural persons requesting a hearing to claim an exemption from execution. (A “natural person” refers to a human being. The term “person” in business law usually refers to human beings as well as business entities such as corporations.)

When the Judgment Debtor is Not a Natural Person

By law, when a creditor gets a court judgment, (1) a court clerk can issue an execution to a bank for payment of the debt from the debtor’s deposit account and (2) the bank pays the officer who served the order, who then applies the funds to the execution.

Under the act, if the account is subject to a security interest of a secured party (other than the bank) under a control agreement (an agreement between the debtor, secured party, and bank that perfects the secured party’s interest in the account), the bank must:

1. mail a copy of the execution, postage paid, to the debtor and the secured party at their last known addresses for the accounts on the bank’s records and
2. hold the amount for 20 days after mailing the copies without paying the serving officer.

The act provides that it does not affect the bank’s other rights or obligations with regard to funds in the judgment debtor’s account.

The act requires the secured party to notify the court clerk that issued the execution of its prior perfected security interest and make a written claim for a determination of interests in the property. (The act references an existing procedure for a court hearing to determine the respective interests when there is a dispute between a judgment debtor or creditor and a third person over personal property subject to an execution.) The secured party must deliver a copy of the claim to the bank. The clerk must enter the appearance of the secured party with his address from the claim and send file-stamped copies of the claim to the judgment creditor, judgment debtor, and the bank with a notice that the disputed funds are held until a court order is entered for their disposition. The bank must

continue to hold the amount until it receives the court order.

Under the act, if no written claim for determination of interests is made, the bank can pay the serving officer, and the serving officer must pay the sum, minus his fees, to the judgment creditor unless a court orders otherwise.

After a hearing determines interests, the clerk must send a copy of a judgment or order to the bank. The judgment or order is a final judgment for purposes of appeal and a party can appeal within seven days. The judgment or order can be implemented during this period unless it is stayed by the court.

If a bank’s records or testimony are subpoenaed for the hearing, the bank can recover the reasonable costs and expenses of complying from the party that required them. The bank has no obligation to attempt to obtain other banks’ records or documents relating to the account. Its records of dates and deposit amounts are, if certified as true and accurate by a bank officer, admissible as evidence without the officer’s presence at a hearing to determine the legitimacy of a claim of an interest in property.

By law, a bank that fails or refuses to pay the amount of the execution to the serving officer is liable in an action to the judgment creditor, and the amount is applied to the amount due on the execution. The act provides that a bank and its officers, directors, and employees are not otherwise liable to anyone for a good faith act or omission or a bona fide error that occurred despite reasonable bank procedures to prevent such errors in complying with these provisions.

The act provides that it does not restrict the rights and remedies otherwise available to a judgment debtor or secured party.

When the Judgment Debtor is a Natural Person

When a judgment debtor is a natural person, he has certain protections and exemptions from execution. The act makes a secured party’s claim part of the same hearing procedure that the law affords judgment debtors claiming an exemption.

If funds are removed from the judgment debtor’s account, the law requires the bank to mail copies of the execution and exemption claim form, postage paid, to the judgment debtor at his last known address. The act also requires the bank to mail this information to a secured party that is a party to a control agreement with the bank. The law requires the judgment debtor

to give notice of a claim of exemption by delivering the exemption claim form or other written notice of exemption to the bank. The act allows a secured party to give notice of a prior perfected security interest in the deposit account by delivering written notice to the bank. By law, the bank can designate an address for delivery of exemption notices, and the act allows the bank to do so for secured party claims.

As the law provides for judgment debtors, the act provides that (1) the clerk must enter the appearance of a secured party with his address from the claim notice, (2) the clerk must send file-stamped copies of the secured party claim notice to the judgment creditor and judgment debtor with notice that the disputed funds are held until the earlier of 45 days from the date the bank received the secured party claim notice or until a court order is entered regarding the funds, and (3) the court must schedule a hearing.

If the judge finds that the judgment creditor demonstrated a reasonable belief that the judgment debtor's account has funds that are not exempt from execution, the judge must authorize the judgment creditor to submit a written application to the clerk for a hearing on their exempt status. The law requires the judgment creditor to send a copy of the application and supporting affidavit to the judgment debtor, and the act requires the judgment creditor also to send it to any secured party shown on a secured party claim notice sent to the judgment creditor. By law, the clerk must schedule a court hearing and notify the judgment creditor and judgment debtor. The act requires the clerk also to notify a secured party shown on a secured party claim notice he received.

The act makes a secured party claim notice part of the following procedures that the law provides for an exemption claim.

1. The bank must hold the amount at issue for 45 days or until a court enters an order.
2. If there is no order within 45 days of sending the notice to the clerk, the bank must return the funds to the judgment debtor's account.
3. If the bank does not receive a secured party notice within 15 days of mailing notice of the execution to the judgment debtor and secured party, it must pay the serving officer, on demand, and the serving officer pays it, minus his fees, to the judgment creditor, unless a court orders otherwise.

4. If the court conducts a hearing and enters an order on the exemption or secured party's claim, the clerk sends a copy to the bank.
5. The order is a final judgment for appeal; it can be appealed within seven days of the order and implemented during that time unless stayed by court.

By law, the same subpoena and liability provisions described above apply for executions involving judgment debtors who are natural persons.

As the law provides for judgment debtors, the act provides that these provisions do not restrict the rights and remedies otherwise available to a secured party.

JUDGMENT LIENS ON PERSONAL PROPERTY

By law, except for a consumer judgment, a judgment lien for the unpaid amount of any money judgment can be placed on nonexempt personal property that could be the subject of a security interest under Article 9. It has the same effect as a similar security interest under Article 9. This does not create any right to take possession except by execution or other judicial process. The act provides that the fact that a judgment creditor has no right to take possession does not provide a defense in a conversion action (an action against someone for depriving an owner of his property) by the judgment creditor for impairing the judgment lien.

PA 03-74—HB 5258

Judiciary Committee
Banks Committee

AN ACT CONCERNING PETITIONS FOR DISCHARGE OF MORTGAGES

SUMMARY: This act reduces the time for petitioning a court to discharge a mortgage under certain circumstances. It permits a property owner to petition for discharge of a mortgage that does not disclose the time when the note or indebtedness is payable, or disclose the time for full performance, if 10, instead of 17, years have passed without any payment.

EFFECTIVE DATE: October 1, 2003

PA 03-75—HB 5506

Judiciary Committee

**AN ACT CONCERNING A STATUTORY
FORM TRUSTEE'S DEED**

SUMMARY: This act establishes a statutory form of a trustee's deed that trustees may use to convey real estate. If a trustee uses it, and it is properly executed, the deed conveys to a grantee the fee simple title, which the trustee has pursuant to authority the trust or the law gives him. The deed also contains covenants that the trustee (1) is qualified to act as trustee; (2) has full power and authority as trustee to bargain and sell the property as set forth in the deed; and (3) his successors will guarantee and defend the conveyance against all claims and demands of any person claiming by, from, or under the trustee.

Fee simple title is a possessory interest in real estate that, unless sold or given away during the owner's lifetime or by will, descends automatically to the owner's heirs when the owner dies and then to their heirs, and so on indefinitely. This is distinguished from other types of title, which terminate when some conduct or event occurs.

EFFECTIVE DATE: October 1, 2003

PA 03-81—SB 953

Judiciary Committee

**AN ACT CONCERNING THE
IMMIGRATION CONSEQUENCES OF
PLEAS OF GUILTY OR NOLO
CONTENDERE**

SUMMARY: This act expands a judge's responsibility to advise a criminal defendant of potential consequences of pleading guilty or no contest. It requires judges, before they accept a guilty or no contest plea, to address criminal defendants personally and determine whether they fully understand the immigration consequences of such pleas. Judges must permit defendants to talk to their lawyers about this if they have not already done so. Prior law required these judges only to advise defendants that, if they are not U.S. citizens, conviction for the charged offense may lead to deportation, exclusion from admission to the United States, or denial of naturalization.

The act gives defendants the same rights to have their convictions vacated and change their

pleas to not guilty based on the court's failure to personally address them as they had under prior law when the court failed to advise them about potential adverse immigration consequences. By law, defendants must (1) raise this issue within three years of the court's acceptance of their plea and (2) show that it adversely affected their immigration status.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Immigration Consequences of Convictions

Federal immigration law makes resident aliens convicted of aggravated felonies or virtually any violation of controlled substance laws deportable. Until 1996, aliens meeting certain statutory criteria could apply to the Immigration and Naturalization Service (INS, recently renamed the Bureau of Citizenship and Immigration Services) for a discretionary waiver of deportation. Immigration judges were required to balance adverse factors evidencing an alien's undesirability as a permanent resident with the social and humane considerations he presented. The INS granted most of the waiver requests filed between 1989 and 1995.

Changes in the federal law in 1996 severely limited INS discretion to cancel deportations, eliminating it completely for those convicted of aggravated felonies. The new immigration provisions apply to aliens entering guilty pleas on or after April 1, 1997.

PA 03-82—sSB 937

Judiciary Committee

Environment Committee

**AN ACT CONCERNING HAZARDOUS
WASTE TRANSFER LIABILITY OF A
PERSON APPOINTED BY THE COURT TO
SELL, CONVEY OR PARTITION REAL
PROPERTY OR A TRUSTEE IN
BANKRUPTCY**

SUMMARY: This act exempts from the Transfer Act a person appointed by the Superior Court or any other court to sell, convey, or partition real property, or as a trustee in bankruptcy. The Transfer Act imposes disclosure and other procedural requirements and certain civil liability in connection with the transfer of parcels of land that might be contaminated by hazardous materials.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

The Transfer Act

The Transfer Act requires owners and others associated with the transfer of certain land to make specific disclosures to the purchaser about whether releases of hazardous waste have occurred on the property. These disclosures must be filed with the Department of Environmental Protection (DEP) on DEP forms together with an environmental condition assessment form. To comply with the detailed disclosure requirement, the transferor may need the help of an environmental engineer or other similar professional. A transferor who fails to comply is subject to significant civil penalties and liable for the cost of cleaning up the property.

The Transfer Act applies to the transfer of real estate housing any business operation from which:

1. after November 19, 1980, more than 11 kilograms of hazardous waste was generated in any one month;
2. hazardous waste generated at a different location was recycled, reclaimed, treated, transported, or disposed of;
3. dry cleaning or furniture stripping was conducted after May 1, 1967; or
4. a vehicle body repair facility was located after May 1, 1967.

Court Appointment to Sell, Convey, or Partition Real Estate

The Superior Court is authorized to appoint an attorney to oversee the sale of real estate to carry out a court order. This often happens in connection with a petition to court to partition property owned by people who cannot agree on its disposition. Because in many instances the property is not susceptible to being divided into separate parcels, the court orders it sold and the proceeds returned to court. The court then apportions the money among the owners and others that have an interest in it, after determining the priority of these interests.

Trustee in Bankruptcy

A trustee in bankruptcy is a person appointed by the court to administer the estate of the person seeking bankruptcy protection.

PA 03-86—sHB 6391

Judiciary Committee
Education Committee

AN ACT CONCERNING SPECIAL EDUCATION SERVICES FOR CHILDREN IN THE JUVENILE JUSTICE SYSTEM

SUMMARY: This act requires juvenile probation officers to tell the court about any special education and related service needs of a delinquent child before the court sentences him. This information must be included in their pre-sentence investigation report, which already contains information about the child and his family; circumstances of the offense and damages caused; prior offenses; school attendance, behavior, and adjustment; and any school officials' recommendations on probation conditions.

EFFECTIVE DATE: October 1, 2003

PA 03-90—SB 1062

Judiciary Committee

AN ACT CONCERNING THE APPOINTMENT OF ADMINISTRATORS BY THE COMMISSIONER OF CORRECTION

SUMMARY: This act eliminates the Department of Correction commissioner's duty to appoint, and authority to remove, correction service directors and regional support services administrators as unclassified employees. These administrative positions no longer exist.

EFFECTIVE DATE: October 1, 2003

PA 03-97—sHB 6560

Judiciary Committee

AN ACT CONCERNING THE WAIVER OF FEES AND COSTS IN CRIMINAL MATTERS AND THE INDEMNIFICATION OF POLICE OFFICERS

SUMMARY: This act authorizes police officers exonerated of criminal charges stemming from on-duty activities to enforce their indemnification rights by filing a Superior Court action. By law, when charges against such officers are dismissed, or they are found not guilty, the government unit that employed them

must reimburse their economic losses, including necessary legal costs. But a Connecticut Supreme Court ruling barred state police from suing to enforce this right under prior law.

The act also prohibits courts from waiving statutory fees or costs imposed on people charged with or convicted of crimes unless (1) a statute authorizes it or (2) they find good cause for doing so.

EFFECTIVE DATE: October 1, 2003, except for the indemnification provision, which is effective upon passage.

PA 03-98—HB 6566

Judiciary Committee

AN ACT CONCERNING FULL FAITH AND CREDIT FOR FOREIGN ORDERS OF PROTECTION

SUMMARY: To comply with the federal Violence Against Women Act, this act requires (1) state courts to give full faith and credit to valid foreign orders of protection and (2) courts and law enforcement officers to enforce them as state orders. A “foreign order of protection” is an injunctive or other court order to prevent violence, threatening acts, or harassment against; contact or communication with; or physical proximity to another person issued by another state; the District of Columbia; a U.S. commonwealth, territory, or possession; or an Indian tribe in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

The act requires, rather than allows, courts that register foreign orders of protection to have them entered in the automated registry of protective orders maintained by the chief court administrator. It eliminates a requirement for the (1) person seeking to register the order to notify any person named in it and (2) court to hold a hearing at the request of anyone contesting registration.

Lastly, the act makes crimes that apply to the targets of restraining or protective orders issued in this state apply to the subjects of foreign orders of protection.

EFFECTIVE DATE: October 1, 2003

FULL FAITH AND CREDIT TO, AND ENFORCEMENT OF, FOREIGN PROTECTIVE ORDERS

Under federal law and the act, courts must honor, and law enforcement agencies must enforce, valid out-of-state protective orders. These orders must have been issued (1) by a court with jurisdiction over the parties and the matter and (2) after respondents were given reasonable notice and an opportunity for a hearing. In the case of *ex parte* orders, notice and an opportunity to be heard must have been provided within a time sufficient to protect respondents’ due process rights, as required by state or tribal law. The act establishes a presumption of validity for foreign orders that appear facially authentic.

It requires law enforcement officers to enforce foreign protective orders based on their terms and state law. It requires them to arrest people suspected of violating the orders and charge them with criminal violation of a restraining order. Existing law, unchanged by the act, already authorizes law enforcement officers to arrest anyone they learn has committed a family violence crime.

The act establishes the invalidity of a foreign order as an affirmative defense to any action to enforce it or any prosecution for violating it.

It provides that a child custody provision in a foreign protective order is enforceable in this state only if the provision (1) complies with the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction and Enforcement Act and (2) is consistent with the federal Parental Kidnapping Prevention Act of 1980, as amended from time to time. These child custody acts specify the state with jurisdiction when the parties in a child custody or visitation dispute live in different states or countries. The parental kidnapping act requires state courts to give full faith and credit to valid child custody determinations.

The act provides that courts must enforce a foreign order even if it is not entered in the (1) automated registry of protective orders, (2) Connecticut on-line law enforcement communication teleprocessing (COLLECT) system maintained by the Department of Public Safety, or (3) National Crime Information Center computerized index of criminal justice information.

REGISTERING FOREIGN ORDERS OF PROTECTION

Under existing law, the Superior Court may register a foreign order of protection if the person seeking registration:

1. requests it in a letter or some other document;
2. sends two copies of the order, including a certified copy, together with a statement signed under penalty of perjury that, to the best of petitioner's knowledge, the order has not been modified; and
3. includes her name and address, unless to do so would jeopardize her safety.

Upon receipt, the registering court must have the order, together with a copy of any accompanying documents, filed as a foreign judgment. The act requires the court also to have the order, together with any required or permitted information, entered in the automated registry of protective orders maintained by the chief court administrator.

The act eliminates a requirement for the (1) person seeking to register the order to notify any person named in it and (2) court to hold a hearing on the request of anyone contesting registration.

CRIMES

The act makes crimes that specifically apply to the target of restraining or protective orders issued in this state applicable to the target of a foreign order of protection. Like state orders, the foreign orders must (1) involve the use, attempted use, or threatened use of physical force against another person and (2) have been issued after the subject was provided notice and the opportunity for a hearing.

First-Degree Criminal Trespass

The act makes it first-degree criminal trespass for the subject of the order to enter or remain in a building or any other premises in violation of the order. First-degree criminal trespass is a class A misdemeanor (see Table on Penalties).

Criminal Possession of a Firearm or Electronic Defense Weapon

The act makes anyone who possesses a firearm or electronic defense weapon knowing

that he is subject of the foreign order guilty of a class D felony (see Table on Penalties). The court must impose a minimum two-year term of imprisonment.

Criminal Possession of a Pistol or Revolver

The act makes anyone who possesses a pistol or revolver knowing that he is subject of the foreign order guilty of a class D felony.

Criminal Violation of a Restraining Order

Under the act, a person commits criminal violation of a restraining order when he, as the target of the foreign order, knows of its terms and (1) fails to stay away from a person or place or (2) contacts, imposes restraints on the person or liberty of, threatens, harasses, assaults, molests, sexually assaults, or attacks another person. Criminal violation of a restraining order is a class A misdemeanor.

BACKGROUND

Federal Violence Against Women Act

The act provides that all orders of protection are valid and enforceable in every state, including Puerto Rico and U.S. territories and possessions, the District of Columbia, and tribal lands, provided the issuing court had jurisdiction over the parties and the subject matter, and the respondent was afforded both notice and the opportunity to be heard.

Registry of Protective Orders

The chief court administrator must maintain an automated registry of protective and restraining orders issued by courts of this state that may be accessed through the COLLECT system. He can include in the registry protective orders issued by courts in other states that are registered with the Superior Court.

The registry must clearly indicate the order's beginning date and ending date (if specified) and its duration. The administrator must adopt policies and procedures to operate the registry.

A person who has reason to believe that information about him in the registry is not consistent with a valid court order can submit a written request to the Superior Court clerk in the judicial district where the order was issued to verify the information. The clerk must promptly have the information removed if he finds it is

inconsistent with the order.

PA 03-106—HB 6569

Judiciary Committee

**AN ACT CONCERNING THE
COMPOSITION OF THE DEPARTMENT
OF CORRECTION AND THE PAYMENT
OF TELEPHONE CALLS BY INMATES OF
CORRECTIONAL FACILITIES**

SUMMARY: This act eliminates the list of specific correctional facilities comprising the Department of Correction (DOC). Instead, it specifies that DOC is composed of all correctional institutions under its jurisdiction, the regional community services facilities, and the community correctional centers.

This act delays for one year a telephone service pilot program for prison inmates that DOC must establish in consultation with the state's chief information officer. It requires the commissioner to establish a program by June 3, 2004, instead of June 3, 2003, that gives inmates at one correction unit under his control the option of paying for phone services using a debit or account system instead of calling collect. Under the program, inmates would pay for calls using money deposited in their accounts for that purpose. The commissioner must post a notice to advise inmates and their families of the option.

EFFECTIVE DATE: October 1, 2003, except for the telephone service provision, which is effective on passage.

PA 03-110—SB 1059

Judiciary Committee

**AN ACT CONCERNING STRUCTURED
SETTLEMENTS**

SUMMARY: This act makes a number of changes to the law on the transfer of structured settlement payments. A structured settlement is an arrangement for a person who receives a monetary award in a settlement or judgment in a personal injury or workers' compensation claim to receive the award through periodic payments. The payee is the person who receives the payments and the obligor is the person obligated to make the periodic payments. In a transfer of structured settlement payments, the payee gives the right to receive the payments to the

transferee. By law, the transferee must make certain disclosures to the payee before entering a transfer agreement.

This act:

1. changes the disclosure requirements and requires them to be made at least three, rather than 10, days before entering a transfer agreement;
2. requires the transferee, rather than the payee, to seek approval for the transfer and give notice to interested parties;
3. allows approval by a responsible administrative authority, as well as a court;
4. expands the types of transfers subject to the approval requirements;
5. includes more specific requirements for approval;
6. specifies certain consequences of a transfer;
7. alters the jurisdiction and notice requirements for the hearing;
8. includes rules about disputes, life-contingent payments, penalties, and liability; and
9. changes some definitions.

The act's provisions apply to transfer agreements executed after September 30, 2003. It does not authorize a transfer that violates any law and does not imply that any transfer under an agreement before October 1, 2003 is valid or invalid.

As under prior law, these requirements for valid transfers cannot be waived.

EFFECTIVE DATE: October 1, 2003

DISCLOSURE NOTICE

By law, the transferee must make certain disclosures to the payee before entering an agreement. The act requires the payee to receive this disclosure statement at least three, rather than 10, days before entering a transfer agreement. The act specifies that the disclosure must be a separate statement in boldface type at least 14 points in size.

As under prior law, the disclosure statement must include (1) the amount and due dates of the structured settlement payments transferred and (2) the aggregate amount of payments.

The act changes three requirements.

1. Instead of requiring disclosure of the gross amount of expenses, the act requires an itemized listing of transfer expenses, other than attorney's fees and related disbursements payable in

connection with the transferee's application for approval of the transfer and the transferee's best estimate of the amount of the fees and disbursements.

2. Instead of requiring disclosure of the amount payable to the payee, net of expenses, in exchange for payment, the act requires (a) the gross advance amount (the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before reductions for transfer expenses or other deductions) and (b) the net advance amount (the gross advance amount minus the aggregate amount of actual and estimated transfer expenses required to be disclosed).
3. As under prior law, the act requires disclosure of the discounted present value of payments to be transferred. The act defines discounted present value as the present value of future payments determined by discounting the payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the Internal Revenue Service. The act requires this to be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities" and the disclosure must state the applicable federal rate used in the calculation. Prior law required disclosure of the discount rate used in that calculation but did not specify use of a particular rate.

The act also requires (1) disclosure of the amount of any penalties or liquidated damages payable by the payee if he breaches the transfer agreement and (2) a statement that the payee can cancel the transfer agreement without penalty or obligation within three business days of signing the agreement.

The act deletes a requirement that the disclosure state that there may be adverse tax consequences as a result of the proposed transfer.

APPROVAL OF TRANSFER

Prior law required a court to approve a transfer of structured settlement payment rights and the obligor or annuity issuer (an insurer who issued a contract to fund periodic payments

under the structured settlement) was not required to pay a transferee unless a court approved the transfer. Under the act, a court or a responsible administrative authority must approve the transfer. The act defines a responsible administrative authority as a government authority with exclusive jurisdiction over the settled claim (the original tort claim or workers' compensation claim) resolved by the structured settlement.

As under prior law, approval of the transfer is required when the payee is domiciled in Connecticut. The act alters the other provisions. Under prior law, approval was also required when a payee was entitled to receive payments under a structured settlement funded by an insurance contract issued by a insurer domiciled in Connecticut or owned by an insurer or corporation domiciled in Connecticut. The act instead requires approval when (1) the structured settlement obligor or the annuity issuer is domiciled or has its principal place of business in Connecticut, (2) a Connecticut court or responsible administrative authority approved the structured settlement agreement, or (3) Connecticut law expressly governs the structured settlement agreement.

Prior law required the court to determine if the transfer of the structured settlement payment rights was in the payee's best interest and was fair and reasonable to all interested parties under the existing circumstances. The act instead requires approval by a court or administrative authority based on the following express findings:

1. the transfer is in the payee's best interest, taking into account his dependents' welfare and support (this includes a payee's spouse and minor children and other people the payee is legally obligated to provide support for, including alimony);
2. the transferee advised the payee in writing to seek independent professional advice from an attorney, certified public accountant, actuary, or other licensed professional adviser about the transfer and the payee either received it or knowingly waived his right to advice in writing; and
3. the transfer does not violate any statute or court or government order.

The act does not specify that a court may approve the transfer on terms and conditions it deems appropriate, as under prior law.

APPLICATION FOR TRANSFER

Jurisdiction

Prior law gave jurisdiction for approving a transfer to the court where (1) the original action was filed or could have been filed or (2) the payee resides. The act instead gives jurisdiction to (1) the administrative agency that approved the structured settlement agreement or (2) the Superior Court in the judicial district where the payee resides or the structured settlement obligor or annuity issuer has its principal place of business.

Notice of Hearing

By law, a notice of a hearing must be served on all interested parties. The act requires the transferee, rather than payee, to give notice. The act also requires the notice at least 20 days before the hearing.

The act expands the definition of interested parties. As under prior law, an interested party is the payee, a beneficiary designated to receive payments on the payee's death (the act specifies that he must be irrevocably designated under the annuity contract), the annuity issuer, and the structured settlement obligor. The act deletes a provision that, when the designated beneficiary is a minor, the minor's parent or guardian is an interested party. But it adds that any other party with continuing rights and obligations under the structured settlement is also an interested party.

As under prior law, the notice must include a copy of the application for approval and the disclosure statement. The act also adds requirements that the notice include (1) a copy of the transfer agreement; (2) a listing of each of the payee's dependents and their ages; and (3) notice that any interested party can support, oppose, or otherwise respond to the application in person, by counsel, by written comments to the court or authority, or by participating in the hearing.

The act specifies that the notice must contain the time and place of the hearing and the manner in which written responses to the application can be filed (at least 15 days after serving the notice must be allowed for filing responses). Prior law instead authorized the payee to seek an order for a deadline for filing written objections and required the payee to notify all interested parties by mail at least 10 days before the deadline.

EFFECT OF TRANSFER

The act specifies that, after a transfer of structured settlement payment rights:

1. the structured settlement obligor and the annuity issuer are discharged and released from liability for the transferred payment as to all parties except the transferee;
2. the transferee is liable to the structured settlement obligor and annuity issuer for (a) any taxes incurred because of the transfer if it violates the terms of the structured settlement and (b) other liabilities or costs, including reasonable costs and attorney's fees, for complying with the court or agency order or from the transferee's failure to comply with the act's provisions;
3. the structured settlement obligor and annuity issuer cannot be required to divide any periodic payment between the payee and a transferee or assignee or between two or more of them; and
4. any further transfer of structured settlement payment rights by the payee must comply with the act's provisions.

DISPUTES

Under the act, transfer agreements entered into after September 30, 2003 by a payee residing in Connecticut must provide that disputes about the agreement, including claims that the payee breached the agreement, are determined in Connecticut and under Connecticut law. The act prohibits transfer agreements from authorizing the transferee or another party to confess judgment or consent to judgment against the payee. (In a confession of judgment, a person agrees beforehand to the entry of a judgment against him if a specified event occurs or fails to occur, such as missing a required payment.)

PAYMENTS THAT ARE LIFE-CONTINGENT

The act prohibits transfers of structured settlement payment rights from including payments that are life-contingent unless the transferee, before the payee signs the transfer agreement, establishes and agrees to maintain procedures reasonably satisfactory to the structured settlement obligor and annuity issuer for (1) periodically confirming the payee's survival and (2) giving the structured settlement

obligor and annuity issuer prompt written notice of the payee's death.

OTHER PROVISIONS

Under the act, a payee who proposes to transfer structured settlement payment rights is not subject to any penalty, forfeiture of application fees, other payments, or liability to a proposed transferee or assignee for a failure of the transfer to satisfy the act's conditions.

The act makes the transferee solely responsible for complying with its disclosure and approval requirements. The structured settlement obligor and annuity issuer are not responsible or liable for noncompliance or failure to fulfill any conditions.

DEFINITIONS

The act adds definitions for:

1. "periodic payments," which include both recurring and scheduled future lump-sum payments;
2. "qualified assignment agreement," which is an agreement for a qualified assignment within the meaning of federal tax law (which qualifies for certain tax benefits);
3. "structured settlement agreement," which is the agreement, judgment, stipulation, or release embodying the structured settlement's terms; and
4. "terms of the structured settlement," which include the terms of the agreement, the annuity contract, any qualified assignment agreement, and any order or approval of a court, responsible administrative authority, or the government authority that authorized or approved the structured settlement.

As under prior law, transfer means sale, assignment, pledge, hypothecation (pledging as security or collateral), alienation, or encumbrance of structured settlement payment rights made by a payee for consideration. The act specifies that this does not include creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to redirect the structured settlement payments to the insured depository, or their agent or successor, or otherwise to enforce a blanket security interest against the structured

settlement payment rights.

PA 03-111—sHB 5072

Judiciary Committee

AN ACT CONCERNING LIABILITY OF BROADCASTERS THAT BROADCAST INFORMATION PURSUANT TO THE AMBER PLAN

SUMMARY: This act gives broadcasters voluntarily participating in the Amber Alert Program immunity from damage claims based on emergency alerts and information they broadcast concerning the abduction of a child. The immunity applies only to claims arising from the information law enforcement agencies provided to the broadcasters under the plan. This information may include descriptions of the abducted child and suspected abductor and the circumstances of the abduction.

The act incorporates the state tax code's definition of "broadcaster" and specifies that the act does not limit broadcasters' other legal protections. It also maintains law enforcement agencies' responsibility to act reasonably in providing the information.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Amber Alert Plan

Most states have statewide Amber Alert plans. Named after Amber Hagerman, a child who was kidnapped and murdered in Texas in 1996, these plans are designed to alert the public as quickly as possible when a child kidnapping is reported and the kidnapper is not believed to be a family member.

Connecticut implemented its Amber plan in January, 2002. Local law enforcement agencies fax alert requests to the Connecticut State Police Message Center, and the center broadcasts an alert on the statewide Emergency Alert System (EAS). Participating radio and television stations then relay the EAS broadcast on their stations.

PA 03-114—sHB 5514

Judiciary Committee
Public Safety Committee

AN ACT INCREASING THE PENALTY FOR VOYEURISM AND PROHIBITING THE PRESENCE OF MINORS IN CLASS III GAMING FACILITIES

SUMMARY: This act restricts the access of people under age 21 in Indian casinos that conduct class III gaming and imposes fines, imprisonment, or both for violations. Under federal law, class III games are casino-type games of chance, including blackjack, poker, dice, roulette, and baccarat.

The act also increases the criminal penalty for voyeurism to a class D felony, from a class A misdemeanor (see Table on Penalties). By law, a person is guilty of voyeurism when, with malice or intent to arouse or satisfy his or someone else's sexual desires, he knowingly photographs, films, videotapes, or records images of people (1) without their knowledge and consent, (2) when they are not in plain view, and (3) under circumstances where they reasonably expect privacy.

EFFECTIVE DATE: October 1, 2003

CASINOS

Restricted Access

The act limits people under age 21 allowed in rooms where class III gaming is conducted to casino employees over age 18 and licensed by the state's Division of Special Revenue, if their job duties require licensing. Such employees cannot serve or handle alcohol or be present in these locations if other laws prohibit it.

The act does not limit access to rooms where only bazaar games are conducted (games of chance involving merchandise rather than cash prizes) or to casino areas where class III gaming is not conducted. It specifies that it should not be interpreted to prohibit minors from receiving gifts of lottery tickets or chances in lawfully operated games.

Penalties

Under the act, any underage person, other than a casino employee described above, who is present in a room where class III games are conducted is subject to a fine of up to \$100. If he directly or indirectly places a wager, he is

guilty of a class A misdemeanor. And anyone under age 21 who tries to get into a room where class III games are played by misrepresenting his age or using or exhibiting someone else's driver's license, passport, or other government-issued identity card or one that is forged, counterfeit, or altered is subject to a fine of between \$100 to \$500, imprisonment for up to 30 days, or both.

PA 03-129—SB 753

Judiciary Committee

AN ACT CONCERNING COMPENSATION OF CRIME VICTIMS AND AUTHORIZING CRIME VICTIMS TO MAKE A STATEMENT BEFORE THE SENTENCE REVIEW DIVISION

SUMMARY: This act allows blind or disabled crime victims to receive victim compensation for injuries to their guide or assistance dogs under the same circumstances as they may already receive it for personal injuries.

By law, the Office of Victim Services may compensate crime victims, or their immediate families when the victim is deceased, incapacitated, or a minor child, for actual and reasonable expenses, lost wages, and pecuniary and other losses resulting from injury or death. Maximum awards are \$15,000 for personal injuries and \$25,000 for death. Eligible victims must have been injured or killed during (1) their attempt to prevent crime, aid police, or apprehend suspects; (2) attempts to commit, or actual commissions of, crimes by another person; (3) international terrorism; or (4) another person's violation of enumerated motor vehicle offenses.

The act permits crime victims, their legal representatives, or the immediate family of deceased victims to make a statement at any hearing held by the Superior Court's Review Division before it makes a decision on defendants' requests to have their criminal sentences reduced. The division, made up of three Superior Court judges, must allow the victims to appear at the hearing and make a statement on the record before deciding to increase, decrease, or let stand defendants' original sentences. Instead of a personal appearance, the act allows the victims to submit written statements to the division, which it must make a part of the record.

EFFECTIVE DATE: October 1, 2003

PA 03-130—SB 859*Judiciary Committee***AN ACT CONCERNING DISABILITY DETERMINATIONS FOR PURPOSES OF CHILD SUPPORT, PREJUDGMENT AND POSTJUDGMENT REMEDIES FOR ALIMONY AND SUPPORT PAYMENTS, AND RESTORATION OF THE BIRTH NAME OR FORMER NAME OF A SPOUSE**

SUMMARY: This act authorizes the use of pre- and post-judgment remedies, such as liens and attachments, to secure present and future financial interests in child and spousal support. It also specifies that family courts cannot deviate from the Child Support Guidelines (i.e., order a parent to pay more or less than the guidelines indicate) based on the earning capacity of a person who has been found qualified for disability benefits under federal or state disability cash assistance programs. All of these programs require applicants and recipients to show that they have a limited, if any, ability to work in order to qualify for benefits.

The act also eliminates the \$70 filing fee for motions to restore an ex-spouse's birth or former name.

EFFECTIVE DATE: October 1, 2003

PA 03-143—SB 366*Judiciary Committee***AN ACT CONCERNING ALTERNATIVE DISPUTE RESOLUTION PROCEDURES AND COMPLAINANT REPRESENTATION BEFORE THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES**

SUMMARY: The act permits, instead of requires, the Commission on Human Rights and Opportunities (CHRO) to adopt regulations to establish procedures and standards for alternative dispute resolution in connection with discriminatory employment practice complaints.

The act requires, instead of permits, the attorney for the complainant to present all, or part, of the case in support of the complaint at a CHRO hearing if the attorney general or commission counsel determines that the interests of the state will not be adversely affected.

EFFECTIVE DATE: October 1, 2003

BACKGROUND*Related Statute*

The CHRO counsel must represent the commission in any proceeding in which a state officer or state agency is an adversary party. He may represent CHRO in any other matter that the commission and the attorney general jointly agree upon (CGS § 46a-55).

PA 03-154—sHB 5033*Judiciary Committee***AN ACT CONCERNING STATUTORY INTERPRETATION**

SUMMARY: This act requires that a statute's meaning be initially determined from its text and relationship to other statutes. It prohibits use of evidence of meaning from outside the text if the text is plain and unambiguous and does not yield absurd or unworkable results.

EFFECTIVE DATE: October 1, 2003

BACKGROUND*Related Case*

In *State v. Courchesne*, the Connecticut Supreme Court rejected the common law "plain meaning rule" for statutory interpretation, which states that when a statute's language is plain and unambiguous, the court cannot go beyond the text to consider other sources of meaning. It adopted an approach to statutory interpretation that requires the court to consider all relevant sources of meaning (such as legislative history, legislative purpose, and the statute's context) in addition to the statutory language without any requirement of finding ambiguity (262 Conn. 357 (2003)).

PA 03-156—sSB 688*Judiciary Committee***AN ACT CONCERNING IDENTITY THEFT**

SUMMARY: This act increases penalties for identity theft violations when the value of the property involved exceeds \$5,000, establishes procedures to assist victims of the crimes, and

requires businesses to revise certain practices to prevent the crimes. Specifically, the act:

1. broadens the acts that constitute identity theft;
2. establishes three different classifications of the crime;
3. creates the crime of trafficking in personal identification information;
4. establishes a procedure for reporting and processing identity theft crimes;
5. authorizes courts to issue any orders necessary to correct false information in public records resulting from identity theft crimes;
6. establishes a procedure for credit rating agencies to block credit reports resulting from identity theft and imposes graduated penalties for violating these procedures;
7. establishes a two-year statute of limitations for civil damage actions against identity theft violators;
8. prohibits businesses and people from printing more than the last five digits of a credit or debit account number on a consumer's receipt;
9. with certain exceptions, prohibits individuals, firms, and corporations from publicly disclosing Social Security numbers; and
10. makes technical changes.

EFFECTIVE DATE: October 1, 2003

IDENTITY THEFT

Crimes

Under existing law, a person commits identity theft when he intentionally obtains, without permission, another person's personal identifying information and uses it to illegally obtain or attempt to obtain money, credit, goods, services, property, or medical information. The act makes this offense third-degree identity theft, but leaves it classified as a class D felony (see Table on Penalties).

The act makes it (1) second-degree identity theft, a class C felony, to commit identity theft involving money, credit, goods, property, or services valued at over \$5,000 and (2) first-degree identity theft, a class B felony, if the value is over \$10,000.

Definitions

The act broadens the definition of "personal identifying information" to include any name, number, or other information that may be used, alone or with any other information, to identify a specific individual. It specifies that the information includes a person's date of birth; employer or taxpayer identification, alien registration, government passport, health insurance identification, or debit card number; or unique biometric data, such as a fingerprint, voice print, retina or iris image, or other unique physical representation. Under prior law, personal identifying information was limited to a driver's license, Social Security, employee identification, demand deposit, savings account, or credit card number; or someone's mother's maiden name.

CRIME OF TRAFFICKING IN PERSONAL IDENTIFYING INFORMATION

The act makes it a class D felony for anyone to sell, give, or otherwise transfer another person's personal identifying information to a third person knowing that the (1) information was obtained without the owner's authorization and (2) third person intends to use it for an unlawful purpose.

IDENTITY THEFT REPORTING AND PROCESSING

The act allows people who believe that they are identity theft victims to file complaints of the suspected violation with the law enforcement agency in the town where they live. The agency must accept the complaint, prepare a police report, give the complainant a copy of the report, and investigate the allegation and any other related violations. Where necessary, the agency must coordinate investigations with other law enforcement agencies.

The act allows alleged identity theft offenders to be arraigned in the Superior Court for the geographical area where the victim lives rather than the area where either the crime was allegedly committed or the arrest was made.

CREDIT PROTECTIONS FOR IDENTITY THEFT VICTIMS

Negative Credit Reports Resulting From Identity Theft

The act allows people who believe that they are identity theft victims to ask a credit rating agency to block and not report information appearing on their credit reports as a result of the crime. The consumer must submit the request in writing and include proof of identity and a copy of the police report of the crime. Within 30 days after receiving the request, the agency must stop reporting any information that resulted from the crime. The agency must also promptly notify the person or business that furnished the information of the police report and the effective date of the block.

Declining to, or Rescinding a Block. A credit rating agency may decline to block or rescind a block if it has a good faith belief that the consumer (1) misrepresented the facts in the request for a block; (2) agrees that information, or portions of it, was blocked in error; (3) knew or should have known that he received goods, services, or money as a result of blocked transactions; (4) knew of, or participated in, fraud to get the information blocked; or (5) lied about being a crime victim. The agency may demonstrate fraud by using circumstantial evidence.

When the veracity of statements made by an identity theft victim in a police report is the basis for the block or rescission, the agency, in addition to good faith, must exercise reasonable judgment and have substantial reason, based on specific, verifiable facts. The prior presence of blocked information in consumers' credit rating files cannot be used as evidence that they knew or should have known that they received goods, services, or money.

Credit rating agencies must give consumers prompt written notice of their decision not to block or to rescind a block on information.

Exceptions to Blocking. The blocking provisions do not apply to (1) credit rating agencies that assemble or merge credit information for resale and do not maintain a permanent database for producing new credit reports; (2) check or fraud prevention services companies that approve or process negotiable instruments, electronic funds transfers, or similar payment methods; or (3) demand deposit account information service companies that tell banks or other financial institutions that ask about a

potential customer's account closures due to fraud, substantial overdrafts, automatic teller machine abuse, or similar negative information.

Dispute Information

Credit rating agencies must accept consumers' versions of disputed information and correct the disputed item when they confirm that the report was inaccurate or incomplete unless the agencies, in good faith and using reasonable judgment, have substantial reason to doubt the documentation's authenticity and give the consumers written notice of that decision, explaining the reasons for unblocking the information with specific, verifiable facts. Consumers' confirmation of inaccuracy or incompleteness must come from documents held by the source of the item in dispute or public agencies.

Banking laws already require credit rating agencies to correct misinformation in their files and establish a procedure for investigating the accuracy of information.

Credit Report Deletions

Credit rating agencies must delete from credit reports any credit inquiries initiated as a result of consumers' status as identity theft victims.

Penalty

The act subjects credit rating agencies that willfully violate its blocking provision and prohibition against reporting credit information resulting from identity theft crimes to the same graduated penalty that they face for (1) failing to disclose to consumers, upon request, information in their credit report or (2) improperly charging them for the information. The penalty is up to a \$100 fine for a first offense, up to \$500 fine for a second, and up to a \$1,000 fine or six-month prison term for each subsequent offense.

CIVIL ACTION FOR DAMAGES

Under existing law, victims of identity theft (third-degree identity theft under the act) can bring a civil action for damages against their offender in Superior Court. The law requires courts to award prevailing plaintiffs the greater of \$1,000 or treble damages, costs, and reasonable attorney's fees.

The act extends the authority to sue to victims of first- and second-degree identity theft and establishes a two-year statute of limitation for bringing the action. The limitation period starts from the date the violation is discovered or reasonably should have been discovered.

BUSINESS PRACTICES

Prohibition Against Account Numbers on Receipts

Beginning January 1, 2005, the act prohibits individuals and businesses, other than the state or its political subdivisions, that accept credit or debit cards from printing more than the last five digits of the cards' account numbers or expiration dates on consumers' receipts. The prohibition applies only to electronic receipts and not to transactions solely recorded by handwriting or by imprinting the card.

The penalty for willful violations is up to a \$100 fine for the first offense, up to a \$500 fine for a second offense, and up to a \$1,000 fine or six months in prison for each subsequent offense.

Prohibition Against Publicly Disclosing Social Security Numbers

With certain exceptions, the act prohibits individuals and businesses from publicly disclosing Social Security numbers. The prohibition does not prevent the numbers from being (1) collected, used, or released as required by state or federal law or (2) used for internal verification or administrative purposes.

Beginning January 1, 2005, the act prohibits any person, firm, corporation, or other entity, other than the state or its political subdivisions, from:

1. intentionally communicating or otherwise making available to the general public an individual's Social Security number;
2. printing anyone's Social Security number on any card that the person must use to access the person or entity's products or services;
3. requiring anyone to transmit his Social Security number over the Internet, unless the connection is secure or the number is encrypted; or
4. requiring anyone to use his Social Security number to access an Internet web site, unless a password or unique personal identification number or other

authentication is also required to access it.

The prohibition against publicly disclosing Social Security numbers does not apply to certain individual and group health insurance policies delivered, issued for delivery, renewed, or continued on and after July 1, 2005. The affected policies cover (1) basic hospital, (2) basic medical-surgical, (3) major medical expenses, (4) accident only, (5) limited benefit, and (6) hospital and medical expenses paid by HMOs.

The penalty for willful violations is up to a \$100 fine for the first offense, up to a \$500 fine for a second offense, and up to a \$1,000 fine or six months in prison for each subsequent offense.

PA 03-158—sSB 951

Judiciary Committee

AN ACT CONCERNING PROFESSIONAL CORPORATIONS OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE REGISTERED NURSES, BUSINESS CORPORATION SHARES AND REFERENCES IN DOCUMENTS TO EXTRINSIC FACTS

SUMMARY: This act authorizes (1) provisions of a certificate of incorporation and the terms of a merger or share exchange plan to be made dependent on "facts objectively ascertainable" outside of them, (2) terms of shares to be made dependent on facts objectively ascertainable outside the certificate of incorporation, and (3) allows provisions to implement an amendment to a certificate of incorporation that provides for an exchange, reclassification, or cancellation of issued shares to be made dependent on facts objectively ascertainable outside the certificate of amendment.

It establishes certain rules that apply when any term of a merger or share exchange plan or document filed with the secretary of state is to be dependent on facts objectively ascertainable outside the plan or filed documents. The act specifies that the term "filed document" does not refer to documents foreign corporations must file in connection with a certificate of authority to transact business in Connecticut or to the annual reports domestic and foreign corporations authorized to transact business in Connecticut must file.

The act authorizes a board of directors, if otherwise allowed by the certificate of incorporation, without shareholder approval to (1) classify any unissued shares into one or more classes or into one or more series within a class; (2) reclassify any unissued shares of any class into one or more classes or into one or more series within one or more classes; or (3) reclassify any unissued shares of any series of any class into one or more classes or into one or more series within a class.

The act specifies that certificates of incorporation may authorize one or more series of shares within a class. It requires all shares of a particular class or series have the same terms, including preferences, rights, and limitations, unless the certificate of incorporation explicitly sets forth the variations.

The act authorizes a corporation to issue rights, options, or warrants for the purchase of other securities of the corporation instead of just corporate shares and specifies that this authorization constitutes authority to issue such shares or other securities.

The act adds physician's assistants to the list of professions that may offer their services through a professional service corporation. It authorizes a professional service corporation to (1) be formed solely to render professional services by a physician, with a physician assistant or an advanced practice registered nurse, or both and (2) have as its shareholders only people licensed or otherwise legally authorized to render one of the services for which it was incorporated.

EFFECTIVE DATE: October 1, 2003

FACTS OBJECTIVELY ASCERTAINABLE OUTSIDE THE PLAN OR DOCUMENT

The act requires that the following two conditions be met whenever the business corporation law allows any of the terms of a plan or filed document to be dependent on facts objectively ascertainable outside the plan or filed document:

1. the manner in which the facts will operate upon the terms of the plan or filed document must be specified in the plan or filed document; and
2. the facts may include (a) statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data available in a nationally recognized

news or information medium either in print or electronically; (b) a determination or action by any person or body, including the corporation or any other party to a plan or filed document; or (c) the terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

The act prohibits the following provisions of a plan or filed document from being made dependent on outside facts:

1. the registered office and agent of any entity, and the name and address of any person required in a filed document,
2. the number of authorized shares and designation of each class or series of shares,
3. the effective date of a filed document, and
4. any required statement of the date on which the underlying transaction was approved or the manner in which the approval was given.

If a provision of a filed document is made dependent on an outside fact, the act requires the corporation to file with the secretary of the state a certificate of amendment stating the fact after it is first ascertainable or changes if (1) it is not ascertainable by reference to a nationally recognized print or electronic news or information medium or a public document or (2) the affected shareholders have not received notice of the fact from the corporation.

The act requires corporations to keep at their principal offices any notices they sent to shareholders about facts on which a document depends.

Under the act, such certificates of amendment are deemed to be authorized by the authorization of the original plan or filed document to which they relate. Thus, corporations may file them without further action by their boards of directors or shareholders.

AUTHORITY AND REQUIREMENTS REGARDING SERIES OF SHARES

The law requires that a certificate of incorporation specify the classes of shares and the number of shares of each class that the corporation is authorized to issue. The act requires that it also specify the series of shares within a class, and the number of shares of each series, that the corporation is authorized to issue. If more than one series is authorized, the act

requires the certificate to prescribe a distinguishing designation for each series and describe, before the issuance of shares of a series, its terms, including its preferences, rights, and limitations.

The act establishes the same additional authority and limitations concerning share series as already apply to share classes. Specifically, it permits the certificate of incorporation to authorize one or more series of shares that:

1. have special, conditional, or limited voting rights, or no right to vote, except as otherwise provided by the business corporation law;
2. entitle holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative;
3. have preference over any other share class or series with respect to distributions, including distributions when the corporation dissolves; and
4. are redeemable or convertible as specified in the certificate of incorporation (a) at the option of the corporation, shareholder, or another person or upon a specified event; (b) for cash, indebtedness, securities, or other property; and (c) at prices and in amounts specified or determined in accordance with a formula.

The act specifies that these preferences, rights, and limitations of series of shares are not exhaustive.

RIGHTS, WARRANTS, AND OPTIONS

The law authorizes a corporation to issue rights, options, or warrants for the purchase of its shares and permits its directors to determine their terms and the consideration for which shares are to be issued. The act extends this authority to a corporation's other securities. It specifies that the authorization by the corporation's board of directors to issue such rights, options, or warrants constitutes authorization for the issuance of the shares or other securities for which the rights, options, or warrants are exercisable.

The terms and conditions of such rights, options, or warrants, including those outstanding on October 1, 2003, may include restrictions or conditions that (1) prevent or limit their exercise, transfer, or receipt by anyone owning or offering to acquire a specified number or percentage of the outstanding shares or other securities of the

corporation or by any transferee of such person or (2) invalidate or void such rights, options, or warrants held by any such person or transferee.

PA 03-170—sHB 5355

Judiciary Committee

AN ACT CONCERNING THE MEMBERSHIP OF THE JUDICIAL SELECTION COMMISSION AND CONFORMING CERTAIN STATUTORY PROVISIONS TO THE REDUCTION IN THE NUMBER OF CONGRESSIONAL DISTRICTS

SUMMARY: This act revises the election law and other statutes to reflect the reduction in Connecticut's U.S. Congressional delegation from six members to five. It changes the membership of certain commissions whose membership is based on representation from congressional districts. The affected programs and entities are the academic scholarship loan program, Connecticut Marketing Authority, Connecticut Hazardous Waste Management Service, Veterans' Advocacy and Assistance Unit, and Judicial Selection Commission (JSC).

The act makes changes to the appointments and terms of JSC members. It also ends the terms of the appointed members of the Marketing Authority and the Hazardous Waste Management Service on January 1, 2004 and requires the appointment of new members.

EFFECTIVE DATE: Upon passage.

JUDICIAL SELECTION COMMISSION

The act requires only one member, rather than two members, of the JSC to be appointed from each congressional district and makes the remaining members of the 12-member body at-large appointments. Since the state lost a congressional district, the commission will consist of one member from each of the five congressional districts and seven at large members, rather than two members from each congressional district.

Prior law required the governor to appoint one member from each congressional district and the six legislative leaders to appoint the remaining members from the congressional districts. The act makes one of the governor's appointments and all of the legislative leaders' appointments at-large appointments.

By law, six JSC members must be attorneys and six must not be attorneys. The act requires the governor to appoint three of the attorneys rather than all six. And it requires three of the legislative leaders (Senate president pro tempore, House majority leader, and House minority leader) to appoint attorneys rather than non-attorneys.

By law, members serve for three years. The act requires members appointed on or after the act's effective date to serve until the earlier of (1) their successors' appointment and qualification or (2) 90 days after their terms end. The act also applies this provision to members serving when the act becomes effective. And members serving on the act's effective date who have completed their terms and are serving until their successors are appointed and qualified must continue to serve until their successors are appointed and qualified, but no later than January 1, 2004.

By law, no member can serve consecutive terms. But the act allows a member appointed on or after the act's effective date to serve an additional term if he was appointed to fill a vacancy and complete an unexpired term.

ACADEMIC SCHOLARSHIP LOAN PROGRAM

The act requires the commissioners of education and higher education to distribute 60% of the awards for this program equally among applicants who reside in the state's five, rather than six, congressional districts. The balance is awarded on a statewide basis. Loans are available under the program for up to \$5,000 per year for students attending independent colleges and universities and up to \$3,000 per year for students attending public colleges and universities.

CONNECTICUT MARKETING AUTHORITY

On the 11-member Marketing Authority, the act reduces by one the number from each congressional district and increases the number of at-large members from one to two. By law, the governor appoints three members and four legislative leaders (Senate president pro tempore, Senate minority leader, House Speaker, and House minority leader) each appoint one. The commissioners of agriculture and economic and community development also serve.

By law, the members serve at the pleasure of the appointing authority. The act ends the terms of members on January 1, 2004 and requires the

appointment of new members to start serving on that date to complete the terms of their predecessors.

CONNECTICUT HAZARDOUS WASTE MANAGEMENT SERVICE

The act requires the governor to appoint five of his appointees to the board of directors for the service from different congressional districts and the sixth appointee at-large. The total 11-person board membership and composition remains the same: the secretary of the Office of Policy and Management; commissioners of public health, transportation, and environmental protection; six public members; and the chairman, also appointed by the governor.

By law, members serve four-year terms. Their terms are staggered so that only two members' terms can expire in a year. The act ends the terms of the six members the governor appoints on January 1, 2004 and requires the governor to appoint new members to start serving on that date and complete the terms of their predecessors.

VETERANS' ADVOCACY AND ASSISTANCE UNIT

The law requires this unit to have at least six service officers. The act revises their statutory assignment to require that one be assigned to each of the five, rather than six, congressional districts. The unit generally (1) assists veterans, their spouses, and eligible dependents and family members in applying for aid; (2) gathers and disseminates information; and (3) assesses veterans' needs.

BACKGROUND

Judicial Selection Commission

The JSC seeks, evaluates, and furnishes the governor with a list of qualified candidates for nomination as new judges. It also must evaluate and make recommendations to him about re-nominating sitting judges to the same or different state courts for successive terms.

PA 03-173—HB 5034
Judiciary Committee
Public Safety Committee

**AN ACT REQUIRING LAW
 ENFORCEMENT OFFICIALS TO CHECK
 THE NATIONAL CRIME INFORMATION
 CENTER COMPUTER SYSTEM**

SUMMARY: This act requires police officers to check the National Crime Information Center (NCIC) computer index of criminal justice information before setting an arrested person's terms and conditions of release, setting bond, or releasing the person from custody.

The NCIC system is a computer database of criminal justice information (criminal record histories and information on fugitives, stolen property, and missing persons) that federal, state, and local law enforcement and criminal justice agencies can access.

EFFECTIVE DATE: October 1, 2003

PA 03-176—sSB 904
Judiciary Committee

**AN ACT CONCERNING WRITS
 BROUGHT TO AND ISSUED BY THE
 SUPREME COURT**

SUMMARY: This act specifies that the Supreme Court may issue all writs necessary or appropriate to aid its jurisdiction. It eliminates several statutory rules about the availability and applicability of a writ of error.

The law, unchanged by the act, authorizes Supreme Court judges to make necessary rules and orders for the practice and procedure of taking a writ or error. Court rules of appellate procedure adopted by the Supreme Court also govern writs of error, and the statutory provisions the act eliminates are covered by these rules.

EFFECTIVE DATE: Upon passage

BACKGROUND

Writ Of Error

The writ of error allows a higher court to review and supervise actions of its lower courts. It fills procedural gaps that occasionally arise when a person affected by a lower court ruling lacks a statutory right of appeal. It is rooted in the common law and appears to reflect the

Supreme Court's inherent authority (*Banks v. Thomas*, 241 Conn. 569 (1997); *Bergeron v. Mackler*, 225 Conn. 391 (1993)). Supreme Court judges have adopted rules governing writs of error (Rules of Appellate Procedure §§ 72-1 to 72-4).

Related Cases. Although the legislature codified the right to bring a writ of error, the right exists independently of the statutory authorization (*State v. McCahill*, 261 Conn. 492 (2002)).

The state Supreme Court has construed the statutory requirement that writs of error be filed within two weeks of the judgment or order being challenged as discretionary and not mandatory (*Banks v. Thomas*, 241 Conn. 569 (1997)).

Related Laws. Supreme Court judges may make such rules and orders as they deem necessary for the practice and procedure in taking appeals and writs of error including the giving of security by the appealing party, the stay of execution during the pending of the appeal, and the payment of costs (CGS § 52-264). The judges of the Supreme, Appellate, and Superior courts may adopt rules and forms regulating pleading, practice, and procedure in judicial proceedings in courts in which they have a constitutional authority to make rules (CGS § 51-14).

The Appellate Court may issue all writs necessary or appropriate in aid of its jurisdiction and agreeable to the usages and principles of law (CGS § 51-197a(b)).

PA 03-179—sSB 1066
Judiciary Committee

**AN ACT CONCERNING VICTIMS'
 RIGHTS IN COURT PROCEEDINGS AND
 DUTIES OF VICTIM ADVOCATES**

SUMMARY: By law, the victim of any crime (or the representative or immediate family of a deceased victim) may make a statement to the court before the defendant who committed the crime is sentenced or the court accepts a plea agreement to a lesser charge. Additionally, the court has in its files a victim impact statement completed by Judicial Branch employees serving as victim advocates.

This act requires courts to ask, on the record, whether a crime victim is present and wants to make a statement or has submitted a written statement. If no victim is present and no statement has been submitted, the court must

ask, on the record, whether the state's attorney, assistant state's attorney, or deputy assistant state's attorney attempted to contact the victim as required by law. By law, crime victims' statements to the court are limited to the facts of the case, the appropriateness of any penalty, the extent of any injuries, losses directly resulting from the crime the defendant committed, and opinions about any plea agreement.

The act requires victim advocates to help victims prepare, rather than to prepare statements for them, and makes other clarifying changes to victim advocates' duties. Specifically, it eliminates a requirement that advocates give victims information necessary to effectively process cases and instead requires them to notify victims of their rights. The advocates must ask victims to attest the notification by signing, together with the advocates, a form developed by the Office of the Chief Court Administrator. Victims must receive a copy of the form and the original must be placed in court files.

Lastly, the act specifies that the purpose of the information and advice that advocates must provide victims is to help victims exercise their rights throughout the criminal justice process.

EFFECTIVE DATE: October 1, 2003

PA 03-183—sHB 5515

*Judiciary Committee
Banks Committee*

AN ACT CONCERNING THE TERMINATION OF SMALL TRUSTS

SUMMARY: This act authorizes a probate court to completely or partially terminate a non-charitable trust valued at up to \$100,000, instead of up to \$40,000, if it determines that (1) continuation is uneconomic when operating costs, probable income, and other relevant factors are considered or continuation is not in the best interest of the beneficiaries and (2) termination is equitable and practical. By law, the court may do so only after notice to all beneficiaries and a hearing.

EFFECTIVE DATE: October 1, 2003

PA 03-189—HB 6432

Judiciary Committee

AN ACT CONCERNING VICTIM SERVICES

SUMMARY: This act conforms the law to practice by requiring the Office of Victim Services (OVS) to evaluate, rather than review, applications for crime victim compensation. Under existing law, unchanged by the act, victim compensation commissioners review, upon request, OVS decisions on applications.

The act allows OVS to include attorney's fees in crime victim compensation awards. Under prior law, only victim compensation commissioners, but not OVS, could include these fees in an award. By law, the fee cannot exceed 15% of the award.

The act eliminates victim compensation commissioners' authority to use a portion of victims' compensation awards to directly pay health care providers who treat them. But the law continues to give OVS the option of ordering payments from awards unclaimed by victims within 45 days to health care providers or victim service providers and vacating any remaining amount.

The act increases, from \$1,000 to \$2,000, the emergency compensation that OVS may award to crime victims. By law, OVS may award emergency compensation before taking action on a claim if a victim-claimant will likely receive an award and suffer an undue hardship if immediate payment is not made.

The law requires the Court Support Services Division to deposit in the Criminal Injuries Compensation Fund restitution collected as a condition of adult probation, but not disbursed within five years. The act specifies that the five years start from the date the restitution is collected. Additionally, it requires the division to deposit in the fund non-disbursed restitution collected in juvenile delinquency or accelerated rehabilitation cases. The requirement is retroactive, applying to restitution collected on or before May 8, 1997 and not disbursed on October 1, 2003.

EFFECTIVE DATE: October 1, 2003

PA 03-195—HB 6570

*Judiciary Committee
Public Health Committee*

AN ACT CONCERNING SUBSTANCE ABUSE COUNSELORS EMPLOYED BY THE DEPARTMENT OF CORRECTION

SUMMARY: This act exempts from the law requiring licensure of Department of Correction (DOC) alcohol and drug counselors (substance

abuse counselors) employees counseling DOC clients in order to satisfy the license and certification law's supervised, paid work experience requirement. Prior law exempted only supervised student trainees and interns.

By law, substance abuse counselors must (1) complete an accredited master's degree program or be certified clinical supervisors and (2) be certified by the Department of Public Health (DPH). One of the criteria for DPH certification is completion of three years of supervised, paid work experience or acceptable unpaid internships.

EFFECTIVE DATE: October 1, 2003

PA 03-200—sSB 853

Judiciary Committee

*Government Administration and Elections Committee
Appropriations Committee*

**AN ACT CONCERNING AN ADDRESS
CONFIDENTIALITY PROGRAM**

SUMMARY: This act establishes an address confidentiality program within the secretary of the state's office. The program provides a substitute mailing address (mailbox and fictitious street numbers) to certain crime victims who, for safety reasons, wish to keep their residential address secret. The program is available to victims of family violence, stalking, sexual assault, and injury or risk of injury to a minor. The act makes participants' residential, work, and school addresses exempt from disclosure under the Freedom of Information Act.

The act requires public agencies to accept participants' program address in lieu of their actual residential address, unless the agency has received an exemption from the secretary of the state. The act specifies that program participation does not affect custody or visitation orders.

The act requires the secretary of the state to adopt regulations to implement the program. The regulations may include provisions on (1) application and certification; (2) certification cancellation; (3) how program addresses may be used; and (4) how participants will get their mail, vote, and have vital statistics recorded.

EFFECTIVE DATE: January 1, 2004

**PROGRAM APPLICATION AND
CERTIFICATION**

The act allows the following to file applications with the secretary of the state: adult

victims of family violence, stalking, or sexual assault; parents or guardians acting on behalf of minor victims of these crimes or of injury or risk of injury to a minor; and adults or conservators acting on the behalf of other adults. The secretary must approve properly filed applications and certify applicants as program participants by issuing each a certification card showing the name, signature, certification code and expiration date, and the program address. Each certification lasts four years from the date the card is issued, unless it is withdrawn or invalidated sooner (see Certification Cancellation and Program Withdrawal below).

Applicants must complete the applications with assistants the secretary of the state authorizes to provide such help. The secretary of the state must make available a list of the entities that employ these assistants. All entities on the list must have sufficient federal or state funds to pay reasonable implementation costs.

Applications must include:

1. applicants' sworn statements that they, or the people on whose behalf they are applying, are victims of domestic violence, injury or risk of injury to a minor, stalking, or sexual assault and fear for their safety, their children's safety, or the safety of the person (or the person's children) on whose behalf they are filing;
2. documents supporting the statements;
3. a designation of the secretary as the agent for service of process and receipt of mail;
4. the confidential mailing addresses and telephone numbers where the secretary can contact them; and
5. the applicants' and assistants' signatures and application date.

CERTIFICATION RENEWAL

The act permits program participants or people acting on their behalf to renew the certification by filing with the secretary their current certification card, a properly completed renewal form, and a new certification card form. The participants must sign and date the certification card form.

The secretary must certify program participants who properly complete the renewal form for four more years and issue a new certification card with the new date.

PROGRAM ADDRESS AND MAIL DELIVERY

The act requires the secretary to designate a post office box number and fictitious street address as the address of program participants. She must maintain the box for the program's exclusive use. She must get the mail from the box on weekdays, excluding state holidays, and send it, on the day of receipt, to the participant by first class mail. The secretary cannot open the mail before forwarding it.

AGENCY USE OF DESIGNATED ADDRESS

Program participants may present their certification cards and request that state and local agency records show the designated program address as their actual home, work, or school address. Agency officials may make a copy of the card for the file and must then immediately return the original to the participant.

When creating a new record, each of these agencies must accept the designated address unless the secretary grants the agency an exemption.

AGENCY EXEMPTION FROM PROGRAM ADDRESS REQUIREMENT

Under the act, a public agency may ask the secretary, in writing, to exempt it from the requirement to substitute the program's address for participants' actual addresses. The request must:

1. identify the agency's legal authority for requesting the confidential address,
2. state that the address will be used only for these legal purposes,
3. specifically identify the program participant whose confidential address is requested,
4. identify the people who will have access to the address, and
5. explain how substituting the program address for the participant's confidential address would prevent the agency from meeting its legal obligation and why internal procedural changes would not solve the problem.

The act requires the secretary to determine if the agency has a legal requirement to use the confidential address. If she does not find one, she must issue a written denial of the request and include her reasons.

If she finds a legal requirement and is satisfied that the agency will use the address solely for this reason, she must notify the program participant of the exemption, including the agency's name and the reason, and then issue a written exemption. She may include in the exemption:

1. the agency's duty to keep the address confidential,
2. limitations on how the address may be used and who has access to it,
3. the length of the exemption,
4. a designated record format for maintaining the address,
5. how long the agency can maintain the record with the address, and
6. any other provision and qualification she deems appropriate.

An agency that receives an exemption can disclose the address only to the people listed in the request, unless otherwise directed by a court order. The secretary must at least partially base her decision to grant or deny the exemption on the agency's information. During her review and evaluation (and appeal, if applicable) of the exemption request, the agency must use the program participant's program address. The secretary's action is immediately appealable.

CERTIFICATION CANCELLATION

The act permits the secretary to cancel participants' certification and invalidate their cards if:

1. they do not give her 30 days' written notice after a name or address change,
2. mail forwarded to them is returned as undeliverable,
3. they do not apply for renewal before the initial certificate expires, or
4. they provided false information in their program application.

The secretary must send written cancellation notices, including the reason for them, to participants at the confidential address shown in her records. The act gives participants 30 days from the date the secretary mails the notice to appeal, but does not specify the status of the certificate during this period. They can reapply to the program again at any time.

The secretary must notify appropriate authorized agency personnel when she cancels a participant's certification. After receiving notice, the agency is not responsible for keeping the person's record or address confidential.

PROGRAM WITHDRAWAL

The act allows participants to withdraw from the program by giving the secretary written notice of their intention and their current certification card. The secretary must cancel the certification as of the date she receives this information.

MARRIAGE AND VOTER REGISTRY LISTS

The act permits participants, appearing in person, to present their certification card and ask (1) the registrar of vital statistics in the town where they either married or plan to marry to keep the marriage records confidential or (2) the registrar of voters in the town where they are qualified to vote to have their name printed on the voter registry list without a street and house address. When asked, the registrars must keep the records confidential, unless (1) requested by the attorney general, chief state's attorney, State Police, or a local police department or (2) directed by a court order to release them to people named in the order. Spouses or intended spouses must appear with applicants seeking to keep marriage records confidential.

The secretary must give the registrars written notice if she cancels a participant's certification.

PUBLIC DISCLOSURES

The act prohibits the secretary from disclosing anything from a participant's file other than the program address. But she must:

1. give the attorney general, chief state's attorney, State Police, a local police department, or the State Elections Enforcement Commission information requested in writing on agency letterhead, signed by the agency head, and that contains the request date and program participant's name;
2. release information to a named person, as directed by a court order;
3. confirm information a requestor supplies to verify a participant's program status; and
4. disclose information when she cancels a participant's certification.

The secretary must notify a participant right away when she is asked to disclose verification or court-ordered information.

Under the act, the attorney general, chief state's attorney, State Police, local police

departments, state or municipal social service agencies, and other witnesses cannot be compelled to disclose a participant's confidential address during criminal or civil discovery or trial, unless the court finds that nondisclosure might prejudice a witness to the proceeding.

SERVICE OF PROCESS

The act makes the secretary of the state the program participant's agent for service of process in any action, proceeding, or any other matter involving the participant. Existing laws regarding who, when, and how to effectuate service apply. Service by mail must be marked "Address Confidentiality Program." It is unclear how a serving party would know to include this marking.

PA 03-201—SB 854

Judiciary Committee

AN ACT CONCERNING THEFT OF MOTOR FUEL

SUMMARY: This act specifies that motor fuel theft can be punished as larceny. A person commits this crime if, with intent to appropriate fuel to himself or another, he delivers it, or causes delivery of it, into a vehicle's tank, a portable container, or both on a retailer's premises and leaves the premises without paying for it.

A retailer is anyone operating a service station, filling station, store, garage, or other business for selling motor fuel for delivery into the tank of a vehicle propelled by an internal combustion engine. Motor fuel is any product commonly or commercially known as gasoline or any liquid used as fuel in internal combustion engines, including gasohol but not aviation fuel and liquefied petroleum gases.

The punishment for larceny depends on the value of the property taken.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Larceny

A person is guilty of larceny when he wrongfully takes property from its owner with the intent of depriving the owner of it or appropriating it. The punishment ranges from a class C misdemeanor when the value of the

property taken is less than \$250 to a class B felony when the value is over \$10,000 (see Table on Penalties).

PA 03-202—sSB 900

Judiciary Committee

Government Administration and Elections Committee

Labor and Public Employees Committee

AN ACT CONCERNING COURT OPERATIONS, HOUSING MATTERS, CHANGES OF NAMES, NOTICE TO THE SURETY ON A FORFEITED BOND, LIFE INSURANCE AS SECURITY FOR THE PAYMENT OF ALIMONY AND CHILD SUPPORT AND TECHNICAL REVISIONS TO CERTAIN STATUTES PERTAINING TO THE JUDICIAL BRANCH

SUMMARY: This act makes a number of changes to statutes applicable to the Judicial Department. It:

1. requires (a) Superior and Probate court clerks to notify the Department of Public Safety whenever they find that the court has granted a name change to a person listed in the department's sex offender registry, (b) the department to update the registry accordingly, and (c) registered sex offenders released on parole or probation to immediately notify their parole or probation officer of such name changes;
2. directs courts to notify an insurer who provided the surety for an arrestee's bail bond, rather than the surety bail bond agent, when the arrestee fails to appear in court and it orders the bond forfeited;
3. directs the chief court administrator to require that the U.S. flag be flown daily outside each state courthouse from sunrise to sunset;
4. prohibits courts from ordering a divorcing or separating spouse to obtain life insurance to secure alimony and support obligations when the obligor proves by a preponderance of the evidence that he cannot afford it or that it is unavailable to him;
5. imposes civil and criminal penalties on employers who violate the law requiring them to pay employees summoned for jury duty;
6. increases information about sexual assault victims that courts can order remain confidential;
7. gives juvenile judges more discretion to decide who can attend court hearings;
8. establishes a uniform definition of "juvenile court records" and makes it applicable to existing record confidentiality laws;
9. for family violence cases, (a) updates protective order language and the list of crimes designated as domestic violence-related and (b) allows people other than marshals to serve the papers;
10. requires mortgagors who file bankruptcy petitions while a strict foreclosure action is pending to file information with the state court;
11. modifies the court record retention period for capital felony cases;
12. directs court clerks to notify the Department of Environmental Protection commissioner of minor boating safety convictions, rather than send him a certified copy of the conviction;
13. applies record retention rules to court files containing copies of original documents;
14. permits the chief court administrator to establish policies and procedures for parking areas on any property he supervises and controls, including the option to tow violators' vehicles;
15. specifies that for statutory purposes, "judicial branch" means the Judicial Department; and
16. specifies that actions involving state or municipal health, housing, building, electrical, plumbing, fire, or sanitation code violations on commercial properties may be filed in housing court.

It also eliminates obsolete statutory references and makes technical changes, eliminating references to two advisory committees made obsolete by the creation of the Judicial Department's Court Support Services Division.

EFFECTIVE DATE: October 1, 2003, except for the bail bond provision, which is effective April 1, 2004.

WAGE PAYMENTS FOR JURORS

By law, employers must pay full-time employees for the first five days, or part of that period, of jury service. The act makes explicit that they must make these payments in the same manner and time as they would have if the juror had been at work.

It subjects employers who fail to do so to existing criminal and civil penalties for nonpayment of wages. These are (1) fines between \$2,000 and \$5,000, imprisonment for up to five years, or both (per offense) and (2) double the amount of unpaid wages, plus court costs and attorneys fees, respectively.

CONFIDENTIALITY OF SEXUAL ASSAULT VICTIM'S IDENTITY

The act expands the court's authority to make information about a sexual assault victim's identity confidential. Prior law makes her name and address confidential. The act allows courts to order that other identifying information also be kept confidential.

ATTENDANCE AT JUVENILE COURT HEARINGS

The act allows, rather than requires, juvenile court judges to exclude from hearings people who they find are not necessary. It retains an existing prohibition against excluding crime victims and their parents or guardians and court-appointed victim advocates unless the judge specifically orders otherwise.

JUVENILE COURT RECORDS

The act defines "records of cases of juvenile matters" and makes this definition uniformly applicable to the existing juvenile court record confidentiality statute. Under the act, these are records kept by (1) courts, (2) the Judicial Department's Court Support Services Division, (3) organizations and agencies serving juveniles under department contracts, and (4) law enforcement agencies. Law enforcement agency records include fingerprints, photographs and physical descriptions, and reports by probation officers and other agencies.

PROTECTIVE AND RESTRAINING ORDERS IN FAMILY VIOLENCE CASES

The act updates language that must be included in protective orders issued in family violence cases, conforming it to the increased penalty for violations (from a class A misdemeanor to a class D felony – see Table on Penalties) enacted in PA 02-127.

It also adds criminal violation of a restraining order, a crime created in PA 02-127, to the list of crimes designated in court records as domestic violence-related for criminal history record purposes.

STRICT FORECLOSURES AND BANKRUPTCY PETITIONS

By law, strict foreclosure judgments are automatically reopened when a mortgagor files a bankruptcy petition before title to the property has passed absolutely to someone else. The act requires the mortgagor to file a copy of the bankruptcy petition or an affidavit setting forth its filing date with the clerk of the court in which the foreclosure matter is pending. He must later file an affidavit with the clerk indicating the date the bankruptcy court's automatic stay ended.

RECORD RETENTION IN CAPITAL CASES

The act permits courts to destroy the official records of evidence and judicial proceedings in capital felony cases 75 years after the conviction. Currently, they must wait until the convicted person has been dead for 25 years.

PA 03-208—sHB 5530

Judiciary Committee

Appropriations Committee

Human Services Committee

AN ACT CONCERNING ANIMAL CRUELTY PREVENTION AND EDUCATION

SUMMARY: This act allows the court, as a condition of probation or conditional discharge, to require someone convicted of cruelty to animals to undergo psychiatric or psychological counseling or to participate in any existing animal cruelty prevention and education program available to the defendant. The court may use this condition with people convicted in regular criminal court, with children (under age 16)

convicted as delinquent, with those (age 16 and 17) being granted youthful offender status, and with first-time offenders being granted accelerated rehabilitation.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Cruelty to Animals, Fighting Animals, and Killing a Police Animal

The act covers four animal cruelty offenses in existing law. The first, which includes overworking, cruelly beating or failing to provide food and water to an animal, is punishable by a fine of up to \$1,000, imprisonment for up to one year, or both.

The second, which includes maliciously and intentionally maiming, or killing an animal is punishable by a fine of up to \$5,000, imprisonment for up to five years, or both.

The third, which includes training animals that fight in exhibitions for amusement or gain, permitting such exhibitions on one's property, acting as a judge or spectator at such an exhibition, or wagering on the outcome of such exhibitions is punishable by a fine of up to \$5,000, imprisonment for up to five years, or both.

The fourth—killing an animal performing its duties under the supervision of a peace officer—is punishable by a fine of up to \$5,000, imprisonment for up to five years, or both.

Accelerated Rehabilitation

Accelerated rehabilitation (AR) is a pretrial diversion program for people accused of offenses “not of a serious nature.” Those accused of class A and B felonies are ineligible, and those accused of class C felonies are only eligible for “good cause.” The court must also believe the defendant will probably not offend again, and the crime victim must be notified and given an opportunity to comment.

AR participants waive their right to a speedy trial. The court places them under the supervision of the Office of Adult Probation for up to two years. If they successfully complete the program, the court dismisses the charges and erases the person's record.

Youthful Offender Status

The court can grant youthful offender (YO) status to 16- and 17-year old first-time offenders

charged with less serious crimes. A youth is ineligible if charged with a class A felony or a serious sexual assault crime, previously granted YO or AR, or previously convicted of a felony or adjudged a serious juvenile offender or serious juvenile repeat offender. YO status allows the court to erase the records of youths who successfully complete a court-imposed sentence such as probation or community service.

PA 03-224—sHB 6476

Judiciary Committee

Appropriations Committee

Government Administration and Elections Committee

AN ACT CONCERNING STATE MARSHALS

SUMMARY: This act:

1. allows a state marshal collecting money on someone's behalf to agree with that person to deliver the money at a different time than the statutes require;
2. allows certain state marshals to also be state employees;
3. makes all information obtained in the State Marshal Commission's periodic audits of state marshals (which also include audits on the death or disability of a state marshal as required by law) confidential and exempt from the Freedom of Information Act;
4. requires the State Marshals Advisory Board, for each fiscal year beginning with FY 2003-04, to submit to the State Marshal Commission a request for administrative support before the beginning of the next fiscal year;
5. makes changes regarding the method of serving a summons on a physician and service of process in claims involving municipal employees, boards, commissions, departments, and agencies;
6. increases some service of process fees;
7. requires an officer (such as a state marshal) taking someone into custody on a *capias* (a court order directing the officer to take a person into custody) to transfer custody of the person to a judicial marshal at the courthouse lockup;
8. extends the time a person serving a notice of intent to claim a lien has to return it to the notice's maker;

9. gives a state marshal more time to serve a process before the statute of limitations precludes an action; and
 10. makes minor and technical changes.
- EFFECTIVE DATE: Upon passage

PAYING FUNDS

The law requires a state marshal who collects money on behalf of someone to pay the amount within 30 calendar days or when the amount collected reaches \$1,000. The state marshal is liable for interest on the money at the rate of 5% per month from the date he received the money if he does not comply with this provision.

The act allows the state marshal and the person for whom he is collecting money to agree to a different delivery time. It applies the interest penalty for failure to comply with the agreement.

STATE EMPLOYMENT

Under prior law, a person could not be a state marshal and a state employee at the same time. The act lifts this prohibition for someone who was a state employee and a deputy sheriff or special deputy sheriff on April 27, 2000.

METHODS OF SERVING PROCESS

For civil actions against a town, city, or borough board, commission, department, or agency, the act allows service of process on:

1. the town, city, or borough clerk (the act requires service of two copies, with the clerk keeping one and forwarding one to the board, commission, department, or agency) or
2. the clerk, chief presiding officer, or other executive head of the board, commission, department, or agency (PA 03-278, § 126 eliminates this option).

For civil actions against a town, city, or borough employee based on the employee's duties or employment, the act allows service of process on:

1. the town, city, or borough clerk (the act requires service of two copies, with the clerk keeping one and forwarding one to the employee) or
2. the employee (PA 03-278, § 126 eliminates this option).

The act also allows service of a subpoena summoning a physician as a witness to be made

on the office manager or person in charge of the physician's office or principal place of business. The manager or person acts as the physician's agent and the service is deemed service on the physician.

FEES

The act increases the additional fee for serving process, summons, or attachments on second and subsequent defendants. The act increases this fee from \$10 to \$30 and instead applies it to second and subsequent service of process. But it also provides that there can be only an additional \$10 fee for serving process at the same address and specifies that the \$10 fee applies to notification to the attorney general's office in dissolution and postjudgment proceedings if a party or child is receiving public assistance. As under prior law, the fee for serving the first process, summons, or attachment is \$30. These fees are subject to some exceptions and there are different fees for service for the Judicial Department and Division of Criminal Justice.

The act increases the fee for a person who levies an execution and either collects and pays money or secures a debt from 10% to 15% of the amount of the execution. It increases the minimum fee for this execution from \$20 to \$30.

By law, a person serving a wage execution on the debtor's employer levies against the debtor's earnings to the extent specified in the wage execution. The act adds the levying officer's fees and costs to the amount levied. The act requires service of one instead of two copies of the wage execution, required notice of rights, and claim forms on the employer. It also allows service of process or other notice by certified mail, return receipt requested, if the address is within the officer's appointed jurisdiction, in addition to the other previously authorized statutory means of service.

COURTHOUSE LOCKUPS

By law, when an officer (state marshal, constable, or other proper officer) takes a person into custody under a *capias*, the person must be brought to the court that issued the *capias* without undue delay. The act requires the officer to transfer custody of the person to a judicial marshal at the court if the court has a courthouse lockup operated by the judicial branch that is operational. The officer is not required to do this

if the person needs medical attention or the lockup does not have enough space.

By law, if the court is not in session, the officer must bring the person before the court clerk. If the clerk's office is not open, he must bring the person to a community correctional center. The clerk or someone designated by the correction commissioner must order the person to meet the court-imposed conditions for release and if he does not, he is held in prison until the next court session. The act allows someone designated by the chief court administrator to also order the person to meet the conditions of release.

LIENS

The act extends the period that an officer serving a notice of intent to claim a lien on behalf of certain subcontractors has to return the notice to its maker. By law, someone who is not (1) the original contractor or (2) a subcontractor with a written contract with the original contractor assented to in writing by the other party, must provide written notice to the property owner and the original contractor of intent to claim a lien within 90 days of stopping services or furnishing material. For a lien to be valid, the law also requires filing a certificate on the land records within this 90-day period and serving the property owner with a copy of the certificate within 30 days after filing it. The act extends the period that the person serving the notice of intent to claim the lien has to return it to the maker of the notice to up to 30 days after filing the certificate, rather than requiring this to be done during the 90-day period.

SERVICE AND THE STATUTE OF LIMITATIONS

The act gives state marshals 30 days, rather than 15, from receiving a process to serve it without an action being precluded because the statute of limitation has passed. Neither prior law nor the act applies to appeals from agency decisions under the Uniform Administrative Procedure Act.

BACKGROUND

State Marshal Commission

The State Marshal Commission fills vacancies in state marshal positions, establishes professional standards for marshals (in

consultation with the State Marshals Advisory Board), and reviews and audits the records and accounts of state marshals. The commission can remove a state marshal for cause, after notice and hearing.

State Marshals Advisory Board

The State Marshals Advisory Board consists of 24 state marshals. Its members are elected by the state marshals in each county. Members serve for one year and can be reelected. Two members serve as ex officio, nonvoting members of the State Marshal Commission.

PA 03-233—HB 5352

Judiciary Committee

Transportation Committee

AN ACT CONCERNING THE SUSPENSION OF MOTOR VEHICLE OPERATORS' LICENSES

SUMMARY: By law, the motor vehicle commissioner must suspend the driver's license of anyone convicted of driving with a suspended license for at least one year for a first violation and at least five years for a subsequent violation. This act eliminates this penalty if the reason for suspension was the driver's failure to appear at a scheduled court hearing for a motor vehicle violation. (Another act expands this to include license suspension for failure to mail in an infraction fine or send in a not guilty plea.)

The violators are still subject to a fine of between \$150 and \$200, imprisonment for up to 90 days, or both for a first offense, and a fine of between \$200 and \$600, imprisonment for up to one year, or both for a subsequent offense.

The act prohibits the court from accepting a guilty or no contest plea for certain motor vehicle violations, unless it advises the defendant that a conviction will result in the commissioner suspending his driver's license.

EFFECTIVE DATE: October 1, 2003

OFFENSES COVERED BY MANDATORY COURT DISCLOSURE

The act requires courts to advise defendants that their licenses will be suspended if they are convicted of any of the following violations:

1. failing to comply with the commissioner's order to produce books, papers, and documents; refusing to

- answer any pertinent questions the commissioner asks; or swearing falsely about any matter where the motor vehicle laws require an oath or affirmation;
2. lending or selling a driver's license or any registration certificate or license plates issued by the commissioner for use on a car;
 3. using a motor vehicle registration or driver's license other than the one issued by the commissioner or using a registration on any vehicle other than the one for which it was issued;
 4. operating a motor vehicle while its registration or the operator's license has been suspended or revoked;
 5. evading responsibility following an accident;
 6. reckless driving;
 7. using a motor vehicle without the owner's permission; or
 8. interfering or tampering with a motor vehicle.

BACKGROUND

Suspension of Driver's License

By law, courts must send a report to the motor vehicle commissioner whenever someone willfully fails to appear for any scheduled court appearance for a motor vehicle violation. The law does not require the commissioner to suspend the licenses of people who are the subject of such a report, but he routinely does so under CGS § 14-111, which appears to give him the authority to suspend a license for any cause he deems sufficient.

Suspension under this provision appears to be for an indefinite period. Under current practice, the commissioner rescinds the suspension when the driver provides satisfactory evidence that he has appeared in court and resolved the matter. Also under current practice, before the suspension goes into effect, the commissioner gives the driver notice that he has four weeks to appear in court and reopen the matter, and provide evidence to him that he has done so.

Related Act

PA 03-278 (§ 131) expands the coverage of this act to include people whose license was suspended because they were charged with an

infraction and failed to pay the fine or send in their not guilty plea.

PA 03-238—sHB 6573

Judiciary Committee

AN ACT CONCERNING THE VALIDATION OF CERTAIN MARRIAGES

SUMMARY: This act validates all marriages performed between June 3, 2002 and July 9, 2003 that would have been valid except that they were (1) not performed in the town that issued the marriage license or (2) performed by a justice of the peace who represented himself as duly qualified but did not have a valid certificate of qualification, if the couple being married reasonably relied on the representation.

The act also validates all marriages performed between January 1, 2001 and July 9, 2003 that would have been valid except that they were performed by a justice of the peace who represented himself as duly qualified but whose term of office had expired, if the couple being married reasonably relied on the representation.

EFFECTIVE DATE: Upon passage

PA 03-242—sHB 5022

Judiciary Committee

Appropriations Committee

Public Safety Committee

AN ACT CONCERNING THE COLLECTION OF DNA SAMPLES FROM PERSONS CONVICTED OF A FELONY, THE PRESERVATION AND TESTING OF DNA EVIDENCE AND THE REVIEW OF WRONGFUL CONVICTIONS

SUMMARY: This act expands the crimes for which DNA testing can be ordered, enlarging the Department of Public Safety's (DPS) forensic DNA data bank. It requires (1) people convicted of felonies, or found not guilty of these crimes because of a mental disease or defect, to submit to DNA testing when directed to do so by the state official holding or supervising them, and (2) inclusion of their genetic profiles in the data bank. Prior law required testing only of those required to register as sex offenders.

It also sets a minimum length of time police or other entities working for them must preserve biological evidence they acquire while investigating a crime, and establishes a

procedure for incarcerated offenders to get a court order for DNA testing of this evidence. The purpose of the testing is to give prisoners access to evidence that could demonstrate their innocence.

The act establishes the DNA Oversight Panel and directs it to take necessary actions to assure the data bank's integrity, including destroying inappropriately obtained samples and purging identifiable information about the people from whom they were taken.

It also directs the chief court administrator to establish an advisory commission to review wrongful criminal or juvenile convictions. This commission may recommend reforms to lessen the likelihood of similar wrongful convictions in the future.

EFFECTIVE DATE: October 1, 2003

EXPANDED DNA TESTING

Prior law required people convicted, or acquitted because of insanity, of crimes requiring sex offender registration (specified crimes against minors, nonviolent sexual offenses, crimes committed for a sexual purpose, and sexually violent offenses) to submit blood samples to DPS for analysis and inclusion in its DNA data bank. The act adds people convicted or acquitted because of insanity of any felony.

It also allows medical and non-medical personnel to take biological samples other than blood (such as saliva) for use in the DNA tests, and specifies that they are not liable for negligence when they do so.

The act eliminates a requirement that DPS start the testing within 45 days of receiving a sample. But it adds a requirement that that the department provide, on request, a copy of the DNA profile to any offender required to submit to testing.

AGENCY RESPONSIBILITY FOR TESTING

By law, samples for DNA testing must be taken before the offender is released from custody. The act specifies that an offender must submit his sample, prior to release, at such time as the entity releasing him may specify. Depending on the circumstances of the particular case, these entities may be the: (1) sentencing court; (2) correction, mental health and addiction services, or mental retardation commissioner; or (3) psychiatric hospital superintendent.

The act also gives the same authority to the Judicial Department's Court Support Services Division and Parole Board for probationers and parolees, respectively, currently under their supervision.

POST-CONVICTION DNA TESTING

The act creates a procedure for post-conviction testing that permits any person convicted of a crime and sentenced to jail to file a petition with the sentencing court requesting DNA testing of evidence that is in the possession or control of the Division of Criminal Justice, a law enforcement agency or laboratory, or the Superior Court. The petitioner must state under penalties of perjury that the testing is related to the investigation or prosecution that led to his conviction and that the evidence sought to be tested contains biological evidence.

The court must notify the prosecutor and hold a hearing. It must allow the testing if it finds that:

1. a reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results (evidence raising doubt about the defendant's guilt) had been obtained through DNA testing;
2. the evidence still exists and can be tested;
3. the evidence, or a specific portion of the evidence identified by the petitioner, was never previously subjected to DNA testing, or the testing requested by the petitioner may resolve an issue that was not resolved by previous testing; and
4. the petition was filed in order to demonstrate the petitioner's innocence and not to delay the administration of justice.

The court may order testing if it finds criteria 2, 3, and 4 above, and that a reasonable probability exists that the testing will produce DNA results which would have altered the verdict or reduced the petitioner's sentence.

Legal Representation and Test Costs

The act gives a prisoner seeking DNA testing the right to be represented by counsel and to have a court-appointed lawyer if he cannot afford one. It allows the court, in the interest of justice, to order either the prisoner or the state to pay for the test. But judges cannot deny a petition because of a prisoner's inability to pay.

RETENTION OF BIOLOGICAL EVIDENCE

The act requires state and local police departments, their agents, and anyone to whom they have transferred biological evidence acquired during the course of a criminal investigation to preserve the evidence when (1) a person is convicted of a capital felony, (2) a person is tried and convicted of any other crime, or (3) the court orders it upon a finding of good cause. They must keep the evidence for the convicted person's incarceration term.

The act permits these entities to apply to the court in which the offender's case was prosecuted for permission to destroy the evidence. The court must grant the application, after notifying all defendants charged in connection with the prosecution and holding a hearing, if it finds either (1) that the Connecticut Supreme Court has decided the defendant's appeal and the defendant does not seek further preservation of the evidence or (2) good cause.

WRONGFUL CONVICTION ADVISORY COMMISSION

The wrongful conviction advisory commission which the act directs the chief court administrator to establish is comprised of: (1) the chief state's attorney, the chief public defender, and the victim advocate, or their designees; (2) one representative each from the Connecticut Police Chiefs and Connecticut Bar associations; and (3) representatives from one or more Connecticut law schools and colleges with criminal justice and forensic science programs.

The act authorizes the commission to investigate and determine the cause of wrongful convictions. Investigations must include:

1. an examination of the nature and circumstances of the crime;
2. the background, character, and history of the defendant; and
3. the manner in which the investigation, evidence, collection, prosecution, defense, and trial of the case was conducted.

The commission has access to all police, court, and prosecutor's records pertaining to the case, but may not disclose them further. The commission must report its findings and any recommendations for reforms to lessen the likelihood of similar wrongful convictions occurring in the future. Reports go to the Judiciary Committee, the chief court administrator, chief state's attorney, chief public

defender, public safety commissioner, police chief of any local department involved in the investigation of the case, and other interested persons the commission deems appropriate.

DNA DATA BANK OVERSIGHT PANEL

The act creates a four member oversight panel comprised of the following officials or their designees: (1) the chief state's attorney (as the act designates him as panel chairperson, it appears that a designee cannot serve in his place), (2) the attorney general, and (3) the public safety and correction commissioners. The chairperson must coordinate the agencies responsible for the implementation and maintenance of the DNA data bank and keep records of its quarterly meetings.

The panel must take necessary actions to assure the integrity of the data bank, including destroying inappropriately obtained samples and purging all records and identifiable information about the persons from whom these samples were obtained.

BACKGROUND

DNA Data Bank

The laboratory records identifying characteristics of the person's DNA profile in its data bank. It also keeps secure, confidential records on how it handled the sample and a report of its analysis. It may keep a portion of the sample after testing, but may use it only to create a statistical data bank with no individually identifiable information or for retesting to confirm the original results.

It must make analysis results and data bank matches available to federal, state, and local law enforcement officers who provide a sample and ask for a data bank search. The laboratory must verify the requestor's identity and confirm that the request is made as part of an official criminal investigation. It cannot disclose the existence of data in its bank or identifying information, unless the requestor's sample matches a profile in the data bank. Anyone identified and charged with an offense as a result of a data bank search must get a copy of the law enforcement agency's search request if he asks for it.

DNA data bank profiles can be expunged when a person's case is dismissed or the conviction reversed. The affected person must make a written request and provide a certified

copy of the court order reversing or dismissing the case. The laboratory must then purge its records and destroy the sample.

Penalties for Improper Use of DNA Samples or Information

It is a class D felony (see Table on Penalties) for someone without legal authority to obtain, or try to obtain, a DNA sample from the laboratory for the purpose of having a DNA analysis performed.

It is a class A misdemeanor to knowingly disseminate, receive, or use DNA data bank information for a purpose not authorized by law.

PA 03-255—sHB 6475

Judiciary Committee

Human Services Committee

Government Administration and Elections Committee

Appropriations Committee

**AN ACT ADOPTING THE INTERSTATE
COMPACT FOR JUVENILES**

SUMMARY: This act adopts the Interstate Compact for Juveniles, which will replace the existing compact and enabling legislation on the later of July 1, 2004 or when 35 states and other jurisdictions (including Puerto Rico, Washington, D.C., and all U.S. territories) adopt it. Under the act, a juvenile is anyone a state defines as such, including (1) accused and adjudicated delinquents and status offenders and (2) non-offenders found to be in need of supervision.

The compact's primary purpose is to ensure that such juveniles are adequately supervised and given access to services when they relocate in other states. The act establishes the Interstate Commission for Juveniles to administer and enforce the compact and authorizes this body to make rules and adopt bylaws to accomplish the act's purposes. It permits the commission to hire staff to carry out its functions, and gives it specific authority to sanction non-compliant states. The existing compact does not provide for administrative staff or have an enforcement mechanism.

The commission's rules must address its operating authority and composition, compact states' mutual rights and responsibilities, enforcement of compact provisions, and monetary assessments to fund the commission's operations. These rules have the force of law in

all compact states. The act requires compact states to set up state councils to advise and provide oversight at the state level.

Once adopted by the 35 states, the compact remains binding until all but one either repeal their enacting legislation or have their membership terminated for not complying with the compact.

The existing Interstate Compact on Juveniles, which Connecticut adopted in 1957, imposes statutory requirements, procedures, and court and agency standards on participating states when they send juveniles to other states or seek the return of juvenile runaways or escapees ("sending states") and those to which such children have relocated ("receiving states"). The act eliminates these statutes, instead authorizing the commission to regulate these activities.

The act contains severability provisions that allow portions to remain in effect if others are found unlawful or unconstitutional. It also declares ineffective a compact provision in any state where the provision exceeds the state legislature's constitutional authority to delegate powers to other entities. It specifies that if this occurs, the state agency that had jurisdiction and control over the activity at the time the compact took effect retains these powers.

The act also makes conforming changes, eliminating statutory references to the existing compact and its activities. As under the existing compact, the Department of Children and Families commissioner, or her designee, is responsible for administering the compact in Connecticut.

EFFECTIVE DATE: July 1, 2004 or upon enactment of the compact by 35 jurisdictions, whichever is later.

PURPOSE OF COMPACT

The compact's purpose is, through joint and cooperative action among compact states, to:

1. ensure that juvenile delinquents and status offenders (youngsters charged with offenses that would not be crimes if committed by adults) covered by the compact get adequate supervision and services in receiving states in accordance with orders issued by a judge or parole authority in the sending state;
2. ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately

- protected;
3. return to a requesting state juveniles who have run away, absconded or escaped from supervision or control, or have been accused of an offense in that state;
 4. contract with one another to provide institutional care for delinquent youth in need of special services;
 5. effectively track and supervise juveniles;
 6. equitably allocate costs, benefits, and obligations among compact states;
 7. establish procedures to manage the movement between states of juvenile offenders released into the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency that has jurisdiction over juvenile offenders;
 8. ensure immediate notice to receiving states when a sending state permits a juvenile offender to travel or relocate there;
 9. establish procedures to resolve pending charges from other states (detainers) against juvenile offenders before they are transferred or released into the community;
 10. establish a uniform data collection system for information about juveniles subject to the compact to which authorized juvenile and criminal justice officials have access, and regularly report on compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;
 11. monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;
 12. coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activities; and
 13. coordinate the compact's implementation and operation with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting juveniles, particularly in cases where concurrent or overlapping supervision issues arise.

The act directs that compact provisions be liberally construed to accomplish its purposes.

CREATION OF INTERSTATE COMMISSION FOR JUVENILES

The act establishes the Interstate Commission for Juveniles as a corporate body and joint agency of the compact states. It specifies that the commission's activities form compact states' public policies and constitute public business. Participating states must observe their individual and collective duties to promptly accept or return juveniles covered by the compact.

The act directs the commission to oversee the administration and operations of the interstate movement of juveniles subject to the compact in the compact states. It must also monitor similar activities in other states if they may significantly affect compact states.

Courts and executive agencies in each compact state must enforce the compact and take all actions needed to effectuate its purposes and intent. All judges, public officers, commissions, and state departments must take judicial notice (i.e., accept without requiring further evidence) of the compact's provisions and rules. Complaints and other pleadings must be served on the commission in any judicial or administrative proceeding in a compact state that pertains to the compact's subject matter and may affect the commission's powers, responsibilities, or actions. In such cases, the act gives the commission standing to intervene in the proceeding for all purposes.

COMMISSION'S POWERS AND DUTIES

The act gives the commission authority to:

1. resolve disputes among compact states;
2. make rules, which have the force and effect of statutory law and are binding on the compact states to the extent and in the manner the compact provides;
3. oversee, supervise, and coordinate the interstate movement of juveniles subject to the compact's terms and any bylaws and rules the commission adopts;
4. enforce the compact and commission's rules and bylaws, using all means necessary, including court enforcement procedures;
5. establish and maintain offices;
6. purchase and maintain insurance and bonds;
7. borrow, accept, hire, or contract for personnel services;

8. establish and appoint committees and hire staff;
9. elect or appoint officers, attorneys, employees, agents, or consultants and set their salaries, define their duties, and determine their qualifications, and establish personnel policies and programs relating to conflicts of interest, pay rates, and job qualifications;
10. accept and use donations and grants of money, equipment, supplies, material, and services;
11. lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any property, whether real, personal, or mixed;
12. sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of property;
13. establish a budget, make expenditures, and levy dues (which appear to be called "assessments" in other parts of the act);
14. sue and be sued;
15. adopt a seal and bylaws governing the commission's management and operation;
16. perform necessary and appropriate functions to achieve the compact's purposes;
17. report annually to the legislatures, governors, judiciary, and state councils of the compact states on its activities, including any recommendations it adopted during that year;
18. coordinate education, training, and public awareness of the interstate movement of juveniles for officials involved in such activities;
19. establish, by rule, uniform standards for reporting, collecting, and exchanging data that reasonably conform with current technology and coordinate its information functions with other record keepers;
20. maintain its corporate books and records in accordance with its bylaws; and
21. propose, for legislative enactment in compact states, amendments that take effect and are binding only after they are unanimously enacted by all of the compact states.

COMMISSION ORGANIZATION AND COMPOSITION

Membership

The commission consists of commissioners that each participating state appoints under its own rules and in consultation with its State Council for Interstate Juvenile Supervision, which the compact also creates (see below). Commissioners are the states' voting representatives and must be either their state's compact administrator, deputy compact administrator, or a designee who serves on the commission pursuant to his state's law.

The act requires the commission also to include members who are not commissioners, including members representing national organizations of (1) governors; (2) legislators; (3) state chief justices; (4) attorneys general; (5) Adult Offender Supervision and Child Placement compact, juvenile justice, and juvenile correction officials; and (6) crime victims. These members cannot vote. The commission's bylaws may provide for more nonvoting members, including members of other national organizations.

The commission must elect annually, by majority vote, a chairperson and vice-chairperson whose duties are specified in the bylaws. These officers serve without pay, but the commission must reimburse them for ordinary and necessary expenses associated with their duties if funds are available. The chairperson presides at all commission meetings. If he is absent or disabled, the vice-chairperson presides.

Executive Committee

The act requires the commission to establish an executive committee. The committee must include commission officers, members, and others specified in commission bylaws. The committee can act on behalf of the commission when it is not in session, but cannot make rules or amend the compact. It must (1) oversee routine compact administration that the commission's executive director and his staff manage, (2) administer enforcement and compliance with the compact and its bylaws and rules, and (3) perform other functions as directed by the commission or specified in its bylaws.

Staff

Under the act, the executive committee must appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission deems appropriate. The executive director serves as commission secretary, but cannot be a commission member. He must hire and supervise other staff as authorized by the commission.

Protections for Commission Staff & Others

The act gives the commission's executive director and employees immunity from suit and liability, either personally or in their official capacity, for any claim for property damage or loss, personal injury, or other civil liability arising out of any actual or alleged act, error, or omission that occurred, or that a person had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. The act exempts from immunity suits arising from their intentional or willful and wanton misconduct.

The act also caps liability of any commissioner or his employee or agent, acting within the scope of his employment or duties for acts, errors, or omissions occurring in that person's state at the limits that state's law places on state officials, employees, and agents. It exempts from the caps liability for intentional or willful and wanton misconduct.

The act requires the commission to defend the executive director and commission representatives (who are not further described in the act) and employees, presumably in any civil, criminal, or administrative proceeding brought against them. It must also defend commissioners and their representatives or employees if the attorney general of the state the commissioner represents approves this when the civil suit arises from their official acts.

The commission must also indemnify these entities for the amount of any settlement or judgment obtained against them in suits or other claims arising out of the performance of their official duties, so long as their misconduct was not intentional or willful and wanton.

COMMISSION BYLAWS

The commission must adopt bylaws to effect the compact's purposes within 12 months after its first meeting. A majority of the members

present and voting must approve them. The bylaws must include provisions establishing:

1. the commission's fiscal year;
2. an executive and other committees;
3. committees governing any general or specific delegation of any authority or function of the commission;
4. reasonable procedures for calling and conducting commission meetings, and ensuring reasonable notice of each meeting;
5. a mechanism for concluding the commission's operations and returning any surplus funds when the compact terminates and has paid or reserved all of its debts and obligations;
6. start-up rules for initial administration of the compact;
7. standards and procedures for compliance and technical assistance in carrying out the compact; and
8. titles and responsibilities of commission officers. (Other provisions in the act confer duties on the commission's chair- and vice-chairperson and secretary.)

The bylaws must also establish conditions and procedures for disclosing the commission's official records and information. They may exempt any information or public records if disclosure would adversely affect personal privacy rights or proprietary interests.

COMMISSION RULES

Regular Rules

The commission must adopt and publish its rules. It must follow procedures that substantially conform to the 1981 version of the Model State Administrative Procedures Act, or another administrative procedures act the commission deems appropriate as long as it satisfies constitutional due process requirements. All rules and amendments become binding on the date specified in their final, published version approved by the commission. The public must get notice of all meetings and be permitted to attend them unless a commission rule or compact provision provides otherwise.

When promulgating a rule, the commission must, at a minimum: (1) publish the proposed rule's entire text stating the reason or reasons for the rule; (2) allow and invite anyone to submit written data, facts, opinions, and arguments, which become part of its public record; (3) hold

an informal hearing if at least 10 people ask for one; and (4) base its final rule and effective date, if appropriate, on input from state or local officials or interested parties.

The commission's procedures must give any interested person 60 days after a rule is promulgated to file a petition for judicial review of it. Suits must be filed in the federal district court for the District of Columbia or in the federal district court where the commission's principal office is located. The court must set aside rules that are not supported by substantial evidence in the rulemaking record. The act specifies that the standard for deciding whether evidence is substantial is the same as under the Model State Administrative Procedures Act.

Emergency Rules

The act authorizes the commission to promulgate rules that take effect immediately when it determines that a state of emergency exists. It must follow the usual rulemaking procedures and apply them retroactively as soon as reasonably possible, but no later than 90 days after the emergency rule's effective date.

Other Rules

The act also gives the commission's organizational, procedural, or practice requirements the force of law in compact states. It does not require that the commission adopt these requirements in accordance with the procedures described above.

Legislative Rejection of Commission Rules

The act specifies that compact states can overrule commission rules. To do this, a majority of their legislatures must enact legislation rejecting the rule. They must follow the same legislative procedures that they used to adopt the compact. When this occurs, the commission cannot enforce the rule in any compact state.

Existing rules governing the operation of the Interstate Compact on Juveniles become null and void 12 months after the commission's first meeting.

COMMISSION OPERATIONS

Meetings

The commission must meet at least once a year. Its chairperson may call more meetings, and must do so if a majority of compact states asks. The commission's bylaws may authorize members to participate in meetings by telephone or other electronic means.

Voting. The act gives each compact state one vote at commission meetings. A majority of the compact states must be present to transact business, unless the compact's bylaws require a larger quorum.

Members must vote in person and cannot delegate a vote to another compact state. A state commissioner who does not attend a meeting must appoint an authorized representative to vote on his behalf. He must do this in consultation with his state council.

Public Participation. The public must get notice of all meetings and be permitted to attend them unless a commission rule or compact provision provides otherwise. The public can be excluded from meetings if the commission or one of its committees determines, by two-thirds vote, that an open meeting would be likely to:

1. relate solely to the commission's internal personnel practices and procedures;
 2. disclose matters specifically exempted from disclosure by statute;
 3. disclose trade secrets or privileged or confidential commercial or financial information;
 4. involve accusing anyone of a crime or formally censuring anyone;
 5. disclose personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 6. disclose investigative records compiled for law enforcement purposes;
 7. disclose information about a regulated person or entity contained in or related to examination, operating, or condition reports prepared by, for, or for the use of, the commission for the purpose of regulating or supervising such person or entity;
 8. prematurely disclose information, which would significantly endanger the stability of a regulated person or entity;
- or

9. specifically relate to the commission's issuance of a subpoena or its participation in a civil action or other legal proceeding.

Whenever a meeting is closed for one of these reasons, the act requires the commission's legal counsel to publicly certify that, in his opinion, the meeting may be closed and the specific compact provision permitting this. The commission must keep minutes that fully and clearly describe what was discussed; actions taken and the reasons, including a description of each of the views expressed; and the record of any roll call vote. The minutes must also identify all documents considered in connection with any action taken.

Commission Funding, Expenditures, and Audits

The act requires the commission to pay the reasonable expenses of its establishment, organization, and ongoing activities. It must collect an annual assessment from each compact state to cover its internal operations, activities, and staffing costs as set forth in its yearly budget. It must adopt a rule allocating the aggregate annual assessment amount among compact states using a formula that considers each state's population and the volume of its interstate cases.

The commission cannot incur any obligations of any kind until it has adequate means to pay for them. It cannot pledge the credit of any compact state, unless that state authorizes this.

The act requires the commission to keep accurate accounts of all receipts and disbursements. Its financial records are subject to audit and accounting procedures that must be established under its bylaws. A certified or licensed public accountant must also audit these records every year. The auditor's report must be included in the commission's annual report.

Dispute Resolution

The act requires states to report to the commission on all issues and activities needed to administer the compact as well as those pertaining to compliance with it and the commission's bylaws and rules.

The commission must attempt to resolve any disputes or other issues subject to the compact if a compact state requests this. Its rules must provide for both mediation and binding dispute resolution for disputes arising among the

compact states. It must also attempt to resolve any disputes or other issues that are subject to the compact involving compact and non-compact states.

THE STATE COUNCIL

The act requires each compact state to create a state council for interstate juvenile supervision. Each state may determine the membership of its own state council, but it must include at least one representative from victim's groups and each branch of government and either the compact administrator, deputy administrator, or a designee. States retain the right to determine the administrator and deputy administrator's qualifications.

The state council advises and may oversee or advocate for the state's participation in commission activities. The state may give the council other duties, including developing policy for the state's compact operations and procedures.

JOINING THE COMPACT

The act makes the compact effective and binding when enacted by legislatures in at least 35 states or July 1, 2004, whichever is later. After it becomes effective, more states can join by enacting the compact into law. The compact becomes binding on them when their enabling act becomes law.

Under the act, governors of states that have not joined the compact, or their designees, can participate in commission activities on a non-voting basis until their states join the compact.

WITHDRAWING FROM THE COMPACT

States that have joined the compact are bound by its terms unless they repeal the statute that enacted the compact. The effective date of the repeal is the effective date of their withdrawal from the compact. A withdrawing state must immediately give the commission's chairperson written notice when its legislature introduces an act to repeal the compact. The commission must notify the other compact states within 60 days of receiving this notice.

The withdrawing state is responsible for all assessments, obligations, and liabilities it incurred up to the date of withdrawal, including obligations to perform activities that extend beyond the effective date of withdrawal.

States that withdraw from the compact may rejoin by reenacting the compact or at a later date as determined by the commission.

SUSPENSION OR TERMINATION FROM THE COMPACT

If the commission determines that any compact state has failed to perform any of its obligations under the compact, its bylaws, or rules, it may impose: (1) remedial training and technical assistance; (2) alternative dispute resolution; (3) fines, fees, and costs in amounts the commission deems reasonable; or (4) suspension or termination of compact membership.

The commission can find a state in default for (1) failing to perform duties imposed by the compact or the commission's bylaws or rules, (2) other grounds designated in its bylaws and rules, and (3) other unspecified reasons. It must give a defaulting state immediate written notice of its penalty and the deadline for curing the default. If the state does not meet the deadline, a majority of the compact states may vote to terminate its compact membership. All rights, privileges, and benefits end on the effective date of the termination.

The act specifies that suspension or membership termination cannot occur until all other reasonable means of securing compliance have been exhausted and the commission has determined that the offending state is in default. The commission must immediately notify a suspended state's governor, chief judicial officer, legislative majority and minority leaders, and the state council of its action. It must give the same officials notice within 60 days of its decision to terminate a state's membership for noncompliance.

Under the act, defaulting states are responsible for all assessments, obligations, and liabilities incurred up to the effective date of termination, including any obligations that were to be performed after the date of termination. It specifies that the commission does not bear any costs relating to defaulting states unless both entities agree to this in writing.

States that have been terminated can rejoin the compact by reenacting the compact and getting the commission's approval under its rules.

COURT ENFORCEMENT

The act authorizes the commission to file enforcement actions against defaulting states in the U.S. District Court for the District of Columbia if a majority of compact members vote to do so. The act also gives the commission the discretion to file the suit in the federal district where the commission's offices are located instead. The act specifies that the prevailing party in an enforcement action is entitled to its litigation costs and reasonable attorneys fees.

DISSOLVING THE COMPACT

Under the act, the compact dissolves when only one state remains a member. When this occurs, it becomes null and void and has no further force or effect. The commission must then conclude its affairs and distribute any surplus funds in accordance with its bylaws.

SEVERABILITY OF COMPACT PROVISIONS

The act specifies that its provisions are severable. If any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions remain in force.

BINDING EFFECT OF COMPACT

The act specifies that all of the commission's lawful actions, including its rules and bylaws, are binding on compact states. It makes agreements between the commission and such states binding in accordance with their terms.

The act also specifies that it does not prevent the enforcement of compact states' laws that are not inconsistent with it. But the compact supercedes all their conflicting laws, except state constitutions and other interstate compacts.

The act permits parties who disagree about the meaning or interpretation of the commission's actions to ask the commission to issue an advisory opinion on the issue in dispute. The commission may issue such opinions upon a majority vote of compact states.

PA 03-257—sHB 6567

Judiciary Committee

Appropriations Committee

Human Services Committee

**AN ACT CONCERNING YOUTHS IN
CRISIS AND THE AGE OF A CHILD FOR
PURPOSES OF JURISDICTION IN
JUVENILE MATTERS**

SUMMARY: This act:

1. modifies police responsibilities for responding to parents' reports about youth in crisis (YIC) and the Superior Court's tools for dealing with them;
2. requires the probate court administrator to: (a) establish a pilot program, funds permitting, in which the Middletown Probate Court will exercise jurisdiction over YICs who are not truants and (b) report to the Judiciary and Children's committees on its effectiveness by January 1, 2005; and
3. requires Judicial and Executive branch officials to review changes that would be needed, including funding, to raise the Juvenile Court's jurisdiction to age 17 or 18.

EFFECTIVE DATE: October 1, 2003, except the provisions concerning the expansion of Juvenile Court jurisdiction, which is effective upon passage.

YOUTH IN CRISIS

Locating and Reporting on YICs

By law, YICs are 16- and 17-year olds who (1) run away from home or some other residence without cause; (2) are beyond their parent's, guardian's, or other custodian's control; or (3) are habitual truants. The act narrows to runaways the type of YIC for whom the police have responsibilities. But it requires, rather than allows, the police to try to locate such youths when a parent or guardian reports them missing. And, if the police locate the youth, the act requires them to tell the parent or guardian where he is; prior law allowed them to do so. But the law continues to give police discretion not to report to parents if they determine doing so would place the youth in physical or emotional harm.

Police Options for Dealing with Runaways

The act requires police to respond in one of six ways when they locate a runaway, besides notifying parents. It eliminates provisions in prior law setting optional actions. Police can:

1. bring the youth home or to the home of a suitable and worthy adult (under prior law they could bring him to anyone's home);
2. refer the youth to the local probate court, if the judge is willing to accept the referral;
3. hold the youth for up to 12 hours or, during this period, release him to his parent or guardian if doing so would not place him in physical or emotional harm (the act eliminates a previous option that let the police release the youth on his own);
4. bring the youth to a public or private agency that serves this population;
5. refer him to a youth service bureau if one serves the community; or
6. if all other options fail, refer the youth to Juvenile Court (under prior law this option was not the last resort).

The act requires the Police Officer Standards and Training Council to develop a uniform protocol that local and state police must use in intervening and providing assistance in YIC matters.

Juvenile Court Authority

The act allows the court to (1) refer the YIC to a youth service bureau if one serves the community and (2) review the option of allowing either the youth or his parents or guardian to seek emancipation. And it allows the court to issue an order directing the motor vehicles commissioner to suspend the youth's driver's license for up to one year. Under prior law, the court could order the youth not to drive. By law, the court can also order the youth to work or perform community service, attend school or some other educational program, and obtain mental health services.

**STUDY AND REPORT ON RAISING AGE
LIMITS IN JUVENILE COURT**

The act creates a seven-person implementation team to review all matters necessary to implement an increase in the age limit for juvenile court jurisdiction by not more than two years (i.e., from age 15 to age 16 or 17).

The team consists of the chief court administrator, children and families and correction commissioners, chief state's attorney, chief public defender, child advocate, and the executive director of the Commission on Children, or their designees. It must submit a report to the Judiciary and Children's committees by January 15, 2004 containing its findings, any impediments, and recommendations for implementing the age increase.

PA 03-265—sHB 6698

Judiciary Committee

Appropriations Committee

**AN ACT CONCERNING THE
DEPARTMENT OF MOTOR VEHICLES,
DRUNKEN DRIVING AND THE
LICENSING OF SIXTEEN AND
SEVENTEEN YEAR OLD MOTOR
VEHICLE OPERATORS**

SUMMARY: This act allows a court to order anyone arrested for certain alcohol-related motor vehicle violations to operate a motor vehicle only if it is equipped with an ignition interlock or immobilization device. (An interlock device keeps the vehicle from being operated by a person whose blood alcohol content (BAC) is .025% or above.) The court can issue the order for an indefinite period as a condition of granting bail or an application to participate in a pretrial alcohol education program. The act (1) requires the offender to bear the cost of installing and maintaining the device, (2) makes it a crime to attempt to circumvent the ignition or vehicle immobilization requirements, and (3) subjects violators to a one-year license suspension in addition to the criminal penalties. The public safety and Department of Motor Vehicle (DMV) commissioners must adopt regulations for approving the devices.

It also appears to require, although it may allow, a court to substitute an ignition interlock order for two years of the three-year mandatory license suspension for someone convicted of driving under the influence of alcohol for the second time within 10 years.

The act also requires, rather than allows, a blood or breath test to be conducted on a driver who survives an accident resulting in death or serious injury if the police have probable cause to believe the person was driving under the influence of alcohol or drugs (DWI). (The law

already requires a blood test of anyone killed in a vehicle accident.) The act requires that tests for fatally injured drivers or pedestrians and surviving operators, to the extent that the act authorizes testing, be capable of showing the presence of any drug as well as alcohol.

It requires someone convicted of DWI for the first time, rather than only for a second or subsequent conviction, to satisfactorily complete a DMV-approved mandatory treatment program before his driver's license can be reinstated. The program must include an assessment of the degree of alcohol abuse and treatment.

The act eliminates an extra \$15 DMV fee for personal information from a registration file and clarifies who may be given personal information from DMV license and registration files for an investigation in anticipation of litigation.

It requires insurance companies and self-insurers who offer to sell in Connecticut a vehicle they have acquired in a total loss settlement to attach to the salvage title certificate a copy of the appraiser's damage report for the vehicle. It makes related changes to requirements for salvage titles and expands the definition of a passenger motor vehicle.

The act narrows the types of officials who may take custody of certain motor vehicles or their major component parts when the identification numbers are altered, removed, or mutilated. It establishes a separate seized property disposal procedure for DMV to follow when the vehicle or part comes from a DMV-licensed business, including a vehicle auction or tow truck operator. It also allows a municipality to waive the hearing requirement for a motor vehicle dealer or repairer certificate of location approval if (1) it previously approved the location on a prior application or (2) a previously approved location is being enlarged to include an adjoining or adjacent property.

The act authorizes the DMV commissioner to issue two new types of special license plates promoting childhood cancer awareness and wildlife conservation and establishes mechanisms for collecting, accounting for, and spending the revenue raised from the plates on activities related to these causes.

The act also (1) creates an 11-member task force to study the use and display of flashing, revolving, and other nonstandard lighting equipment on motor vehicles; (2) changes several memorial names contained in PA 03-115; and (3) makes two changes to PA 03-171, which modifies the requirements for 16- and 17- year olds driving under learners' permits and restricts

their driving for specific time periods following receipt of their drivers' licenses.

EFFECTIVE DATE: October 1, 2003, except the provisions on 16- and 17-year old drivers' licenses and memorial names are effective upon passage; the provision on who may obtain DMV information and the light task force are effective July 1, 2003; and the salvage title provision on January 1, 2004.

IGNITION INTERLOCK AND IMMOBILIZATION DEVICE

Definitions

The act defines an "ignition interlock device" as a device installed on a motor vehicle that measures the blood alcohol content (BAC) of the operator and prevents operation of the vehicle until the operator's BAC is less than .025%. An "immobilization device" is a device installed on a motor vehicle that physically or mechanically prevents the vehicle from being operated.

Court Order

The act allows the court to order anyone arrested for DWI, 2nd degree manslaughter with a motor vehicle, or 2nd degree assault with a motor vehicle to operate a motor vehicle only if it is equipped with an ignition interlock device. The court can, after a hearing, also issue an order requiring installation of an immobilization device on any vehicle the person owns, leases, or has the right to operate. The order may be made a condition of bail or participation in the pretrial alcohol education program. It may include any use and proof-of-installation terms and conditions the court deems appropriate, and the duration of the order can be for whatever period of time the court sets.

Regulations

The act requires the public safety commissioner to adopt regulations for the approval of ignition interlock devices and their proper calibration. The DMV commissioner must adopt regulations for the approval of immobilization devices. The act prohibits installing any of the devices pursuant to a court order unless it has been approved subject to these regulations.

DMV Notification

The act specifies that these provisions must not be construed to authorize vehicle operation by anyone who does not hold a license or whose license has been refused, suspended, or revoked. The court must inform the DMV commissioner of any order it makes. If an interlock is ordered for anyone who holds a special "employment only" driving permit, strict compliance with the court order must be a condition for continuing to hold the permit. Failure to comply is grounds for immediate permit revocation.

Interlock and Immobilization Device Offenses

The act makes it a class C misdemeanor (see Table on Penalties) for a person subject to an order to:

1. ask someone to blow into the interlock device or start a motor vehicle equipped with such a device in order to provide the subject of the order with an operable vehicle or
2. operate any vehicle not equipped with a functioning interlock device or any vehicle the court has ordered the person not to operate.

The act also makes it a class C misdemeanor for anyone to tamper with, alter, or bypass an ignition interlock or immobilization device for the purpose of providing someone subject to an order with an operable vehicle.

These crimes potentially apply to someone subject to a post-arrest order. They do not apply to a person sentenced for a second DWI conviction.

In addition to the criminal penalties, the act requires the court to report anyone convicted of these offenses to the DMV commissioner, who must suspend the person's operator's license for one year.

SECOND DWI OFFENSE

Under prior law, when a person was convicted of a second DWI violation within 10 years of the first, among other penalties, his driver's license or nonresident operating privilege had to be suspended for three years or until he reached age 21, whichever was longer. In cases where the DWI conviction was for alcohol rather than drugs, the act appears to require the court instead to suspend the license for one year followed by a two-year ignition interlock order prohibiting the person from operating a vehicle that is not equipped with the

device. Drug-related second DWI convictions continue to require a three-year suspension. However, the language of the act is somewhat ambiguous, and in alcohol-related DWI cases it may allow the court to choose between the three-year license suspension or the one-year suspension followed by the two-year ignition interlock order.

BLOOD OR BREATH TESTS FOLLOWING ACCIDENTS

By law, as part of the investigation of any motor vehicle accident resulting in a death, the chief medical examiner or other pathologist must order a blood sample taken from any deceased driver or pedestrian and examine it for the presence of alcohol. In addition, under the prior statute, to the extent allowed by law, a blood or breath sample could be taken from any surviving vehicle operator and tested for alcohol. The act requires that such a blood or breath test be taken from any surviving operator when (1) the accident resulted in serious physical injury or death and (2) the police have probable cause to believe the operator was under the influence. A serious physical injury is one that creates a substantial risk of death or causes serious disfigurement, serious impairment of health, or serious loss or impairment of the function of a body organ. The act also requires that both tests examine for the presence of any drug, as well as alcohol. (Since evidentiary breath tests cannot reliably detect the presence of drugs, the act, in effect, requires blood tests of surviving operators.)

DMV DISCLOSURE OF PERSONAL INFORMATION

Under prior law, someone who requested a person's name and address from the DMV registration or registration application file was supposed to pay a \$15 fee in addition to the fee required for the information itself. This act eliminates this \$15 fee, thus conforming the law to DMV policy. DMV has not collected the \$15 fee since 1997 when the legislature eliminated the requirement for DMV to notify the subject of the request.

The act makes it clear that DMV may disclose personal information only for the statutorily authorized purpose of an investigation in anticipation of litigation when the requestor is an attorney or someone acting on his behalf. By law, the requestor must fill out an application

with his name and address and provide two forms of acceptable identification. An attorney may provide his juris number instead of the required two forms of identification.

The act also revises and updates several technical references to various federal laws for which disclosure of personal information from DMV files is authorized for purposes of compliance.

SALVAGE VEHICLE DOCUMENTATION

The act requires insurance companies and self-insurers that offer, either themselves or through an agent, to sell in Connecticut a titled motor vehicle they have taken into their possession and declared a total loss in settlement of a damage or theft claim to attach to the title certificate a copy of the appraiser's damage report for the vehicle. The appraiser's damage report must be given to any subsequent purchaser along with the title certificate. The requirement applies to totaled vehicles insurers and self-insurers acquire and offer for sale with titles issued in either Connecticut or any other state.

Under prior law, insurance companies and self-insurers that took possession of Connecticut-titled vehicles under these circumstances had to stamp the word "SALVAGE" on the vehicle's title. The act limits this provision to cases in which the company or self insurer offers the vehicle for sale in Connecticut. The stamped title must remain with the vehicle and be given to subsequent purchasers, and a copy of the stamped title must be sent to DMV. If a vehicle has 10 or more major component parts (defined by law) damaged beyond repair and requiring replacement, the title must be stamped with the words "SALVAGE PARTS ONLY."

Finally, the act applies current restrictions on the sale of totaled, salvage, and salvage-parts-only vehicles and their parts to transfers as well. The act designates transfers that violate the restrictions unfair or deceptive trade practices; this was already law with regard to sales. By law, insurers and self-insurers may only sell totaled or salvaged vehicles, their major component parts, or any other parts from them to licensed dealers, repairers, or motor vehicle recyclers. New or used car dealers who hold state motor vehicle auction permits may only sell totaled or salvaged vehicles with "Salvage Parts Only" title certificates, or vehicles that have 10 or more major component parts damaged beyond

repair and needing replacement to licensed motor vehicle recyclers.

PASSENGER VEHICLE DEFINITION

Under prior law, a passenger motor vehicle was defined as any vehicle with a capacity for 10 or fewer occupants used for private transportation of people and their personal belongings, designed to carry occupants in comfort and safety, and with at least 50% of the total area enclosed by its outermost body contour lines, except for the engine enclosure, used for designated seating positions and necessary legroom. A vehicle with less than 50% of its enclosed body area used for passenger seating (e.g., some smaller pickup trucks) fell outside this definition and therefore could not get a passenger registration. This act eliminates the body enclosure criterion, thus expanding the definition to include all vehicles with a capacity of 10 or fewer occupants used for private transportation of people.

DMV AUTHORITY REGARDING ABANDONED VEHICLES

Under prior law, when any constable, state marshal, DMV inspector, state policeman, or other official authorized to make arrests or serve process discovered any motor vehicle, including construction equipment or their major component parts, or any agricultural tractor or farm implement, the vehicle identification, engine, or factory number of which was mutilated, altered, or removed, he had to take the vehicle or part into custody. It had to be disposed of according to the statutorily defined process for seized property. Among other things, this required application to the court for disposition of the property.

The act (1) limits the authority for taking such vehicles or parts into custody to an officer attached to an organized police department, a state police officer, or a DMV inspector; (2) requires the officer or inspector to report his actions to the DMV commissioner if the owner, registration, or vehicle title has been identified; and (3) establishes a separate procedure when the vehicle or part is discovered by a DMV inspector and is in the possession of a department licensee.

In the last instance, when a DMV inspector discovers a vehicle or part with a mutilated, altered, or removed identification number in the possession of a DMV licensee, he must take it into custody. (DMV licensees include a new or

used car dealer issued a motor vehicle auction permit or a dealer or repairer authorized to tow, transport, and store vehicles under the wrecker statutes.) If the vehicle or part is owned by a DMV licensee or insurance company, or if they have the right to dispose of it, the motor vehicle commissioner may dispose of it as he deems necessary or advisable, rather than having to follow the seized property procedures and court application process. However, to do this, the commissioner must have received transfer of title or forfeiture of all right and interest in the vehicle or part. The act applies this alternate procedure to construction equipment, agricultural tractors, and farm implements, as well as motor vehicles and their major component parts.

SPECIAL LICENSE PLATES

Childhood Cancer Awareness Plates

The commissioner must begin issuing the childhood cancer awareness commemorative license plates starting January 1, 2004. The plate design must be determined through agreement of the motor vehicle and public health commissioners. They may only be used as official marker plates. The motor vehicle commissioner, in consultation with the public health commissioner, must adopt regulations to establish standards and procedures for issuing, renewing, and replacing the plates.

The act requires the commissioner to collect a \$50 fee for the commemorative plates, in addition to any registration fees that otherwise apply to the type of vehicle being registered. It authorizes \$15 of the \$50 fee to be retained by the commissioner in an account he controls to be used for the cost of producing, issuing, renewing, or replacing the plates. He may establish a higher fee for (1) personalized (vanity) plates, (2) special reserved low number plates (1-10,000 for passenger vehicles and 1-500 for dealers), and (3) plates that contain numbers and letters from a previously issued plate.

The act also requires a \$15 fee to be charged in addition to the regular renewal fee for renewal of the commemorative plates and allows the commissioner to retain \$5 of the \$15 fee for "administrative costs." However, no additional renewal fee may be charged for the personalized or low number plates in excess of the renewal fee charged for plates with letters and numbers selected by DMV. No transfer fee may be charged for transferring an existing registration to or from the commemorative plates.

The special fees collected for the childhood cancer awareness plates must be deposited in the childhood cancer awareness account that the act creates as a separate nonlapsing General Fund account. The motor vehicle commissioner may provide for the reproduction and marketing of the plate image for use on clothing, recreational equipment, posters, mementos, and other products or programs he finds suitable. Any money derived from this must be deposited in the special account.

The secretary of the Office of Policy and Management must spend the money in the account for (1) funding the pediatric oncology units at Connecticut Children's Medical Center and Yale-New Haven Children's Hospital and (2) reimbursing DMV for the costs of producing, issuing, renewing, and replacing the special plates, including administrative expenses. The secretary may also receive private donations for the account.

WILDLIFE CONSERVATION PLATES

The motor vehicle commissioner must begin issuing wildlife conservation commemorative plates by January 1, 2004 to enhance public awareness of state efforts to conserve wildlife species and their state habitats. The plate design must be determined by agreement of the motor vehicle and environmental protection commissioners.

Fee provisions are the same as for the childhood cancer awareness plates, that is, an initial additional fee of \$50 of which the commissioner retains \$15 in an account he controls to be used for producing, issuing, renewing, and replacing the commemorative plates and an additional \$15 added to the normal renewal fee of which he may retain \$5 for "administrative costs." As with the childhood cancer awareness plates, the act authorizes the commissioner to charge an initial issuance fee that is higher than \$50 for personalized plates, special reserved low number plates, and plates that contain the numbers and letters from a previously issued plate.

The motor vehicle commissioner may adopt his implementing regulations in consultation with the environmental protection (DEP) commissioner. The DMV commissioner may notify eligible motorists of the opportunity to get the special plates by including a notice with registration renewals and by posting appropriate posters and signs in DMV offices. The notices,

posters, and signs must be designed by the DEP commissioner in consultation with the DMV commissioner. Except for the money retained by DMV for initial and renewal plates, the fees must be put into a special wildlife conservation account that the act creates in the Conservation Fund. The DEP commissioner may use the money in the account for (1) matching federal and private wildlife conservation funds; (2) grants to municipalities and nonprofit organizations for wildlife conservation purposes; (3) wildlife research and management emphasizing species in greatest need of conservation; (4) wildlife inventory and restoration; (5) habitat acquisition, restoration, enhancement, and management, including conservation of grasslands and other early successional habitats; and (6) public outreach promoting preservation of the state's wildlife diversity.

The DEP commissioner may receive private donations or deposits in the account. As for the childhood cancer awareness plates, he may reproduce and market the plate image for products and programs he finds suitable with any funds received for this deposited in the special account.

MOTOR VEHICLE LIGHT TASK FORCE

The task force consists of the commissioners of motor vehicles, public safety, and transportation, and the secretary of the Office of Policy and Management, or their designees, and seven public members all of whom must be appointed by the motor vehicle commissioner. These public members must include an automotive engineer and representatives of the Connecticut Chiefs of Police Association, a police trooper organization, a driving safety advocacy group, the Connecticut Firefighters Association, a volunteer fire department, and an emergency services provider. All appointments must be made by August 1, 2003. The task force must elect its own chairperson at its first meeting.

The task force must study the types of nonstandard lights used on motor vehicles, the classes of vehicles that may use them, and the risks and benefits of their use. The study must cover, at least, (1) the feasibility of adopting standard colors for different classes of emergency vehicles, (2) limitations on revolving lights with respect to law enforcement and other vehicles, (3) the need to clarify existing statutory standards, (4) evaluation of the current process

for permitting and authorizing the use of flashing or revolving lights, and (5) means and methods of enforcement standards and restrictions.

The task force must terminate on February 4, 2004 or when it submits its report, whichever is earlier.

16- AND 17- YEAR OLDS' DRIVERS' LICENSES

The act specifies that the person signing a home driver training certificate for a 16- or 17-year old must not have had his license suspended for at least the four years preceding the statement.

PA 03-171 restricts who a newly licensed driver can transport during the first three months after he receives his license to one passenger who must be (1) his parent or guardian who is at least age 25 and is a licensed driver or (2) a DMV licensed driving instructor. This act additionally allows him to transport one passenger who is at least age 20, who has had a motor vehicle license for the same class of vehicle in use for at least four years, and who has not had his license suspended during that four-year period.

MEMORIAL RENAMINGS

The act (1) corrects a memorial naming made by PA 03-115 for a state bridge on Route 156 in Old Lyme by designating it as the "Thomas A. Fox Memorial Bridge" instead of the "John A. Fox Memorial Bridge;" (2) revises the commemorative naming of Route 115 in Derby, Ansonia, and Seymour made by PA 03-115 as the "Veterans Memorial Highway" instead of the "Veteran's Memorial Highway;" and (3) changes the memorial naming in PA 03-115 of Route 190 from the Suffield-Enfield town line to Elm Street as the "Sergeant Elijah Churchill Memorial Highway."

BACKGROUND

Operating Under the Influence

By law, someone is guilty of DWI when he operates a motor vehicle on a public highway or road, on a private road with a speed limit, in a parking area for more than nine cars, or on school property (1) while under the influence of "intoxicating liquor or any drug or both" or (2) with a blood alcohol level of .08% or above. In the first instance, the offense may be prosecuted

with or without any direct evidence of a person's blood alcohol level.

Second-Degree Manslaughter with a Motor Vehicle

A person is guilty of this crime if he operates a motor vehicle under the influence of intoxicating liquor or any drug or both and causes the death of another person as a consequence of the effect of the liquor or drug.

Second-Degree Assault With a Motor Vehicle

A person is guilty of this crime if he operates a motor vehicle under the influence of intoxicating liquor or any drug or both and causes serious physical injury to another person as a consequence of the effect of liquor or drug.

PA 03-267—sSB 901

Judiciary Committee

Human Services Committee

AN ACT CONCERNING REPORTS OF SUSPECTED ABUSE, NEGLECT, EXPLOITATION OR ABANDONMENT OF ELDERLY PERSONS OR PERSONS IN LONG-TERM CARE FACILITIES AND ESTABLISHING THE CRIME OF ABUSE OF AN ELDERLY, BLIND, DISABLED OR MENTALLY RETARDED PERSON

SUMMARY: This act creates new crimes and penalties for repeated acts or omissions that injure an elderly person or a person with blindness, mental retardation, or other disability. It directs the appropriate state's attorney or assistant state's attorney to report convictions to the Department of Public Health (DPH) when the abuser has a DPH occupational license, and permits DPH to suspend or revoke the license or take other disciplinary action based on this information. Depending on the particular circumstances, the acts and omissions identified as criminal abuse under the act may have been misdemeanor or felony offenses under prior law.

The act makes intentionally failing to report elder abuse a crime, rather than a violation, and shortens the time that mandated elder abuse reporters have to notify the Department of Social Services (DSS) commissioner about a suspected case of abuse. It authorizes legal remedies for anyone subjected to discrimination or retaliation for, in good faith, (1) reporting elder abuse or (2)

complaining to DSS about a nursing or board-and-care home or similar adult care homes.

It also specifies that an elderly person's refusal of treatment for religious reasons is not of itself grounds for implementing protective services through DSS's Elderly Protective Services Unit.

EFFECTIVE DATE: October 1, 2003

ABUSE CRIMES

Actors who may be convicted of the new crimes are: natural persons, corporations, partnerships, limited liability companies, unincorporated businesses, and other business entities. Under the act, "abuse" is an act or omission that occurs at least twice and physically injures an elderly, blind, disabled, or mentally retarded person. Acts or omissions that are part of the person's treatment or care and are in furtherance of his health and safety are excluded, as are those based on his instructions, wishes, consent, or revoked consent.

The act adopts current penal code definitions governing an actor's state of mind and the extent of the victim's injuries.

First-Degree Abuse—Class C Felony

An actor commits 1st degree abuse when he intentionally commits abuse and causes serious physical injury. A person acts intentionally when his conscious objective is to cause a particular result or to engage in particular conduct. A serious physical injury is one that (1) creates a substantial risk of death, (2) causes serious disfigurement, or (3) seriously impairs the health or function of a bodily organ.

The act makes 1st degree abuse a class C felony (see Table on Penalties).

Second-Degree Abuse—Class D Felony

An actor commits 2nd degree abuse when he (1) intentionally commits abuse and causes a physical injury or (2) knowingly commits abuse and causes a serious physical injury. A person acts knowingly when he is aware that his conduct is of a particular nature or that particular circumstances exist. A physical injury is one that impairs a person's physical condition or causes pain.

Third-Degree Abuse—Class A Misdemeanor

An actor commits 3rd degree abuse when he knowingly or recklessly commits abuse and causes a physical injury. A person acts recklessly when he is aware of and consciously disregards a substantial and unjustifiable risk that a particular result will occur or that a particular circumstance exists. The risk must be of a nature or degree that disregarding it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

REPORTING ABUSE CONVICTIONS TO DPH AND AGENCY ACTIONS

The act requires prosecutors to notify DPH whenever a person holding a DPH-regulated license, certificate, or permit to engage in a profession is convicted of the new abuse crimes or of a criminal offense involving the failure to report elder abuse. It authorizes DPH, in its sole discretion, to (1) suspend temporarily or revoke the convicted person's license, certificate, or permit for such time as it deems appropriate; (2) revoke permanently the convicted person's license, certificate, or permit; or (3) take any other disciplinary action permitted by law.

In addition to suspending or revoking a practitioner's occupational license, the law allows DPH to censure, reprimand, and place practitioners on probation. It can act summarily against a practitioner's license or permit when it receives proof that the holder has a felony conviction.

MANDATED ELDER ABUSE REPORTING

By law, mandated reporters must notify DSS when they have reasonable cause to suspect or believe that someone age 60 or older (1) has been abused, neglected, exploited, or abandoned, or is in a condition caused by one of these or (2) needs protective services (services designed to protect elderly individuals from such harm). Prior law required them to make the report within five calendar days and subjected them to fines of up to \$500 for not doing so.

The act requires them to report the abuse within 72 hours after first suspecting it. Intentionally failing to do so is a class C misdemeanor for first offenses; subsequent offenses are class A misdemeanors. The fine for an unintentional failure to report remains at \$500.

The act also requires DSS to refer substantiated abuse cases involving long-term care residents to prosecutors. It must already do this in protective services cases. The act requires that both types of referrals go to the chief state's attorney or his designee. Under prior law, protective service referrals were made to the appropriate office of the state's attorney. Under the act, the chief state's attorney or his designee, rather than state's attorneys, investigates and makes prosecution decisions in these cases.

NONDISCRIMINATION AGAINST REPORTERS AND OTHERS WHO COMPLAIN

The act specifies that any person discharged or discriminated or retaliated against for reporting elder abuse or complaining to DSS about a long-term care facility in good faith is entitled to all legal remedies available, including treble damages, job reinstatement, back pay and benefits, court costs, and attorney's fees.

BACKGROUND

Elder Abuse Reporters

Under the law, the following are mandated elder abuse reporters:

1. licensed physicians and surgeons and licensed or unlicensed residents and interns;
2. registered and licensed practical nurses;
3. nursing home administrators, nurse's aides, orderlies, and anyone else paid for providing care in a nursing home;
4. patient advocates;
5. medical examiners;
6. dentists;
7. osteopaths, optometrists, chiropractors, and podiatrists;
8. psychologists, social workers, and sexual assault or battered women's counselors;
9. clergy;
10. police officers;
11. pharmacists; and
12. physical therapists.

PA 03-273—sHB 6700

Judiciary Committee

Appropriations Committee

Public Safety Committee

AN ACT CONCERNING THE APPOINTMENT OF AN INVESTIGATORY GRAND JURY

SUMMARY: This act changes one of the criteria for approving grand jury investigations. The law allows the chief state's attorney or a state's attorney to apply to a panel of three Superior Court judges for a grand jury investigation. The prosecutor must state in his application that other normal investigative procedures have failed, are unlikely to succeed, or are too dangerous. The act adds an additional option to this criteria to allow the prosecutor to state the specific nature of the investigation or alleged crime that leads him to reasonably conclude that normal investigative procedures would not advance the investigation or would fail to secure and preserve evidence or testimony that might be compromised.

The act makes the same change to the criteria that the panel of judges must consider to allow them to approve a grand jury investigation on this basis. As with the other criteria, the act requires the panel to specify its findings relating to this criteria in its order.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Other Criteria in Prosecutor's Application

By law, the chief state's attorney's or a state's attorney's application must also include (1) a statement of the facts and circumstances that justify his reasonable belief that the administration of justice requires an investigation to determine whether or not there is probable cause to believe a crime has been committed, (2) the status of the investigation and evidence collected, and (3) the reasons for his belief that a grand jury will lead to a finding of probable cause that a crime was committed.

Approving Applications

By law, to authorize a grand jury, the panel reviewing a prosecutor's application must find that (1) the administration of justice requires an investigation to determine whether there is probable cause to believe that a crime was committed and (2) the investigative procedures that an investigative grand jury uses appear likely to succeed in determining if there is probable cause to believe that a crime was committed.

Subjects of Grand Jury Investigations

A grand jury can investigate (1) state and local government corruption; (2) Medicaid vendor fraud; (3) racketeering activity under state law; (4) election law violations; (5) felonies involving the unlawful use or threatened use of physical force or violence committed with intent to intimidate or coerce civilian populations or a unit of government; and (6) class A, B, or C felonies or unclassified felonies punishable by more than five years imprisonment, for which the chief state's attorney or state's attorney can show that there is no other means of learning if a crime has been committed or the identity of the perpetrator.

PA 03-278—HB 6699

Judiciary Committee

**AN ACT CONCERNING THE REVISOR'S
2003 TECHNICAL CORRECTIONS TO
THE GENERAL STATUTES AND MAKING
REVISIONS TO CERTAIN PROVISIONS
OF THE GENERAL STATUTES AND
CERTAIN PUBLIC ACTS**

SUMMARY: This act makes changes to:

1. 2003 public acts on state and municipal building contracts, college courses and military personnel called to active duty, driver's license suspensions, and service of process;
2. Siting Council certificates for telecommunications towers;
3. the Uniform Commercial Code (UCC) Article 2A on leasing goods; and
4. the membership of the UConn Health Center Finance Corporation board of directors.

It also makes technical and conforming changes, corrects improper references, deletes obsolete provisions (such as references to the Uncas-on-Thames Hospital), makes a change to conform to last year's reorganization of the tax statutes, makes changes to reflect the legislature's new Higher Education and Employment Advancement Committee, and makes changes to reflect that the former Office of Protection and Advocacy is now the Office of Protection and Advocacy for Persons with Disabilities.

EFFECTIVE DATE: Upon passage, except for the provisions on the Siting Council and driver's license suspensions, which are effective on

October 1, 2003; a technical change to PA 03-18, which is effective on July 1, 2003; and the definitions of "subcontractor," which are effective July 1, 2004 (as that term is used in prequalification requirements) and October 1, 2004 (as that term is used in agency regulations establishing a contractor evaluation form).

CHANGES TO 2003 PUBLIC ACTS

State and Municipal Building Contracts

PA 03-215 requires contractors, but not subcontractors, to prequalify to bid on state and municipal building construction contracts estimated to cost more than \$500,000 and at least partially funded by the state. The prequalification must be based, in part, on the skill, ability, and integrity of any subcontractors the general contractor has used. PA 03-215 also requires agency evaluations of contractors' work performance to include comments on subcontractors' work, when known, and their compliance with state and federal labor laws.

This act changes the definition of a subcontractor from (1) someone who performs masonry, electrical, mechanical, heating, ventilating, or air conditioning work valued at over \$25,000, to (2) someone who performs work valued at more than \$25,000 for a contractor under a contract for work for the state or a municipality estimated to cost more than \$500,000.

College Courses and Military Personnel Called to Active Duty

This act changes the effective date of PA 03-33's provisions regarding college courses of military personnel called to active duty from October 1, 2003, to upon passage, which was May 12, 2003. PA 03-33 requires the state's community-technical colleges, the Connecticut State University System, and the University of Connecticut to allow students called to active duty in the armed forces during any semester to reenroll in any course for which they paid tuition but did not complete because of their active duty status. Students have four years from the date of release from active duty to reenroll. The schools may not impose any additional tuition, student fee, or related charge on the affected students for the courses, unless they had fully reimbursed the students for courses not completed.

Driver's License Suspensions

PA 03-233 eliminates the motor vehicle commissioner's duty to suspend the driver's license of someone convicted for driving with a license suspended for willfully failing to appear at any scheduled court appearance for violating a motor vehicle law. This act expands this to include people whose license was suspended for failing to mail in an infraction fine or send in a not guilty plea. Violators are still subject to a fine and imprisonment.

Service of Process

PA 03-224 allows service of process in civil actions against a town, city, or borough board, commission, department, or agency on:

1. the town, city, or borough clerk (two copies are served with the clerk keeping one and forwarding one to the board, commission, department, or agency) or
2. the clerk, chief presiding officer, or other executive head of the board, commission, department, or agency.

This act eliminates the second option.

PA 03-224 also allows service of process in civil actions against a town, city, or borough employee based on the employee's duties or employment on:

1. the town, city, or borough clerk (two copies are served with the clerk keeping one and forwarding one to the employee) or
2. the employee.

This act eliminates the second option.

TELECOMMUNICATIONS TOWERS

By law, a Siting Council certificate is required to build a telecommunications tower owned or operated by a utility company or the state or used as part of a cellular system. The act bars the council from granting a certificate for such towers that are proposed to be built in areas subject to agricultural restriction under the state's farmland preservation program unless the council finds that the tower will not materially decrease the acreage or productivity of arable land (land that is fit for cultivation). Under the farmland preservation program, the state purchases the development rights of farmland that is most subject to development pressure.

UCC ARTICLE 2A LEASING GOODS

The act subjects Article 2A of the UCC on leasing goods (adopted by PA 02-131) to the Uniform Electronic Transactions Act (UETA). UETA already applies to the sale of goods under Article 2. UETA establishes a legal foundation for using electronic communications in transactions where the parties agree to conduct business electronically.

UCONN HEALTH CENTER FINANCE CORPORATION

PA 01-173 allowed the UConn board of trustees to create a board of directors to govern the UConn Health Center and delegate to it whatever duties and authority the trustees find necessary and appropriate. It allowed the chairman of the board of trustees to designate trustees and others to serve on the board of directors.

This act changes the membership of the UConn Health Center Finance Corporation board of directors. It makes the UConn trustee who chairs the Health Center board of directors a member of the Health Center Finance Corporation board if the governor appointed him. Under prior law, the chair of the UConn board of trustees health affairs committee served if the governor appointed him.

By law, the UConn Health Center Finance Corporation is authorized to acquire and dispose of hospital equipment and facilities, enter into joint ventures and shared service agreements to provide medical and related services or facilities, and create subsidiaries with these same powers.

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-3—HB 6674

Emergency Certification

AN ACT PROVIDING FUNDS FOR THE IMPLEMENTATION OF A STIPULATED AGREEMENT CONCERNING HEALTH INSURANCE COVERAGE FOR CERTAIN LAID OFF EMPLOYEES, PROVIDING DEFICIENCY FUNDING FOR THE STATE INSURANCE AND RISK MANAGEMENT BOARD AND PROVIDING BENEFITS TO STATE EMPLOYEES IN CERTAIN ACTIVE MILITARY SERVICE AND THEIR DEPENDENTS

SUMMARY: This act extends paid leave and insurance coverage to state employees who are called up to active duty service in (1) military action against Iraq authorized by the president or (2) federal action or state action authorized by the governor supporting the federal Department of Homeland Security's Operation Liberty Shield or other anti-terrorism efforts within the U.S. The benefits include:

1. full state pay for active duty leave up to 30 days;
2. payment of the difference between the employee's state pay (including longevity) and his military pay for any days beyond 30; and
3. continued state health insurance coverage for the employee and any dependents for the duration of the call-up, as long as the employee continues to make the same insurance payments required of him before he was activated.

The law already provides the paid leave and insurance benefits for state employees called up to active service for (1) Operation Enduring Freedom (Afghanistan war), (2) Operation Noble Eagle (anti-terrorism activities within the U.S.), or (3) a related military or emergency operation whose mission was substantially changed due to the September 11, 2001 terrorist attacks.

Under prior law and the act, (1) the employee is not required to use accrued vacation or sick time in order to be eligible for the paid leave of absence and differential pay benefits and (2) the employee's partial pay after 30 days is based on his primary state position at the time of his call-up.

The act defines "state employee" as any elected official, officer, or full-time employee of the executive, legislative, or judicial branches of

state government.

The act also requires the Office of Policy and Management secretary to transfer sufficient funds from the Reserve for Salary Adjustments Account to the Placement and Training Fund to pay the state's share of a six-month continuation of health insurance benefits for certain laid-off state employees. This provision authorizes state funding to implement an agreement with the State Employees Bargaining Agent Coalition (SEBAC) to replenish the training fund to pay for health insurance. The act does not define "sufficient funds," but the cost of providing such insurance depends upon how many laid-off employees are eligible and opt for continuing the insurance.

Also, the act transfers \$1.3 million from the Reserve for Salary Adjustments Account to the State Insurance and Risk Management Board for other expenses.

EFFECTIVE DATE: Upon passage

BACKGROUND

Operation Liberty Shield

This is the federal plan to protect against terrorist attacks in the U.S. by increasing border security, increasing security at transportation hubs, monitoring terrorist suspects or supporters, and taking other steps.

Placement and Training Fund

An agreement reached by SEBAC and the state in the early 1990's created the Placement and Training Fund to serve several purposes, including providing funds that can be tapped to pay for up to six months of health insurance coverage for qualified laid-off employees. The state and SEBAC both contribute money.

Insurance for Laid-Off Employees

To be eligible for coverage, laid-off employees must (1) have exhausted their transfer and bumping rights for other state positions, (2) have been a permanent employee or a trainee for a permanent position, and (3) not have been offered suitable alternative state employment. Also, laid-off employees must have chosen, at the time of their layoff, to continue coverage and have continued to pay the employee share of the premium.

PA 03-5—sSB 378*Labor and Public Employees Committee***AN ACT CONCERNING EMPLOYEE ACCESS TO ELECTRONICALLY RECORDED PERSONNEL FILES**

SUMMARY: This act adds electronic mail and facsimiles to the documents a private employer must keep in an employee's personnel file. By law, if an employer keeps personnel files, an employee's file must contain papers, documents, and reports that the employer uses, or once used, to determine the employee's eligibility for employment, promotion, additional compensation, transfer, termination, or disciplinary or other adverse personnel action. Such documents include employee evaluations or reports about the employee's character, credit, and work habits. By law, employers must allow an employee, upon written request, to inspect his own personnel file.

EFFECTIVE DATE: October 1, 2003

PA 03-64—HB 6385*Labor and Public Employees Committee
Government Administration and Elections Committee***AN ACT CONCERNING STATE JOB CLASSIFICATIONS**

SUMMARY: This act requires the administrative services commissioner to establish a job classification series for state-licensed professional counselors and marital and family therapists in state service.

EFFECTIVE DATE: October 1, 2003

PA 03-138—sHB 6355*Labor and Public Employees Committee
Planning and Development Committee
Appropriations Committee***AN ACT CONCERNING PURCHASE OF CREDIT IN THE MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM FOR SERVICE TO MUNICIPALITIES THAT ARE NOT SYSTEM MEMBERS**

SUMMARY: This act authorizes an employee who earned municipal retirement credit at a town that is not a member of the Municipal Employee Retirement Fund (MERF) and who later works for a MERF-member town to purchase

retirement credit based on the earlier service under certain conditions. The act allows such a purchase if the non-MERF town declines to voluntarily transfer the appropriate retirement contributions to MERF.

The act also requires the State Employees Retirement Commission trustees to appoint a representative from the MERF towns to act as a municipal liaison to the commission. The liaison serves at the commission's pleasure under terms and conditions it sets.

EFFECTIVE DATE: Upon passage

PURCHASING MERF RETIREMENT CREDIT

The act specifies the retirement credit purchase must be the sum of (1) 2.25% or 5%, as appropriate, of the employee's salary for the service with the non-MERF town; (2) the actuarial cost determined necessary by the retirement commission to fund the increased benefits payable because of the purchase; and (3) 6.5% interest, compounded annually, on the combined payment total of (1) and (2). The employee may buy credit for all or a portion of his prior service. By law, employees participating in MERF contribute 2.25% of their pay if their employment is covered by Social Security and 5% if it is not.

By law, a non-MERF town may voluntarily transfer the employee's and the employer's contributions that went into its retirement fund to MERF. Prior law did not provide for the employee to purchase service credit if the non-MERF town declined to transfer the funds.

The act prohibits retirement credit purchased under it from being used for two different retirements.

BACKGROUND*MERF*

MERF is a statewide municipal retirement fund created by statute and administered by the retirement commission (part of the comptroller's office). Municipalities can voluntarily opt into MERF if they agree to meet specified financial requirements. There are more than 50 towns that have all or some of their employees participating in MERF. MERF is funded by contributions by participating employees and their employers.

PA 03-151—SB 882

*Labor and Public Employees Committee
Judiciary Committee
Government Administration and Elections Committee*

AN ACT CONCERNING AFFIRMATIVE ACTION OFFICERS

SUMMARY: This act requires state agency affirmative action officers to complete at least 10 hours of annual training in (1) state and federal discrimination laws and (2) internal discrimination investigation techniques. The act also makes these officers responsible for mitigating discriminatory conduct in a state agency and gives them other duties regarding discrimination complaints against the agency. Prior law required the officers to receive training to develop and implement agency affirmative action plans.

The act prohibits the officers from representing their agencies before the Commission on Human Rights and Opportunities (CHRO) or the federal Equal Employment Opportunity Commission (EEOC). It requires (1) the attorney general, or his designee, to represent state agencies in CHRO or EEOC inquiries and (2) the designee to receive the same 10 hours of legal and investigative training that the act requires for affirmative action officers. Previously, the law did not address the affirmative action officer's role in responding to complaints lodged with an outside agency.

EFFECTIVE DATE: October 1, 2003

AFFIRMATIVE ACTION OFFICERS*Training*

The act requires CHRO and the Permanent Commission on the Status of Women to provide at least 10 hours of annual training on state and federal discrimination laws and internal discrimination investigation techniques to all state agency affirmative action officers and to the attorney general's designees. Under prior law, CHRO trained these officers to develop and implement affirmative action plans. By law, each agency, department, board, or commission must designate a full- or part-time affirmative action officer, and, if the officer is an agency employee, the agency's executive head or commissioner must directly supervise him.

Responsibilities

The act makes affirmative action officers responsible for (1) mitigating discriminatory conduct in a state agency, (2) investigating all discrimination complaints against the agency, (3) reporting all investigation findings and recommendations to the agency head, and (4) completing the 10 hours of required training.

PA 03-181—sHB 5178

*Labor and Public Employees Committee
Appropriations Committee*

AN ACT EXTENDING HEALTH INSURANCE COVERAGE TO REMARRIED SURVIVING SPOUSES OF POLICE OFFICERS AND FIREFIGHTERS AND CONCERNING EQUIPMENT FOR FIRE POLICE OFFICERS

SUMMARY: Under prior law, the state provided health insurance coverage for surviving spouses and dependent children, under age 18, of local police officers who died from injuries received in the course of their employment. The coverage ended if the spouse remarried.

This act:

1. continues coverage after remarriage;
2. extends such coverage to surviving spouses and children of paid firefighters and state police who die due to injuries received in the course of their employment;
3. specifies that the coverage is provided following work-related deaths occurring before, on, or after June 26, 2003 (the act's effective date); and
4. specifies that the surviving spouse and dependent children cannot be otherwise eligible for another health insurance plan.

Also under existing law, the state provides health insurance coverage to the surviving spouse and dependent children of any municipal worker who died since October 1, 2000, as a result of injuries received while on the job. This provision covers paid firefighters, but the act places them in the group where coverage is not tied to a specific death date.

The act also requires fire police to use hand-held or portable traffic control devices while directing traffic on duty. It removes the mandate that municipalities and fire districts supply the fire police with identifying badges, safety

helmets, caps, vests, raincoats or other outer clothing, and flashlights and instead permits them to supply the fire police with these items. It makes several other changes regarding the clothing fire police must wear while performing their duties. Fire police are designated by municipalities or fire districts to control traffic at the site of a fire.

EFFECTIVE DATE: Upon passage for surviving spouse insurance benefit and October 1, 2003, for fire police provisions.

SURVIVOR HEALTH INSURANCE

Plan Coverage Provisions

Under law and the act, the state comptroller is required to provide this insurance, which must include group hospitalization, medical, and surgical plan coverage. The comptroller has the statutory authority to procure health insurance coverage for all state employees.

Firefighter Defined

The act defines “firefighter” as any person regularly employed and paid by any municipality to perform firefighting duties an average of at least 35 hours a week.

FIRE POLICE PROVISIONS

Requirements

The act requires municipal and district fire police to use hand-held or portable traffic control devices while directing traffic in the performance of their duties. The traffic control device must be appropriate for the time of day, weather, and traffic flow.

It also requires that, after dark or in inclement weather, all fire police wear a traffic safety vest, orange or lime-green raincoat, or any reflectorized orange or lime-green outer clothing and that these items must meet national, state, and local traffic safety standards. Under prior law, only fire police wearing a regulation fire-police dress uniform cap had to wear the vest, raincoat, or reflectorized outer clothing after dark or in bad weather. Those wearing a white helmet with the words “fire police” on the front were not required to wear the additional clothing.

Lastly, the act requires fire police to direct traffic using a flashlight with either a red or orange wand. Prior law allowed only a red wand.

Provision of Equipment

Under prior law, the town or fire district had to provide the fire police with badges, helmets, caps, vests, raincoats or outer clothing, and flashlights. The act instead allows towns or districts to supply these items, but does not require it. It adds the hand-held or portable traffic control device to the list of things a town or district may provide.

PA 03-213—sHB 6151

*Labor and Public Employees Committee
Judiciary Committee*

AN ACT CONCERNING FAMILY AND MEDICAL LEAVE

SUMMARY: This act allows private-sector employees to use up to two weeks of sick time while on leave under the state’s Family Medical Leave Act (FMLA). It prohibits employers from denying such use or firing, threatening to fire, demoting, suspending, or in any way discriminating against an employee who uses or tries to use sick leave for FMLA purposes. The new provision is permitted under the existing FMLA criteria allowing leave (1) to attend to the serious health condition of a child, spouse, or parent or (2) for the birth, adoption, or foster placement of a child.

Under prior law, the employer could, but was not required to, allow the employee to use accumulated sick time to attend to the serious health condition of his child, spouse, or parent. The act (and prior FMLA law) applies to private-sector employers with more than 75 employees.

The act specifies the sick leave use applies only to employers with written policies for compensating employees who miss work due to illness. The act’s definition of sick leave excludes compensation for missing work that is provided through an employer’s plan, such as, short- or long-term disability insurance, whether self-insured or underwritten.

The act creates three new ways to determine the 24-month period during which employees are eligible for up to 16 weeks of leave under the existing state FMLA. Under prior law, the 24-month window began on the first day of leave taken.

The act also allows an employee aggrieved by a suspected violation of its sick leave provision to file a complaint with the labor commissioner, who must hold a hearing on the

matter and provide each party with written notification of his decision.

EFFECTIVE DATE: October 1, 2003

SICK LEAVE FOR FMLA PURPOSES

What Triggers a Leave

Under the act, the “serious health condition” of a family member, as defined by the state’s FMLA, triggers the sick leave option. The FMLA defines serious health condition as illness, injury, impairment, or physical or mental condition that involves (1) inpatient care in a hospital, hospice, nursing home, or residential medical care facility or (2) continuing treatment, including outpatient treatment, by a health care provider.

Relief and Appeals

Under the act, when there is a violation, the labor commissioner may award the employee all appropriate relief including rehiring or reinstatement to the employee’s previous job, back wages, and reestablishment of benefits the employee would have received if not for the employer’s violation. Any party aggrieved by the commissioner’s decision may appeal to Superior Court.

24-MONTH WINDOW FOR FMLA LEAVE

Under prior law, an eligible employee could take up to 16 weeks of leave during a 24-month period that began on the first day of leave. Under the act, this 24-month time frame can be determined in any of four ways:

1. a 24-month period starting on the first day of the leave as under prior law;
2. consecutive calendar years;
3. any fixed 24-month period, such as two consecutive fiscal years or a 24-month period measured from the employee’s first date of employment; or
4. a 24-month period measured backwards from the employee’s first day of leave.

The act does not specify who chooses the method or when that decision is made.

BACKGROUND

Existing State and Federal FMLA Provisions

The state private-sector FMLA law applies to employers with 75 or more employees, but not

to the state, towns, boards of education, or private or parochial schools (state employees have such leave under a separate law). The law allows employees up to 16 weeks of unpaid leave as long as the employee has worked at least 1,000 hours during the 12-month period before the leave begins.

The federal FMLA applies to employers with 50 or more employees and sets a higher hours-worked requirement (1,250 hours a year) before an employee qualifies. Because the federal law allows states to have more generous laws, private employers with 50 to 74 employees come under the federal law and private employers with 75 or more employees fall under the state provisions.

PA 03-239—sHB 6670

Labor and Public Employees Committee

AN ACT CONCERNING THE CALCULATION OF OVERTIME PAYMENTS

SUMMARY: This act prohibits “variable rate” overtime for certain employees who are subject to overtime rules and meet specific criteria. It prohibits variable rate overtime for such employees (1) earning both salary and commission and (2) employed as delivery drivers or sales merchandisers. It requires the overtime rate of employees meeting these criteria to be based on 1/40th of the employee’s weekly pay. This is the standard way to calculate overtime.

When commission-earning potential is relatively small, variable rate overtime can produce a lower overtime rate the more hours an employee works. This is because the calculation spreads the total remuneration (all forms of pay) over all hours worked (including overtime) to determine the rate. Such employees’ overtime is calculated by dividing the total remuneration (salary and commission) by the total weekly hours worked (including those above 40). This hourly rate is divided by two to produce the variable overtime rate. Any hours worked in excess of 40 are multiplied by this variable rate overtime figure to determine the overtime pay. Adding the overtime hours to the total number of hours worked helps create a lower per hour pay rate on which to base the overtime rate.

Variable rate overtime for salaried workers, who by law are subject to overtime rules and work irregular schedules, is not affected by the act’s relatively narrow prohibition.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Standard Overtime

State and federal laws require that, for all employees subject to overtime rules, the overtime hourly rate is one-and-a-half times the employee's regular rate. The regular rate is 1/40th of the employee's weekly remuneration. The law exempts some employees, such as salespeople and executives, from overtime requirements.

Federal Law and Non-Standard Overtime

The federal Fair Labor Standards Act allows a variable rate overtime calculation and types of overtime other than the standard time-and-a-half formula for certain employees who are subject to overtime rules (29 CFR 778.114, 29 CFR 778.400, and 778.415 through 421). But it also does not preempt stricter state laws, thus leaving it to states to decide whether to prohibit or allow federally permitted types of non-standard overtime.

PA 03-249—sHB 5549

*Labor and Public Employees Committee
Appropriations Committee*

AN ACT CONCERNING LEAVE FOR STATE EMPLOYEES RESPONDING TO EMERGENCY CALLS

SUMMARY: This act entitles state employees who are active volunteer firefighters or volunteer ambulance company members to receive full pay for any regular work hours spent responding to a fire or ambulance call without employer permission if they respond before reporting to work. It specifies an employee can leave work to respond to a call if his employer has authorized him to do so. Prior law did not distinguish between responding before work and leaving work, but it allowed an employee to respond to fires and calls during regular work hours if he received employer permission. Both the act and prior law refer to the employer as the employee's "appointing authority" as defined in statute.

At the request of his appointing authority, the act also requires, in either case, the employee to provide written verification from the volunteer fire chief or ambulance company head stating the

date, time, and duration of the fire or call and confirming the employee's response. If such verification is requested, the employee must comply to receive pay for the hours missed.

The act also prohibits the loss of vacation time, sick leave, or accumulated overtime if the employee meets the criteria for leaving work for a call or for responding before arriving at work. Under prior law, the loss of vacation time, sick leave, or accumulated overtime was barred only if the employee received employer permission to respond on work time.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

State Appointing Authority

Under the State Personnel Act, "appointing authority" means a state board, commission, officer, commissioner, person, or group of people having the power to make job appointments by virtue of a statute or lawfully delegated authority.

PA 03-254—sHB 5139

*Labor and Public Employees Committee
Planning and Development Committee
Appropriations Committee*

AN ACT CONCERNING PARTICIPATION OF VOLUNTEER FIREFIGHTERS AND AMBULANCE PERSONNEL IN MUNICIPAL EMPLOYEE HEALTH INSURANCE PROGRAMS

SUMMARY: This act authorizes a municipality to allow volunteer firefighters and volunteer ambulance service members to join a municipality's group health insurance plan if the firefighter or ambulance service member (1) elects to enroll in the plan, (2) agrees to pay 100% of the premium and any additional costs, and (3) meets the municipal active-member definition. The act applies to any town, city, or borough that provides its employees with health, accident, and hospital plan benefits. Prior law was silent on towns allowing volunteers to buy into town health insurance.

The act also makes employees of regional emergency telecommunications centers and tourism districts eligible for the state-sponsored Municipal Employee Health Insurance Program (MEHIP) by adding the centers and districts to the definition of "municipality" in the MEHIP

law.

EFFECTIVE DATE: October 1, 2003

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-44—HB 5264

*Planning and Development Committee
Finance, Revenue and Bonding Committee*

AN ACT CONCERNING AN OPTIONAL INCREASE IN THE VETERANS' PROPERTY TAX EXEMPTION

SUMMARY: This act expands the number of veterans and their surviving spouses eligible for an optional property tax exemption. Specifically, it increases the maximum income a person can have and be eligible for the program by \$25,000, to \$51,100 for a single veteran or a survivor of a veteran and \$56,900 for a married veteran. (The maximum benefit is subject to an annual adjustment, by law, that reflects the increase in Social Security benefits.) To be eligible for the optional benefit, the person must be eligible for the \$1,000 property tax exemption that municipalities must provide for eligible wartime veterans and their surviving spouses.

Under prior law, municipalities could exempt up to \$10,000 of the property's value. The act alternatively allows the municipality to set a maximum exemption of up to 10% of the property's value.

EFFECTIVE DATE: July 1, 2003, and applicable to assessment years starting on and after October 1, 2003.

BACKGROUND

Related Act

PA 03-85 makes all veterans who have 90 days of active service since August 2, 1990, eligible for several property tax, education, and other benefits. Under prior law, only such veterans who served during (and in some cases, in) specific conflicts or operations were eligible for such benefits.

PA 03-144—sSB 691

*Planning and Development Committee
Judiciary Committee*

AN ACT CONCERNING NOTICE OF ZONING DECISIONS

SUMMARY: This act establishes a procedure by which a person seeking a building permit,

certificate of occupancy, or other decision from a local building official may provide the legally required notice to the public that the building complies with zoning laws. By providing such notice, the person limits the time period during which the zoning decision may be appealed.

EFFECTIVE DATE: October 1, 2003

NOTICE PROVISIONS

By law, building officials cannot issue building permits or certificates of occupancy for buildings or uses subject to zoning regulations unless the zoning enforcement officer certifies that the building or use either conforms to the regulations or is a valid nonconforming use. (By law, legal use at a given time is not subject to subsequent changes in zoning regulations and is considered a valid nonconforming use.)

Under the act, the zoning enforcement officer must inform the person seeking the certification or a party seeking any other decision by the zoning enforcement officer that he may provide notice of the certification. The notice may be made (1) by publication in a newspaper having substantial circulation in the municipality, stating that the certification has been granted, or (2) by any other means specified in local ordinances. It must (1) describe the building or use and its location, (2) identify the applicant, and (3) state that an aggrieved party can appeal the zoning decision to the zoning board of appeals as provided under existing law.

By law, a person or municipality aggrieved by a zoning decision can appeal to the zoning board of appeals. The appeals period runs for 30 days unless the board specifies another period. However, prior law did not specify when this period begins. The act specifies that it begins on the earliest of the following three dates: (1) when a person receives an appealable order, requirement, or decision; (2) when the legal notice described above is published; or (3) upon actual or constructive notice of the order, requirement, or decision.

BACKGROUND

Related Court Case

In *Munroe v. Zoning Board of Appeals of Branford*, 261 Conn. 263 (2002), the Supreme Court held that the period for appealing a zoning enforcement officer's decision runs from the

aggrieved party's notice of the official's decision, rather than from the date of the decision. The decision overruled, in part, an earlier decision in *Loullis v. Parrot*, 241 Conn. 180 (1997).

PA 03-150—sSB 551

*Planning and Development Committee
Government Administration and Elections Committee
Commerce Committee*

**AN ACT CONCERNING THE
MEMBERSHIP OF THE CAPITAL CITY
ECONOMIC DEVELOPMENT
AUTHORITY**

SUMMARY: By law, the governor and the six legislative leaders jointly appoint the Capitol City Economic Development Authority's (CCEDA) seven-member board. This act requires one of their appointees to be a Hartford resident holding no elected or appointed post who is recommended by that city's mayor. CCEDA is a quasi-public agency charged with planning and implementing Hartford's Adriaen's Landing project.

EFFECTIVE DATE: Upon passage

PA 03-177—sSB 1024

*Planning and Development Committee
Appropriations Committee*

**AN ACT CONCERNING CONSISTENCY
IN MUNICIPAL LAND USE
ADMINISTRATIVE REVIEW PROCESSES**

SUMMARY: This act standardizes the schedules land use commissions must follow when acting on applications and the requirements for notice that the commissions must give the public and other parties about public hearings they hold on these matters. In doing so, it changes the schedules for wetlands commissions' actions and the extent to which all land use commissions can extend the schedules for acting on applications. The act also makes technical changes.

The act requires sewer districts and water pollution control authorities to act on certain applications or requests within 65 days after the date they were received, unless an applicant agrees to an extension. This requirement applies to requests to determine the sewer capacity of proposed land uses, approvals for sewer

connections for which the applicant must pay, and any other applicant-funded proposal for treating or disposing of wastewater. The act does not limit the number of requests for extensions, but it limits the total number of days for all extensions to 65.

EFFECTIVE DATE: October 1, 2003, and applicable to land use applications filed on or after that date.

LAND USE COMMISSION APPROVALS

The act standardizes the schedules under which land use commissions must act on applications, petitions, requests, and appeals and consolidates these schedules in one section of the statutes. It affects zoning commissions, planning commissions, combined planning and zoning commissions, zoning boards of appeals (ZBAs), and inland wetlands commissions.

These commissions issue different types of approvals.

1. Zoning and combined planning and zoning commissions must approve site plans when the proposed project conforms to zoning regulations. They also approve changes to zoning regulations or boundaries, usually when requested by a developer who wants to use land in a way the regulations do not allow.
2. Planning commissions approve applications to subdivide and resubdivide undeveloped land and specify how developers must grade it and lay down streets, sidewalks, curbs, sewers, and other infrastructure.
3. ZBAs approve requests for exempting a property from zoning regulation (i.e., variance from a setback requirement) and hear appeals contesting the zoning commission's enforcement of a regulation.
4. Wetlands commissions approve requests to develop land in or near a wetlands or changes to wetland regulations or boundaries.

**STANDARDIZED SCHEDULES FOR
ACTING ON APPLICATIONS**

The act aligns the schedules for processing different types of land use applications. As Table 1 shows, the schedules set deadlines for starting and completing hearings and deciding applications. The act's schedules already apply

to most zoning and subdivision applications. The act also reduces the number of days land use commissions can extend the deadline for completing these actions. Table 1 also shows whether and how the act's schedules affect the time required for approving different types of land use applications. As under prior law, the act's schedules for acting on these applications vary, depending on whether the commission holds a public hearing on the application. The table also shows how the act affects the extent to which commissions can extend the schedules.

Table 1: Comparison of the Schedules for Acting on Applications Under the Act and Prior Law

Step	Act	Change
Date when commission officially receives a petition, application, request, or appeal (i.e., applications)	Day of commission's next regularly scheduled meeting or 35 days after application was submitted, whichever is sooner.	No change for zoning, subdivision, and resubdivision applications. Wetlands commissions must officially receive applications at their next regularly scheduled meeting even if it falls within three days after the application was submitted. In these cases, prior law set the official receipt date 35 days after the application's submission. Sets an official receipt date for applications to change wetlands regulations or boundaries.
Deadline for starting the public hearing on the application	Commissions must start hearing within 65 days after officially receiving the application.	No change for special permit, zone change, subdivisions, and resubdivision applications; zoning appeals and variance requests; and applications for wetlands permit. The law, unchanged by the act, does not require zoning, planning, and wetlands commissions to hold public hearings on site plans, subdivisions, and wetlands permits, respectively. Planning commissions that decide to hold a hearing must start it within 65 days after the subdivision application. The act imposes this requirement on zoning and wetlands commissions when they decide to hold a hearing on a site plan or wetlands permit. Shortens the deadline,

Step	Act	Change
		from 90 to 65 days, for starting hearings on petitions to change wetlands boundaries or regulations.
Deadline for completing the hearing	Commissions must finish hearings within 35 days after starting them.	No change for special permit, zone change, and subdivision and resubdivision applications, and zoning appeals and variances. Requires public hearings on site plans to be finished within 35 days after they were started. Imposes the 35-day deadline for finishing hearings on proposed wetlands boundary and regulatory changes that prior law applied only to zoning and planning commissions. Shortens the deadline for finishing hearings on wetlands permits from 45 days to 35 days after the hearing starts.
Deadline for rendering decisions	All commissions must render their decisions within 65 days after the hearing, unless a planning or wetlands law imposes a shorter deadline. If a planning or wetlands commission holds no public hearing on wetlands permit, the commissions have up to 65 days after receiving the application or request to act on them.	No change for applications for which public hearings were held: special permits, zone changes, zoning appeals, variances, subdivisions, and resubdivisions. Lengthens the timeframe for acting on proposed boundary or regulatory changes from 60 days to 65 days after the hearing, unless another wetlands law imposes a shorter timeframe. Lengthens the timeframe for acting on wetlands permits for which public hearings were held from 35 days to 65 days after the hearing. No change with respect to subdivision and wetlands applications for which no public hearing was held: these must still be approved within 65 days after they were received. The law, unchanged by the act, already requires zoning commissions to act on site plans for which no public hearings were held within 65 days after they received the plans.

Step	Act	Change
Provision for extending the deadlines for starting and finishing hearings and rendering decisions	Caps the total number of days for extending all of the timeframes to 65 days.	Shortens the extent to which the entire process can be extended. Prior law generally allowed each timeframe to be extended for up to the length of that timeframe (e.g., the timeframe for starting zoning and subdivision application hearings could have been extended for up to 65 days, the same time period for starting the hearing). Consequently, the maximum number of days for extending the entire zoning and subdivision approval process was 165 days; the wetlands boundary or regulatory approval process, 150 days; and the wetlands permit process, 145 days. Prior law also allowed the timeframe for extending decisions on site plans for up to two 65-day periods, for a maximum of 130 days. No change with respect to applications for wetlands permits for which no public hearings were held.

The act specifies that its schedules for acting on subdivision and wetlands applications do not apply if the statutes governing these applications set a shorter timeframe. It is not clear how this provision changes prior law. As Table 1 shows, the current schedule for starting and completing subdivision hearings are the same as the act's schedules.

STANDARDIZED NOTICE REQUIREMENTS

The act standardizes the requirements and conditions for notifying the public, affected property owners, adjoining towns, and regional planning agencies (RPAs) about public hearings.

Notice to the Public

Table 2 shows how the act standardizes the requirements for notifying the public about hearings commissions held on applications and proposed regulatory changes. The requirements generally involve publishing notices in a local newspaper, providing extra notice to applicants and others directly affected by the application or proposed change, giving the public the right to

inspect the relevant documents, and allowing people to participate at the hearings.

Table 2: Analysis of How the Act Affects Public Hearing Notification Requirements

Element	Act's Requirement	Effect on Prior Law
Type of Notice	Newspaper notice	Eliminates the requirement that the hearing notice for proposed zoning and wetlands regulatory changes be in the form of a legal notice. No change with respect to special permits, zoning appeals, subdivisions, and wetlands permits.
Newspaper Circulation	Notice must be in a newspaper having a general circulation in the town where the hearing is to be held.	Prior law required the hearing notice to appear in a newspaper having a <i>substantial</i> circulation in the town where the hearing was to be held for proposed zoning and wetlands regulatory changes, special permit applications, and appeals to ZBAs. (The general circulation requirement already applies to wetlands permits, subdivision approvals, and subdivision regulatory changes.) The act drops the requirement that wetlands commissions publish the notice in a newspaper that served each town affected by a wetlands application.
Publication Interval	Publish two notices not less than two days apart: the first notice to run between 10 and 15 days before the hearing and the second not less than two days before the hearing.	No change.
Notice to Specific Parties	Allows commissions to adopt regulations governing notice to people who own or occupy land adjacent to the land that is the subject of the hearing.	Drops the requirements that (1) ZBAs give due notice to the parties in an appeal, (2) planning commissions send a copy of the newspaper notice to the subdivision applicant by registered or certified mail, and (3) wetlands commissions publish the notice in a newspaper serving each of the other towns affected by a wetlands application. Prior law allowed notices to go to adjacent landowners but made no provision for notifying those who occupied but did not own adjacent land. It allowed zone change notices to go to people who owned land that was included in the land affected by the proposed change as well as to the adjacent landowners.

		The law was silent with respect to notifying adjacent landowners about wetlands permits and proposed subdivision and wetlands regulations.
Public's Right to be Heard at Hearings	Anyone can appear at the hearings and be heard and represented by an agent or lawyer.	Prior law allowed any party to appear in person at hearings regarding special permits, wetlands permits, and zoning appeals and be represented by an agent or attorney. It made no similar provision with respect to hearings regarding zone changes, subdivision regulations, and wetlands permits.

Notice to RPAs

The act changes some of the requirements governing when and how zoning and planning commissions must notify RPAs about public hearings on projects that could affect other towns. All but two towns are part of a state-designated planning region, each served by its own RPA.

The law requires zoning commissions to notify RPAs in writing about a hearing on a proposed zone change if it affects a zone that lies within 500 feet of another town. The RPA must then study the proposed change and report back to the commission. The act shortens the deadline for notifying RPAs from within 35 days before the hearing to 30 days and requires the commission to send the notice by certified mail, return receipt requested. It also requires the commission to make the RPA's report part of the hearing's record. Prior law required the commission to read the report aloud at the hearing.

The act makes a similar change to the law under which planning commissions must notify RPAs about proposed subdivisions that affect other towns. Under prior law, these commissions had to submit the proposed subdivision plan to the RPA if the site abutted or included land in another town. They had to submit the plan to each of the RPAs serving each town the plan affected. The RPAs then had 30 days to report to the commission and the subdivision applicant on how the subdivision would affect the other towns. They tacitly approved the plan if they missed the 30-day deadline.

The act requires the commissions just to mail written notice to RPAs about the plans within 30 days before the hearing. It drops the 30-day reporting deadline and instead requires the RPAs to report their findings to the

commission and the applicant at or before the commission's hearing on the plan. They tacitly approve the plan if they miss this deadline.

Notice to Adjoining Towns

The act consolidates several statutes requiring commissions and ZBAs to notify adjoining towns about applications and other requests for approval that could affect them. In doing so, it:

1. changes the timeframe within which a ZBA must notify an adjoining town from within one week before the hearing on a request for a variance affecting property within 500 feet of another town to within one week of receiving the request;
2. drops the provision banning ZBAs and zoning, planning, and wetlands commissions from holding a hearing unless the adjoining towns received the notice; and
3. drops the provision requiring applicants for wetlands permits or the environmental protection commissioner to notifying an adjoining town if the application involves part of a wetlands or watercourse that lies within 500 feet of that town.

PUBLIC ACCESS TO PUBLIC HEARING DOCUMENTS

Under the act, all land use commissions must allow the public to inspect any application, map, or document related to a hearing on a proposed zone change, special permit application or variance, proposed subdivision or wetlands regulations, and subdivision applications. This requirement already applied to documents relating to hearings on wetlands permits.

PA 03-184—sHB 5594
Planning and Development Committee
Public Safety Committee

AN ACT CONCERNING MEMBERSHIP ON AND REVIEW OF APPLICATIONS TO PLANNING AND ZONING COMMISSIONS, THE LOCATION OF AUTO DEALERS, REPAIRERS, JUNKYARDS AND GASOLINE STATIONS AND ADOPTION OF A REHABILITATION SUBCODE

SUMMARY: This act explicitly allows municipal land use and building agencies and their agents to conduct a pre-application review on a proposed project with the applicant at his request. The review and any results or information obtained from it (1) are not binding on the applicant or the agency or official authorized to conduct the review and (2) cannot be appealed under the statutes. The provision applies to any municipal authority, commission, department, or other agency that issues permits and approvals under the zoning, planning, inland wetlands, building and fire code, and related laws. Agencies can conduct the pre-application review jointly, separately, or in any combination.

The act eliminates the need to obtain certain local approval for certain motor vehicle-related land uses and repeals related notice, hearing, and fee requirements. It allows zoning and planning and zoning commissions, as well as legislative bodies and certain officials, to approve the location of gas stations. It also eliminates the need for a junkyard to obtain a Department of Motor Vehicles (DMV) license as a condition of obtaining local land use approval.

By law, the state building inspector and the Codes and Safety Committee, in consultation with the public safety commissioner, must revise the state building and fire codes to emphasize performance, rather than design specifications. As part of this mandate, the inspector and committee must develop separate standards for building rehabilitation. The act instead requires the development of a rehabilitation subcode, which must include provisions to identify and standardize economically feasible rehabilitation standards and modifications that ensure public health, safety, and welfare and that protect the environment. It requires the commissioner to develop regulations by January 1, 2005, to implement these provisions.

The act specifies that a planning commission can fill vacancies only if the town's charter does not specify how vacancies must be filled.

EFFECTIVE DATE: October 1, 2003

APPROVAL OF MOTOR-VEHICLE-RELATED LAND USES

Under prior law, in addition to meeting normal zoning requirements, a person who sought to establish, operate, or maintain a junkyard had to obtain the approval of a municipality's chief elected official or selectmen. A person seeking a DMV license for a vehicle dealership or repair facility had to

obtain the approval of this official or the town manager. But, in municipalities with zoning commissions, (1) a dealership or repair facility required the zoning board of appeal's approval, rather than the official's approval, and (2) a junkyard required the commission's, rather than the official's, approval. The act eliminates these requirements and instead requires the approval of the municipal zoning commission, planning commission, or other board or authority designated by local charter, regulation, or ordinance.

Under prior law, a person seeking a DMV license for a gas station had to obtain the local authority's approval. The local authority is the chief elected official or town manager, but in towns and cities with zoning commissions and boards of appeals, the local authority is the board of appeals. The act allows the zoning commission or planning and zoning commission to also issue this approval and allows the municipality to designate another authority.

PA 03-246—HB 6169

*Planning and Development Committee
Finance, Revenue and Bonding Committee*

AN ACT CONCERNING APPLICATION OF THE PROPERTY TAX TO QUASI-PUBLIC AGENCIES AND EXTENSION OF CERTAIN PREVIOUSLY WAIVED PROPERTY TAX EXEMPTIONS IN THE CITY OF BRIDGEPORT

SUMMARY: This act sets conditions under which towns can tax real property a state quasi-public agency acquired for future use. It also sets narrow criteria under which Bridgeport's legislative body can grant state-reimbursed manufacturing property tax exemptions to a taxpayer who missed the deadline for claiming them and failed to request an extension of that deadline. The legislative body can do this only for taxpayers who claim the exemptions for property on the 2000 or 2001 grand list.

EFFECTIVE DATE: Upon passage, except for the provisions regarding state quasi-public agencies, which take effect October 1, 2003 and are applicable to assessment years beginning on or after that date.

STATE QUASI-PUBLIC AGENCIES

The act allows towns to tax real property a state quasi-public agency acquired for future use if:

1. the agency holds or uses the property for any purpose other than a public purpose or one of its legally authorized purposes;
2. the agency owned the property for at least one year prior to and including the October 1 assessment date for the assessment year in which the property is taxed;
3. the agency used the property during that assessment year to produce income;
4. the property would have been taxed if the agency did not own it; and
5. neither the agency, the state, or any other party made grants or payments in lieu of taxes to the town under law or agreement with the town.

Towns can continue taxing the property until the assessment year in which the agency begins to use it for statutory or public purpose.

The quasi-public agencies towns can tax under the act are the Connecticut Development Authority, Connecticut Innovations, Inc., Connecticut Health and Educational Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Housing Finance Authority, Connecticut Housing Authority, Connecticut Resources Recovery Authority, Connecticut Hazardous Waste Management Service, Connecticut Port Authority, Capital City Economic Development Authority, and Connecticut Lottery Corporation.

BRIDGEPORT PROPERTY TAX EXEMPTIONS

The act sets narrow conditions under which Bridgeport's legislative body can grant state reimbursed property tax exemptions to a taxpayer who qualified for them for property on the 2000 or 2001 grand list. The exemptions last for five years and are available in most larger cities and towns to taxpayers who construct or rehabilitate manufacturing facilities and install new manufacturing machinery and equipment in them. Taxpayers must annually claim the exemptions according to a statutory procedure and timeframe.

The legislative body can grant the exemptions if the taxpayer missed the deadline for claiming them or failed to request an

extension of that deadline, as the statutes allow. But first, it must establish criteria for granting the exemptions under these circumstances. At a minimum, the criteria must include:

1. any hardship preventing the taxpayer from claiming the credit or requesting more time to do so and
2. a test of whether granting the exemption would benefit the city's economic development.

The taxpayer must request exemptions, and the legislative body can vote to grant them.

Since the state normally reimburses cities for these exemptions, the act requires the taxpayer to apply for the reimbursement on the city's behalf to the Office of Policy and Management. The act allows the city to grant the exemption on the condition that the taxpayer secures that reimbursement.

BACKGROUND

Related Act

PA 03-269 allows applicants who miss filing deadlines for state-mandated and state-reimbursed five-year property tax exemptions for manufacturing or service facilities, certain machinery and equipment, and commercial trucks to apply to the local municipality rather than the General Assembly for deadline waivers and bars a municipality from receiving any state payment in lieu of taxes for revenue losses from retroactive exemptions it grants.

PA 03-256—sHB 5589

Planning and Development Committee

AN ACT CONCERNING THE AUTHORITY OF SPECIAL DISTRICTS, TERMINATION OF LOCAL BOARDS BY ORDINANCE, VALIDATION OF THE ASSESSMENT LISTS AND ABSTRACTS IN THE TOWNS OF WARREN AND HARTLAND AND CONCERNING THE LAKE CHAFFEE IMPROVEMENT ASSOCIATION

SUMMARY: This act gives municipalities meeting narrow criteria another way to terminate a parking authority or board of health that was established by special act. The law already allows them to do this by repealing or superseding the special act through the statutory process for adopting or amending a charter. The act, instead, allows their legislative bodies to

terminate these organizations by majority vote or through the adoption of an ordinance.

The act also allows special taxing districts operating under 1839 special acts to adopt certain electoral provisions on their own without having the legislature amend those acts.

Lastly, the act validates the Warren and Hartland grand lists and abstracts for the October 1, 2002, assessment year and increases the maximum tax the Lake Chaffee Improvement Association can impose on its members from \$50 to \$125. The association is a special taxing district that was organized under SA 57-86.

EFFECTIVE DATE: Upon passage

TERMINATING SPECIAL ACT ORGANIZATIONS

The act allows cities with populations over 100,000 to terminate parking authorities created by special act if they have a mayor-alderman form of government and were consolidated with a town after 1902 (i.e., Waterbury). The board of aldermen can end the parking authority by majority vote, and the city clerk must notify the secretary of the state no later than 10 days after the vote.

The act also allow a town to terminate a board of health established under a special act if the town (1) was incorporated in 1784, (2) operates under a charter, (3) has a town meeting form of government, and (4) has fewer than 12,000 people (i.e., Woodbridge). It can do this by ordinance as long as it is consistent with the state's constitution and the statutes.

SPECIAL DISTRICT ELECTIONS

The act allows special taxing districts operating under 1839 special acts to take certain actions without asking the legislature to amend those acts. At an annual or special meeting, the district's voters can, by majority vote:

1. increase the number of commissioners from three to five,
2. require candidates for district commissioner to notify the town or city clerk about their candidacy within 30 days before the annual meeting, and
3. allow machine voting from 6:00 a.m. to 8:00 p.m. at the meeting.

The act also requires town clerks to publish the candidates' names in a local newspaper within 15 days before the meeting. The newspaper notice must also describe any issue the district will place on the ballot for the

meeting.

BACKGROUND

Related Act

PA 03-262 and PA 03-269 contain the same validating provision as this act concerning Warren's and Hartland's property tax assessments

PA 03-264—SB 1071

Planning and Development Committee

AN ACT CONCERNING ENFORCEMENT OF MUNICIPAL PARKING REGULATIONS TO PARKING AUTHORITIES AND THE VOLUNTARY PROGRAM TO FACILITATE THE PAYMENT OF FINES FOR PARKING VIOLATIONS

SUMMARY: This act allows a municipality meeting certain narrow criteria to authorize its parking authority to enforce parking regulations and correspondingly authorizes the authority to enforce these regulations in accordance with the ordinance under which they were adopted. This option is available to a municipality (1) with more than 100,000 people, (2) whose government consists of a mayor and a court of common council, and (3) whose city and town were consolidated in 1896 (i.e., Hartford).

A municipality that chooses to authorize its parking authority to enforce parking regulations must do so by adopting an ordinance that gives the authority that power. If it does, the authority must also enforce certain motor vehicle laws. The ordinance may allow the city to remit all of the amounts it receives for parking violations to the authority. By law, any municipality may remit revenues from parking meter violations to its parking authority.

The act changes the rules for towns to participate in the Department of Motor Vehicles (DMV) program that bars a person from registering or reregistering his vehicle if he has six or more unpaid parking tickets issued by the municipality. It requires the town to serve a violation notice (1) personally upon the vehicle's operator or (2) if no operator is present, upon the owner by affixing notice conspicuously on the vehicle.

It also requires towns to notify firms that rent or lease vehicles with a second notice of

violation and bars fines and penalties from accruing for 60 days after the second notice is mailed. By law, the registration denial provision does not apply to leased or rented vehicles.

EFFECTIVE DATE: October 1, 2003

company) was the driver and thus liable for the ticket.

PARKING AUTHORITIES

Under the act, the municipal authority authorized to enforce local parking regulations must also enforce state laws governing abandoned or unregistered motor vehicles and those menacing traffic or public health and safety. The act gives the authority the power to seize and dispose of such vehicles as DMV inspectors and local police do under existing law.

Besides authorizing the authority to enforce parking regulations, the municipality may also remit the amounts it receives for parking violations to the authority. Under the laws governing parking authorities, municipalities can already allow them to keep parking meter revenues, which the authorities must use to regulate and control parking, repair or buy parking meters, develop off-street parking facilities, and repay bonds the authority issued.

DMV PROGRAM

Second Notice to Vehicle Renting or Leasing Firms

The act addresses circumstances where the driver cited for the violation rented or leased the vehicle from a rental firm. In these cases, the municipality must send the second notice of violation to firms that sell or lease vehicles for up to 30 days. It must send the notice within 30 days after issuing the ticket. (Read literally, the act requires the town to send a second notice even if the ticket was paid during the 30-day period.)

Fine Accrual

The act bars fines or penalties from accruing for 60 days after the second notice is mailed. It does not appear to affect the liability for the ticket itself, which depends on the type of parking violation. For statutory violations such as parking in front of a fire hydrant, the owner, lessee, and driver are jointly liable. For violations of local parking regulations, the license plate number is *prime facie* evidence that the owner (including a leasing or rental

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-132—sHB 6484

*Program Review and Investigations Committee
Energy and Technology Committee
Government Administration and Elections Committee
Legislative Management Committee*

**AN ACT IMPLEMENTING THE
RECOMMENDATIONS OF THE
PROGRAM REVIEW AND
INVESTIGATIONS COMMITTEE
CONCERNING ENERGY MANAGEMENT
BY STATE GOVERNMENT**

SUMMARY: This act requires the governor's budget to include a line-item breakdown of energy costs for each state agency. It requires the schedule of an agency's energy costs to be supported by a statement of its (1) plans for energy conservation in each year of the biennium and (2) progress in the last completed fiscal year with regard to energy conservation.

The act expands an Office of Policy and Management (OPM) energy conservation reporting requirement and gives it additional responsibilities with regard to energy, including establishing a pilot program for energy performance contracting in state facilities.

EFFECTIVE DATE: October 1, 2003 for the budget and OPM reporting requirements, upon passage for the remaining provisions.

OPM RESPONSIBILITIES

By law, agencies must perform life-cycle cost analyses for large buildings built, substantially renovated, or funded by the state. The analysis calculates the capital costs of heating and other building energy systems and the building's energy costs over its useful life. The act requires OPM to include information on agency compliance with these requirements as part of an energy report it must submit to the governor and the Energy and Technology Committee by January 5 annually.

Under the act, OPM must require each state agency to report by December 15, 2003 on methods available to it to reduce energy costs and the feasibility of implementing these methods. By January 15, 2004, OPM must schedule a public hearing on the reports and invite the Appropriations, Energy and Technology, and Legislative Program Review and Investigations committees to the hearing.

The act requires OPM and the Department of Public Works to establish a pilot program by July 1, 2004 in which the state selects one or more existing state facilities to be subject to an energy performance contract with a private vendor. The participating agencies must report the results of the program to the Appropriations and Energy and Technology committees. The first report must be submitted within three months after the contract goes into effect and annually thereafter. The final report must be submitted within three months after the contract is terminated.

PA 03-133—sHB 6486

*Program Review and Investigations Committee
Government Administration and Elections Committee
Finance, Revenue and Bonding Committee
Legislative Management Committee*

**AN ACT IMPLEMENTING THE
RECOMMENDATIONS OF THE
LEGISLATIVE PROGRAM REVIEW AND
INVESTIGATIONS COMMITTEE
CONCERNING THE CONNECTICUT
RESOURCES RECOVERY AUTHORITY
AND OTHER QUASI-PUBLIC AGENCIES**

SUMMARY: This act shifts responsibility for the annual compliance audits each quasi-public agency must complete from the agency's board of directors to the state auditors of public accounts. It requires the auditors to forward duplicate copies of each agency's compliance audit report to the Legislative Program Review and Investigations Committee (LPRIC). Each agency's board of directors must send duplicate copies of its annual report to the committee as well. In both cases, the committee must determine that the report meets statutory requirements before sending a copy to the legislative committee of cognizance for the quasi-public agency.

The act requires the Connecticut Resources Recovery Authority's (CRRA) board of directors to establish a special study committee with affected municipalities before the termination of a waste management project contract to study the disposal options available after the existing agreement ends.

The act limits to six consecutive fiscal years, beginning with FY 2003-04, the period that a quasi-public agency can contract with the same

person, firm, or corporation for its financial audits.

EFFECTIVE DATE: July 1, 2003 for the CRRA study committee and the limitation on financial audit contracts, and July 1, 2004 for the provisions on the compliance audit and annual reports.

COMPLIANCE AUDIT REPORTS

The act makes the auditors of public accounts responsible for the annual compliance audit for each quasi-public agency, rather than each agency's board of directors, which contracted for an audit under prior law. The auditors can perform the audit themselves or contract for it with an outside person or firm. In either case, the agency must pay for it.

The auditors must submit each audit report to the governor, who received them under prior law (as did the auditors), and send two copies to LPRIC as well. The committee has 30 days to determine whether the report complies with statutory requirements and send its assessment and a copy of the audit to the legislative committee with cognizance over the quasi-public agency. Previously, the committees of cognizance received the reports directly from the boards.

ANNUAL REPORTS

The act requires each quasi-public agency's board to give two copies of its annual report that goes to the governor and the auditors to LPRIC, instead of one copy to the legislative committee of cognizance. LPRIC has 30 days to review whether the annual report meets statutory requirements and send its assessment and a copy of the report to the legislative committee of cognizance.

CRRA STUDY COMMITTEE

The act requires the CRRA board of directors to establish a study committee at least three years before the maturity date of the last outstanding bond for a waste management project. The committee has five representatives of CRRA and up to five jointly designated by the municipalities that have the contract with the authority for solid waste disposal services. At least two years before the last maturity date, the committee must present its options for disposal services after the contract expires. The committee must consider private sector

management as a possibility, among other things.

BACKGROUND

Quasi-Public Agencies

The statutory quasi-public agencies covered in the act are the Connecticut Development Authority, Connecticut Innovations, Inc., Connecticut Health and Educational Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Housing Finance Authority, Connecticut Housing Authority, CRRA, Connecticut Hazardous Waste Management Service, Connecticut Port Authority, Capital City Economic Development Authority, and Connecticut Lottery Corporation.

PA 03-146—sSB 971

*Program Review and Investigations Committee
Public Health Committee
Human Services Committee
Appropriations Committee*

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE CONCERNING DEPARTMENT OF MENTAL RETARDATION CLIENT HEALTH AND SAFETY

SUMMARY: This act delineates the Department of Mental Retardation's (DMR) and the Office of Protection and Advocacy for Persons with Disabilities' (OPA) responsibilities in investigating the deaths of people for whose medical care DMR is either directly responsible or for which it has oversight responsibility. It requires DMR to transfer an investigator position to OPA to carry out its new duties. It also requires DMR to establish graduated sanctions for poorly performing private community-based residential providers with which it contracts and to adopt specific health and safety regulations to govern providers that it licenses.

EFFECTIVE DATE: October 1, 2003, except for the requirement that the DMR commissioner adopt regulations, which is effective July 1, 2004.

INVESTIGATING DEATHS OF PEOPLE WITH MENTAL RETARDATION

The law requires the OPA executive director to determine if a report of abuse or neglect of a person with retardation warrants investigation and, if it does, to provide for that investigation. It also requires the DMR commissioner to conduct or monitor investigations and file reports if the agency responsible for conducting or overseeing the investigation (e.g., OPA or State Police) asks for them. In addition, Executive Order 25 (2002) created an Independent Mortality Review Board (IMRB) and made it responsible for reviewing the medical care and other circumstances surrounding the deaths of DMR clients when either the commissioner or OPA director believes abuse or neglect caused the death or the board determines a thorough review of the person's care is warranted. This act delineates DMR and OPA's responsibilities in such cases.

DMR Responsibilities

The act requires DMR to conduct a comprehensive and timely review when a person for whose medical care it had direct or oversight responsibility dies. These could be people in group homes or other community living arrangements or nursing homes. The review must cover the events, overall care, medical care, and quality of life issues that preceded the death. The act requires DMR to provide information and assistance to the IMRB at its request.

The act requires DMR to report to the IMRB on any death (1) involving an abuse or neglect allegation, (2) for which the chief medical examiner or a "local medical examiner" has accepted jurisdiction (the statutes do not refer to local examiners), (3) in which an autopsy was performed, (4) that was sudden and unexpected, or (5) about which the commissioner has questions following his review concerning the appropriateness of care. The act requires the board to review any such death DMR reports to it.

OPA Responsibility

Unless a court orders otherwise, the act requires OPA to investigate to determine the veracity of allegations that abuse or neglect caused the death of a person for whose medical care DMR had direct or oversight responsibility. As noted above, existing law does not require

OPA to conduct the investigation itself, just to cause it to be conducted. The act requires OPA's executive director, in consultation with the commissioner, to establish investigatory protocols.

PRIVATE RESIDENTIAL FACILITIES

Contract Requirements

The act requires DMR contracts with licensed private residential care providers to include provisions requiring it periodically to review contract performance and to impose graduated sanctions on providers that perform poorly or do not comply with their contracts. The sanctions are (1) placing the provider on a strict monitoring and oversight schedule, (2) placing the provider on a partial year contract, or (3) reducing contract payments by a monthly amount the department determines until the provider achieves compliance. The act requires DMR to terminate contracts of providers who cannot achieve compliance. By law, any provider that operates a facility contrary to statute can be imprisoned for up to one year, fined up to \$1,000, or both; a provider that violates regulatory requirements can be fined up to \$1,000.

Regulatory Requirements

The law requires DMR to adopt regulations to ensure the safety and adequate medical care and treatment of people living in residential facilities it licenses. The act requires these regulations to include requirements that:

1. at least half of DMR's post-licensing inspections (currently done biennially and at other times as needed) be unannounced;
2. DMR inspectors verify during licensing inspections that staff are adequately trained to respond to emergencies and that summary information on each resident is available to emergency medical personnel;
3. records of staffing schedules and actual hours worked, by facility, are available to DMR inspectors following advance notice; and
4. each facility develops and implements emergency plans and staff training to address potential threats to residents' health and safety. Current regulations require each licensee to train direct-care

staff to respond to fire and other life-threatening situations.

The regulations must also require that all staff are certified in cardiopulmonary resuscitation (CPR) in a way and timeframe that the commissioner prescribes. (Current regulations require (a) direct care staff to complete in-service training in first aid within the first six months of work and every two years thereafter and (b) at least one person with CPR certification to be on duty every shift.)

programs and related funding to another state agency. The council sunsets on July 1, 2004.
EFFECTIVE DATE: Upon passage

BESB MONITORING COUNCIL

Council Composition and Meeting Schedule

The BESB monitoring council is comprised of the following individuals and the BESB executive director, or her designee.

PA 03-217—sSB 967
Program Review and Investigations Committee
Human Services Committee
Government Administration and Elections Committee

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE RELATIVE TO THE ADMINISTRATION OF THE BOARD OF EDUCATION AND SERVICES FOR THE BLIND

SUMMARY: This act requires the person the governor appoints as the executive director of the Board of Education and Services for the Blind (BESB) to get legislative approval, beginning with the Executive and Legislative Nominations Committee. Specifically, it makes the position a “department head,” thus subjecting it to the legislative approval process and certain administrative duties. Although the law does not say so, it appears that, in practice, the executive director serves at the governor’s pleasure for a term coterminous with the governor’s.

In addition, the act requires the executive director to have (1) background, training, or education related to services for the blind and (2) program administration, oversight, and leadership experience.

Finally, the act establishes a 14-member BESB monitoring council which, in consultation with BESB, must establish benchmarks concerning the agency’s management, operations, and services. The council must issue a report on BESB’s progress in meeting these benchmarks by February 1, 2004, to the Human Services, Appropriations, and Education committees. The report must also include legislative proposals and recommendations for proposed changes in BESB’s organizational structure. Failure to meet specific benchmarks may result in a transfer of the agency’s deficient

<i>Member</i>	<i>Appointing Authority</i>
Person with business administration and financial management expertise	House speaker
Representative of statewide organization for the blind	Senate president pro tempore
Adult with blindness receiving BESB services	House minority leader
Adult with blindness receiving BESB services	Senate minority leader
Chairpersons and ranking members (or their designees) of Human Services Committee	Not Applicable
Chairpersons of Program Review and Investigations Committee or their designees	Not Applicable
Secretary of Office of Policy and Management or his designee	Not Applicable
Commissioners of Social Services and Education, or their designees	Not Applicable

The appointments must be made no later than August 8, 2003. The act (1) requires vacancies to be filled by the appointing authority and (2) permits the chairpersons and ranking members of the Human Services and Program Review committees to appoint other legislators as their designees.

The House speaker and Senate president pro tempore select the council’s chairpersons from among its members. The chairpersons must schedule the first meeting by July 1, 2003 and meet at least monthly thereafter until February 1, 2004.

Activities Council Will Monitor

- The act requires the council to monitor:
1. the quality, efficiency, and equity of BESB’s provision of educational services for children, home and daily living skills services, vocational rehabilitation, and outreach efforts to identify and provide information to blind elderly;

2. how it provides employment training and experience in a competitive work environment and the availability of the broadest employment and entrepreneurial opportunities for blind individuals;
3. its strategic planning development and implementation;
4. its fiscal accountability, including preparing a detailed program budget and expenditure reports; and
5. its implementation of the administrative recommendations contained in the December 2002 Legislative Program Review and Investigations report on BESB vending operations.

The council must also develop recommendations for proposed changes in BESB's organizational structure.

BACKGROUND

Legislative Approval of Executive Nominations

By law, every four years the governor must submit each nomination for a department head to either legislative chamber, which must refer it to the Executive and Legislative Nominations Committee. That committee must report to the referring chamber, by resolution, on the nomination within 15 calendar days. The chamber must confirm or reject the nomination, by resolution, within 10 calendar days of the committee's report.

When a vacancy occurs and the legislature is in session, the process is generally the same but the time frames are different. If the legislature is not in session, the governor can fill the vacancy until the sixth Wednesday of the next session. But he must still submit the name of the appointee to either chamber for its approval.

The law also includes procedures for when the legislature rejects a nomination.

Duties of Department or Agency Heads

Each department head is required by law to be qualified by training and experience for the duties of his office. He must conduct comprehensive planning with respect to the functions of his department and coordinate the activities and programs of the state agencies within it. The law also requires each department head to designate one deputy who, in his absence, death, or disqualification, assumes his powers and duties.

PA 03-219—HB 6420

*Program Review and Investigations Committee
Human Services Committee
Education Committee
Finance, Revenue and Bonding Committee*

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE RELATIVE TO THE FUNDING OF EDUCATIONAL SERVICES FOR CHILDREN WHO ARE BLIND OR VISUALLY IMPAIRED

SUMMARY: This act establishes a priority system for the Board of Education and Services to the Blind (BESB) to use when it provides and pays for educational services to blind or visually impaired children. It requires BESB to use funds from its Educational Aid for Blind and Visually Handicapped Children Account (the educational aid account) in the following order: (1) to pay for goods and services, such as specialized books; (2) to pay for teaching services that school districts request directly from BESB; and (3) to reimburse towns that purchase these services on their own. A formula is used to determine the number of BESB teachers the districts receive. The act authorizes BESB to charge districts for any goods or services if insufficient funds are appropriated to the account.

The act requires any funds left in the account after paying for goods, services, and teaching services to go to the school districts. It requires BESB to make its existing resources, such as its library, available to the districts and permits it to provide the districts with professional development and training.

The act allows BESB to adopt regulations to carry out these provisions.

By law, blind and visually impaired residents, regardless of age, are entitled to educational services from BESB when the BESB director recommends them. BESB must pay up to \$6,400 per blind or visually impaired child for these services. The act eliminates a requirement that the director annually submit a list of these residents to the BESB board. It also eliminates a requirement that blind children be "educable" as a condition of their parent's or guardian's petitioning their local school boards for services.

The act also eliminates BESB's authority to spend up to \$11,000 per fiscal year to send children who are both blind or visually impaired and deaf, or blind or visually impaired with other

severe physical handicaps to in- or out-of-state facilities. It eliminates a \$100 allowance for clothing and \$300 for transporting children to and from specialized residential facilities serving the blind, which is in addition to the established statutory cap for educational services. It also eliminates BESB's authority to provide educational services to children whose vision is better than the statutory definition of blindness.
EFFECTIVE DATE: July 1, 2003

EDUCATIONAL AID FOR BLIND AND VISUALLY HANDICAPPED CHILDREN ACCOUNT

Non-Teaching Goods and Services as First Priority for Payment

Under the act, any funds appropriated to the educational aid account must be used first to pay for the following goods and services, without regard to the spending limit (\$6,400) established in law:

1. specialized books;
2. material, equipment, and supplies;
3. adaptive technology services and devices;
4. specialist examinations and aids;
5. preschool programs; and
6. vision-related independent living services, excluding primary education placement.

Payments for Teaching Services

In addition to the non-teaching services, the act requires BESB to provide certified teachers of the visually impaired whenever school districts request them in writing, based on the levels established in the child's individualized education or service plan. It authorizes BESB to employ adequate numbers of certified teachers of the visually impaired to meet these requests, based on available appropriations. (It is not clear whether use of these teachers will apply towards the \$6,400 cap.)

In responding to these requests, BESB must use a formula to determine the number of teachers needed, crediting six points for each Braille learning child and one point for all other children. It must make available one full-time certified teacher of the blind or visually impaired for every 25 points a district reports. The act requires BESB to exercise due diligence to employ the needed number of teachers but holds the agency harmless if it does not have adequate

resources. By October 1 each year, it requires BESB to determine the number of teachers needed based on the formula. BESB must estimate the funding that would be necessary to pay these teachers' salaries, benefits, and related expenses.

The act requires BESB to use education consultant positions paid through General Fund appropriations (through the personal service account) that were authorized as of July 1, 2001, to supplement any new staffing made available through the educational aid account and be governed by formal written policies the agency establishes. (This latter account is presently an other current expenses account in BESB's budget.)

The act authorizes BESB, whenever appropriated funds to cover the teachers and the first-priority educational goods and services are insufficient, to collect revenue from all school districts that have requested services, on a per-student pro rata basis, in amounts necessary to cover the projected deficit. Any leftover funds must be used to cover, on a pro rata basis, the actual cost, including benefits, of a teacher of the visually impaired, either directly hired or contracted by those school districts that elect not to seek educational services from BESB. These funds, which are reimbursed after they are spent, are paid at the end of the school year using the same formula established for the BESB teachers. Districts with 25 points are eligible for the maximum reimbursable amount, as established by BESB.

It is not clear whether districts that opt not to use BESB teachers but spend up to the \$6,400-statutory limit on non-BESB teachers would be reimbursed based on this formula, thus potentially giving them less than they got under the previous system which reimbursed up to the \$6,400 cap.

Previously, BESB offered a number of teachers of the visually impaired to about 110 school districts and the cost did not count towards the per child cap. Other school districts that needed special instruction teachers had to make their own arrangements and pay for them. BESB reimbursed them and deducted this reimbursement from the cap.

Other Uses of Account Funds

If funds still remain after the above distribution, the act requires that they go to the school districts on a pro rata formula basis with a two-to-one credit ratio for Braille learning

students to non-Braille learning students in the districts based on the annual “child count data” that BESB receives from the districts. (Presumably, the child count refers to the number of children for whom services have been requested.)

Availability of Other BESB Resources

Under the act, BESB must make its resources, including the Braille and large print library, available to all public and nonpublic school teachers. It may also provide vision-related professional development and training to the districts.

BACKGROUND

Blindness and Visual-Impairment Defined

State law considers someone to be blind if (1) his central visual acuity is not greater than 20/200 in the better eye with correcting lenses or (2) his visual acuity is better than 20/200 but he also has a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle greater than 20 degrees.

Impaired vision means that central visual acuity is no greater than 20/70 in the better eye with corrective lenses.

BESB and History of Educational Support

BESB was created in 1893 to assist children who were unable to obtain education in the regular public schools due to blindness or “defective sight.” Initially, its main responsibility was to identify children needing educational services and to provide state funds for the costs of board and tuition at schools for blind and partially blind children. Today, most of BESB’s role in educational services for children has been superseded by the state’s special education system. But state law still authorizes BESB to provide assistance to school districts for specialized instructional services and material for blind and visually impaired children.

PA 03-230—HB 6485

*Program Review and Investigations Committee
Energy and Technology Committee
Government Administration and Elections Committee
Legislative Management Committee*

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE CONCERNING ENERGY MANAGEMENT BY STATE GOVERNMENT BY UPDATING AND REPEALING OUTDATED PROVISIONS

SUMMARY: By law, the Office of Policy and Management (OPM) and the Department of Public Works (DPW) must develop energy performance standards for existing and new state buildings, except housing projects. (OPM and the Department of Economic and Community Development must develop standards for such projects.) The act requires DPW to establish a process for calculating energy use per square foot, rather than actually performing the calculations. OPM must require agencies to use this process.

The act requires the OPM secretary to at least annually convene a meeting with representatives of the 10 state agencies that consume the greatest amount of energy to discuss opportunities for energy savings. It also:

1. repeals several obsolete provisions on energy efficiency in state buildings,
2. eliminates a task force on the development of incentives for conserving energy in state buildings,
3. repeals statutes that set minimum and maximum temperature settings for artificial cooling and heating, and
4. eliminates a superseded program to improve energy performance in state buildings.

EFFECTIVE DATE: October 1, 2003

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-8—SB 250

Public Health Committee

AN ACT CONCERNING ADVANCED NURSING PRACTICE

SUMMARY: This act specifies that registered nurses can implement medical orders for a patient under the direction of an advanced practice registered nurse, as well as of a physician or dentist.

EFFECTIVE DATE: October 1, 2003

PA 03-12—HB 6434

Public Health Committee

AN ACT CONCERNING HOSPITAL BUDGET SYSTEMS

SUMMARY: Short-term acute care general hospitals and children's hospitals previously had to submit budget data to the Office of Health Care Access (OHCA) by September 1 annually for the upcoming hospital fiscal year (which begins on October 1 annually). Beginning February 28, 2004, this act instead makes the hospital submission date February 28 annually for the hospital fiscal year that began the preceding October 1. By law, the submitted budget must be approved by the hospital's governing body and include its budgeted revenue and expenses and utilization amounts for that fiscal year, and other data OHCA may require.

EFFECTIVE DATE: October 1, 2003

PA 03-17—HB 6452

Public Health Committee

AN ACT CONCERNING CERTIFICATES OF NEED

SUMMARY: This act amends the state's certificate of need (CON) process by (1) requiring the Office of Health Care Access (OHCA) to give public notice of completed letters of intent for CON applications and (2) making OHCA public hearings on CON applications optional unless the public requests one or the completed application meets certain criteria specified in the act.

CON is a regulatory process, administered by OHCA, for reviewing certain proposed capital expenditures by health care facilities, acquisition of major medical equipment, institution of new services or functions, termination of services, transfer of ownership, and decreases in bed capacity. Generally, a CON is a formal OCHA statement that a health care facility, medical equipment purchase, or service change is needed.

EFFECTIVE DATE: October 1, 2003

LETTERS OF INTENT AND PUBLIC NOTICE

By law, the CON process begins when an applicant submits a "letter of intent" to OHCA. A letter of intent must be filed with OHCA before the CON application can be submitted. It must include:

1. the applicant's name;
2. a statement indicating that the CON application is for:
 - (a) a new, replacement, or additional facility, service, or function;
 - (b) the expansion or relocation of an existing facility, service, or function;
 - (c) a change in ownership or control;
 - (d) a termination of a service or a reduction in licensed bed capacity and bed type (the act changed this to a reduction in "total" bed capacity);
 - (e) any new or additional beds and their type;
 - (f) a capital expenditure over \$1 million;
 - (g) acquisition of major medical equipment, imaging equipment, or a linear accelerator costing over \$400,000; or
 - (h) a combination of these;
3. the estimated capital cost, value, or expenditure;
4. the town where the project is located; and
5. a brief description of the project.

The act requires OHCA to give public notice of any completed letter of intent by publishing a notice in a newspaper with a substantial circulation in the area served, or to be served, by the applicant. The notice must be submitted for publication within 15 days after OHCA determines that the letter of intent is complete.

By law, a letter of intent must be on file with OHCA for at least 60 days before a CON application can be considered submitted to OHCA.

PUBLIC HEARINGS ON COMPLETED CON APPLICATIONS

CONs for Capital Expenditures and Major Medical Equipment

OHCA was previously required to hold a public hearing on any completed CON application for capital expenditures over \$1 million or acquisition of major medical equipment over \$400,000. It was required to give at least two weeks' notice of the hearing to the applicant by certified mail, and to the public by newspaper publication in a paper having substantial circulation in the area served by the applicant.

The act instead requires OHCA to hold a public hearing if (1) the proposal has "associated total capital expenditures" or "total capital costs" exceeding \$20 million for land, building, or nonclinical equipment acquisition, new building construction, or building renovation; (2) the proposal has associated total per-unit capital expenditures or capital costs exceeding \$1 million for major medical equipment, imaging equipment, or linear accelerators that use new technology or technology being introduced to the state; or (3) three people, or one person representing an entity of five or more people, ask for it in writing.

If OHCA holds a hearing, the act requires that (1) the applicant receive two weeks' written notice of it and (2) the public receive the same two-week notice through a newspaper with substantial circulation in the applicant's service area. By law, the hearing must be held in Hartford or in the area to be served, at OHCA's discretion.

CONs for New Functions or Services, Termination of Services, Transfer of Ownership, and Decreases in Bed Capacity

The act explicitly allows OHCA to hold a public hearing on a completed CON application involving institution of new services or functions, termination of services, transfer of ownership or control, or a substantial decrease in bed capacity. Hearing notice must be given to (1) the CON applicant in writing and (2) the public through a newspaper with substantial

circulation in the applicant's service area. The act allows OHCA to hold the hearing in Hartford or in the area to be served.

In deciding whether to hold a hearing, the act requires OHCA to consider, at a minimum, whether the CON proposal involves (1) new or additional health care functions or services through use of new technology or technology being introduced into the state; (2) new or additional health care functions or services not provided in a region designated by the applicant or in its existing primary service area as defined by OHCA; or (3) termination of an existing health care function or service, reduction of total beds, or a facility's closing.

Under the act, OHCA must hold a public hearing on a completed CON application if three people or one person representing an entity with five or more people submit a written request for a public hearing after publication of the notice of the completed letter of intent.

PA 03-32—HB 6359

Public Health Committee

AN ACT CONCERNING OUT-OF-STATE COSMETICIAN LICENSES

SUMMARY: This act allows currently practicing hairdressers and cosmeticians licensed in any U.S. commonwealth (e.g., Puerto Rico) or territory (e.g., Virgin Islands and Guam) to obtain a Connecticut license without taking the state's licensing exam if the commonwealth or territory (1) has licensing requirements at least equivalent to Connecticut's and (2) provides reciprocal privileges to Connecticut licensees.

EFFECTIVE DATE: October 1, 2003

PA 03-37—SB 1

Public Health Committee

Insurance and Real Estate Committee

AN ACT REQUIRING HEALTH INSURANCE COVERAGE FOR CRANIOFACIAL DISORDERS

SUMMARY: This act requires certain individual and group health insurance policies to cover medically necessary orthodontic processes and appliances for treating craniofacial disorders in people age 18 and younger. These processes and appliances must be prescribed by a craniofacial team recognized by the American

Cleft Palate-Craniofacial Association. Coverage is not required for cosmetic surgery.

The act applies to policies delivered, issued for delivery, amended, continued, or renewed in the state on or after October 1, 2003 that pay for (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, (4) hospital or medical expenses, and (5) hospital and medical expenses covered by HMOs.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Craniofacial Disorders

A craniofacial disorder refers to an abnormality of the face or face and head. Craniofacial disorders can result from abnormal growth patterns of the face or skull, which involve soft tissue and bones. Cleft lip or palate is a separation of the parts or segments of the lip or roof of the mouth, which are usually joined together during the early weeks of an unborn child's development. A cleft lip is a separation of the two sides of the lip and often includes the bones of the maxilla or the upper gum. A cleft palate is an opening in the roof of the mouth and can vary in severity. A cleft palate occurs when the two sides of the palate do not fuse as the baby develops.

Craniofacial Team

A craniofacial team organizes and provides long-term, multidisciplinary, coordinated care for an infant or child with congenital or acquired abnormalities of the craniofacial complex, including structures in the skull, face, and neck. A team generally includes dentists, orthodontists, oral-maxillofacial surgeons, plastic surgeons, pediatricians, otolaryngologists, speech pathologists, social workers, and nurses.

American Cleft Palate-Craniofacial Association (ACPA)

ACPA is an international, nonprofit medical society of health care professionals who treat or do research on birth defects of the head and face. It is a multidisciplinary organization of over 2,500 members representing more than 30 disciplines in 40 countries. In 1991, ACPA received funding from the federal government to develop standards for the special needs of children born with cleft lip/palate and craniofacial anomalies.

PA 03-40—SB 1152

Public Health Committee

AN ACT CONCERNING GYNECOLOGICAL SERVICES FOR WOMEN WITH DISABILITIES

SUMMARY: This act requires the commissioners of mental health and addiction services and mental retardation to provide pelvic exams and mammograms as needed by women placed in the facilities and institutions they operate. They must provide these services according to the American College of Obstetricians and Gynecology's standards.

The act also requires the Public Health Department (DPH) to develop recommendations on providing gynecological services to women with mental and physical disabilities. It must do this in consultation with the Office of Protection and Advocacy for Persons with Disabilities (OPA). The recommendations must include (1) a description of available services and accommodations; (2) procedures for such services, consent to them, and confidentiality; and (3) policies and procedures for using sedation during routine and gynecological exams, informed consent to sedation, and limiting the use of sedation when not medically necessary. DPH and OPA must develop a plan to educate the public about their recommendations. DPH must report to the Public Health Committee by January 1, 2004 on its recommendations and education plan.

EFFECTIVE DATE: Upon passage

PA 03-45—sSB 908

Public Health Committee

Labor and Public Employees Committee

AN ACT CONCERNING SECONDHAND SMOKE IN WORK PLACES

SUMMARY: This act tightens restrictions on smoking in workplaces and buildings open to the public. It bans smoking inside restaurants and other establishments with liquor permits, in state and municipal buildings, most health care institutions, and private college and university dorms. It allows smoking anywhere in outdoor areas of restaurants that do not serve alcohol and under certain conditions in outdoor areas of establishments that do. It limits smoking in most other places where five or more people work to specially ventilated smoking rooms and restricts

the number of guest rooms in hotels and motels where smoking is allowed. And it extends the current ban on smoking in public areas of retail food stores to the entire store.

The act reverses the previous scheme of regulating smoking in workplaces and restaurants, which generally permitted smoking in these places except in designated nonsmoking areas. Prior law required employers with 20 or more workers in a facility to set aside nonsmoking areas if their employees asked for one. It permitted smoking anywhere in restaurants that seated fewer than 75 people and allowed larger restaurants to designate smoking areas under certain conditions. It also allowed smoking in designated areas of government buildings and health care institutions.

EFFECTIVE DATE: October 1, 2003

SMOKING IN THE WORKPLACE

Where Smoking is Prohibited

The act prohibits smoking in any business facility (a structurally enclosed location) in which five or more employees work, except in a designated smoking room. The air in each smoking room must be exhausted directly to the outside by a fan, with no air from it recirculated to other parts of the facility. The employer must comply with any ventilation standard adopted by (1) the state labor commissioner, (2) the U.S. secretary of labor under the federal Occupational Safety and Health Act (OSHA), or (3) the U.S. Environmental Protection Agency. A smoking room is only for employees. It must be a nonwork area except for custodial or maintenance work when it is unoccupied, and employees must not be required to go into it as part of their work duties.

Under the act, an employer who designates a smoking room for employees must provide sufficient nonsmoking break rooms for nonsmoking employees. And, by law, any employer can designate an entire facility as a nonsmoking area.

Where Smoking is Permitted

The act exempts from its prohibition on smoking in workplaces with five or more employees (1) areas where businesses that develop and test tobacco products do such work, (2) qualified tobacco bars, (3) private clubs whose liquor permit was issued on or before May 1, 2003, and (4) cafes and taverns until

April 1, 2004 (PA 03-235 exempts bowling alleys and racquetball facilities with liquor permits until this date). To qualify for the tobacco bar exemption, a business (1) must have a liquor permit and have generated at least 10% of its annual gross income in 2002 from on-site sales of tobacco products or humidors and (2) cannot have changed its size or location after December 31, 2002. As under prior law, correction facilities and public housing projects are exempt from the smoking ban.

Prior law required an employer to establish nonsmoking areas when employees in business facilities where 20 or more people work asked it to do so. The act reduces this ceiling to facilities with four or fewer employees. It repeals the labor commissioner's authority to exempt employers from this requirement if he finds that (1) they made a good faith effort to comply and (2) further compliance efforts would pose an unreasonable financial burden. It also repeals his authority to adopt regulations governing exemptions.

SMOKING IN OTHER LOCATIONS

Restaurants and Places that Serve Alcohol

The act prohibits smoking inside any restaurant and place that serves alcohol, except tobacco bars, under any of the following permits: university; hotel; resort; restaurant; café; juice bar; club; tavern; railroad; airline; coliseum or coliseum concession; special sporting facility; nonprofit theater or public museum; bowling establishment and racquetball facility; or airport, airport restaurant, bar, concession, or airline club. The act defines "restaurant" as space in a permanent building that is used and held out to the public as a place where meals are served regularly to the public.

The ban begins October 1, 2003, except for cafes and taverns, where it begins April 1, 2004. (PA 03-235 postpones the ban in bowling alleys and racquetball facilities with liquor permits to the latter date.) It applies to private clubs whose permits are issued after May 1, 2003.

Under prior law, people could smoke (1) in restaurants that seat fewer than 75 people and (2) in larger restaurants, if they posted signs in areas where smoking was permitted and at the entrance indicating that a nonsmoking area was available. Restaurants could prohibit smoking in rooms used for private social functions.

The act allows smoking anywhere outdoors at a restaurant that does not serve alcohol. It

allows it outdoors under the following conditions at any of the places with liquor permits where it is prohibited indoors:

1. the smoking area may not have a roof or other ceiling enclosure and
2. at least 75% of the seats in a food service area must be in a nonsmoking location clearly marked by a sign. This second condition does not apply to temporary seating areas established for special events.

The act extends to places that sell alcohol the requirement that restaurants and others post signs in all buildings and rooms where smoking is prohibited, but it exempts them from the lettering size requirements for these signs. Restaurants are already exempt from the lettering requirement. Smoking where prohibited and failure to post a sign are infractions (see Table on Penalties).

Public Buildings and Health Care Institutions

The act prohibits smoking anywhere in state or local government buildings and health care institutions (e.g., hospitals, nursing homes, community health care centers, and residential care homes), except designated smoking areas in psychiatric facilities. Prior law allowed smoking anywhere in a psychiatric facility, while allowing it only in designated areas of government buildings and health care institutions. The act keeps the existing exemption from the smoking prohibition for correction facilities, public housing projects, and classrooms where smoking is demonstrated as part of a medical or scientific experiment or lesson.

Hotels, Motels, and Other Lodging Places

The act restricts smoking in hotels, motels, and other lodging places to 25% of guest rooms. It requires such lodging places to post signs in every nonsmoking room, but it exempts them from the existing lettering size requirements for these signs.

PA 03-46—HB 5617

Public Health Committee

AN ACT CONCERNING AMBULANCE SERVICES

SUMMARY: By law, the Department of Public Health (DPH) sets the maximum allowable rates

for ambulance services. This act removes a requirement that ambulance services file with DPH an audited financial statement or an accountant's review report for the most recently completed fiscal year if they (1) do not apply for a rate increase in excess of the Medical Care Services Consumer Price Index for the prior year or (2) accept the maximum allowable rates in a voluntary statewide rate schedule established by DPH.

EFFECTIVE DATE: October 1, 2003

PA 03-51—SB 941

Public Health Committee

AN ACT CONCERNING CHANGES TO THE STATUTES REGARDING PERSONS WITH MENTAL RETARDATION

SUMMARY: This act changes the terminology state guardianship statutes use to refer to people with mental retardation and makes a technical change concerning the payment of probate court costs in appointing a guardian.

EFFECTIVE DATE: October 1, 2003

PA 03-73—sHB 6464

Public Health Committee

AN ACT CONCERNING THE SALE OF NONPROFIT HOSPITALS

SUMMARY: This act modifies the process for the sale of nonprofit hospitals to for-profit entities by:

1. requiring the hospital and the purchaser to submit a joint application for approval and for any certificate of need (CON), instead of separate applications;
2. adopting the CON application process in which the applicant files a letter of intent with basic information on the proposed purchase and then a formal application;
3. ensuring that any extension of the statutory deadlines for issuing a decision is made jointly by the Office of Health Care Access (OHCA) and the attorney general;
4. allowing both agencies to contract with experts to help review the application and requiring the purchaser to pay up to \$300,000 for the attorney general's experts and up to \$150,000 for

- OHCA's;
5. increasing the time for public notice of a hearing on the proposal; and
 6. specifying that the attorney general's review procedure is not conducted under the Uniform Administrative Procedure Act (UAPA).

EFFECTIVE DATE: October 1, 2003

SALE OF NONPROFIT HOSPITAL TO A FOR-PROFIT PURCHASER

Letter of Intent

Prior law prohibited a nonprofit hospital from entering into an agreement to transfer a material amount of its assets or operations or to change control of operations to a for-profit entity without first notifying the attorney general and OHCA commissioner by certified mail and receiving their approval.

The act instead requires the purchaser as well as the nonprofit hospital to submit a letter of intent, instead of a notice, to OHCA and the attorney general. The letter of intent can be sent by certified mail or hand delivered to each office. It must contain the estimated capital expenditure, cost, or value associated with the proposed agreement, in addition to existing requirements for the notice.

Application Form and Required Information

The OHCA commissioner and attorney general must review the letter of intent, with the attorney general determining whether the proposed agreement requires approval under the nonprofit conversion law. If it does, they must give the hospital and the purchaser an application, unless OHCA refuses to accept the letter of intent because it is incomplete.

The hospital and purchaser must submit the application, which must include:

1. the names and addresses;
2. a description of proposed agreement terms;
3. copies of all contracts, agreements, and memoranda of understanding relating to the proposed agreement;
4. a fairness evaluation by an independent person expert in these agreements that applies the criteria established in current law;
5. documentation that the hospital exercised due diligence in deciding to transfer, selecting the purchaser,

obtaining the fairness evaluation, or negotiating the terms and conditions of the transfer;

6. disclosure of the terms of any other offers the hospital rejected and why; and
7. other necessary information the attorney general and OHCA require.

Except for the disclosure of rejected offers, these application requirements are similar to those required under existing law when the hospital notifies the commissioner and OHCA about the proposed agreement with the for-profit entity.

The act specifies that the application is subject to public disclosure, as is the notice under existing law.

Filing of Application

Under prior law, the attorney general had to determine, within 20 days of receiving notice of a proposed agreement between the hospital and purchaser, whether the agreement involved a material amount of the hospital's assets or operations or change in control of the hospital's operations and notify OHCA of his decision. If he determined that it did, he had to review the proposal.

The act instead requires the purchaser and hospital to concurrently file the application with OHCA and the attorney general within 60 days after receiving the form in the mail. The OHCA commissioner and the attorney general must review the application and determine if it is complete. They must, within 20 days of receiving it, give written notice to the purchaser and the hospital of any deficiencies. The application is not deemed complete until these deficiencies are fixed.

Within 25 days after getting the complete application, OHCA and the attorney general must jointly publish a summary of it in a newspaper in the hospital's area.

Review of Application

Prior law gave the attorney general 120 days to complete the review after receiving notice from the hospital. He could approve the agreement, with or without modifications, or disapprove it. He, the hospital, and the purchaser could agree to extend the 120-day period. If he took legal action to enforce a subpoena, the time period was tolled until enforcement was complete. Unless extended, if the attorney

general did not take action on the agreement within 120 days, it was deemed approved.

Prior law required the OHCA commissioner to review the proposal following the attorney general's determination that the agreement was subject to review. OHCA also had to make its decision within 120 days, which could be extended by separate agreement among OHCA, the hospital, and purchasers.

The act instead requires the attorney general and the OHCA commissioner to approve the completed application, with or without modification, or deny it within 120 days of receiving it. The commissioner must also determine whether to approve, with or without modification, or deny an application for a certificate of need that is part of the application. He must make the CON decision within the same time period as the completed application. The deadline can be extended if the attorney general, OHCA, the hospital, and the purchaser all agree. The deadline is tolled for legal action taken by the attorney general as described above. The application is deemed approved if the commissioner and the attorney general do not act within the 120-day period, unless extended.

By law, the attorney general can contract with experts or consultants in reviewing the proposal. The act allows him to appoint or contract with another person to review the application and make recommendations to him. It also increases from \$150,000 to \$300,000 the amount the purchaser can be billed for these experts' services.

Standards for Approval

By law, the attorney general must disapprove the proposal as not in the public interest if (1) it is prohibited by statutory or common law on nonprofits, trusts, or charities; (2) the hospital did not exercise due diligence; (3) the hospital did not disclose conflicts of interest; (4) the hospital will not receive fair market value for its assets; (5) the assets' fair market value was manipulated, causing their value to decrease; (6) the transition's financing by the hospital will put the assets at unreasonable risk; (7) any management contract being considered is not for reasonable fair value; (8) a sum equal to the fair market value of the hospital's assets is not being transferred to one or more people selected by the Superior Court; or (9) the hospital or purchaser has not provided sufficient information to adequately evaluate the proposal. The act applies these same standards to

the denial of an application by the attorney general.

Under prior law, the OHCA commissioner also had to approve the proposal if the attorney general determined it was subject to the law's approval process and OHCA had to find that (1) the affected community was assured of continued access to affordable care, (2) the purchaser was committed to providing health care to the uninsured and under-insured, and (3) safeguards were in place to avoid a conflict of interest in patient referral if health care providers or insurers were offered investment or ownership opportunities in the purchaser or related entity.

The act retains these same standards for OHCA review and additionally requires OHCA to find that the CON authorization is justified. The act also allows the OHCA commissioner to contract with financial or actuarial experts or consultants or legal experts, with the attorney general's approval, to assist with the application review. The commissioner can bill the purchaser up to \$150,000 for such contracts, which he must pay within 30 days of receiving the bills.

Public Hearings

By law, OHCA and the attorney general must hold at least one public hearing before they make any decision on the proposal. The act requires 14, rather than 10, days' notice of the hearing's time and place through publication in one or more newspapers in the affected area.

Appeals

After exhausting administrative remedies, the hospital or purchaser could, under prior law, appeal the attorney general's or OHCA commissioner's decision to disapprove the proposed agreement or approve it with modifications to the Superior Court according to the UAPA. The act allows appeal of an application denial or approval with modification in the same manner, but specifies that the act must not be construed as applying the UAPA to the attorney general's proceedings.

BACKGROUND

Certificate of Need

Certificate of need (CON) is a regulatory process, administered by OHCA, for review of certain proposed capital expenditures by health care facilities, acquisition of major medical

equipment, institution of new services or functions, termination of services, transfer of ownership, and decreases in bed capacity. Generally, a CON is a formal OHCA statement that a health care facility, medical equipment purchase, or service charge is needed.

Related Act

PA 03-17 amends the state's CON process by (1) requiring OHCA to give public notice of completed letters of intent for CON applications and (2) making OHCA public hearings on CON applications optional unless requested by the public or the completed application meets certain criteria.

PA 03-80—sSB 944

*Public Health Committee
Judiciary Committee*

**AN ACT CONCERNING COMMUNITY
BENEFIT PROGRAMS**

SUMMARY: This act requires each hospital and managed care organization (MCO) to submit a biennial, rather than an annual, report to the Department of Public Health (DPH) on whether it has a "community benefits" program. The next report is due January 1, 2005. By law, if the MCO or hospital has such a program, the report must describe its status and the extent to which it has met certain guidelines.

The act also authorizes the DPH commissioner to impose a civil penalty of up to \$50 a day on MCOs and hospitals for each day the report is not submitted.

Prior law required DPH to summarize and analyze the required reports annually and make summaries available to the public. The act instead makes this a biennial requirement, with the next summary report due October 1, 2005.

"Community benefits," under the law, means a voluntary program to promote preventive care and improve the health status of working families and populations at risk in the communities within the geographic service area of an MCO or hospital.

EFFECTIVE DATE: October 1, 2003

PA 03-87—sHB 6447

*Public Health Committee
Finance, Revenue and Bonding Committee*

**AN ACT CONCERNING ASBESTOS
ABATEMENT WORKERS, SITE
SUPERVISORS AND TRAINING
PROGRAMS**

SUMMARY: This act establishes fees for certifying asbestos abatement workers and site supervisors, as well as for approval of asbestos-related training and refresher training programs. It also allows for Connecticut certification by endorsement for certain out-of-state workers and supervisors.

By law, asbestos abatement workers and site supervisors must complete a Department of Public Health (DPH)-approved training program and be certified by DPH. The act establishes initial and annual renewal license fees of \$25 for an asbestos worker certificate and \$50 for a site supervisor certificate. It allows DPH to certify a person licensed or certified in another state with standards substantially similar to Connecticut's and who is not facing any unresolved complaints or pending disciplinary actions.

The act establishes a \$500 fee for each application or reapplication to DPH for approval of training programs for asbestos abatement workers, asbestos abatement site supervisors, and asbestos consultants. It also establishes a \$250 application fee for DPH's approval or reapproval of refresher training programs.

EFFECTIVE DATE: October 1, 2003

PA 03-94—SB 553

*Public Health Committee
Government Administration and Elections Committee*

**AN ACT CONCERNING THE CAMP
HARKNESS ADVISORY COMMITTEE**

SUMMARY: This act adds one member representing the Association for Retarded Citizens of New London County to the Camp Harkness Advisory Committee. This member must be appointed by the governor and brings the total membership to 12. The committee advises the Department of Mental Retardation (DMR) commissioner on health and safety issues concerning camp users.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

Camp Harkness

Camp Harkness is a 102-acre parcel in Waterford that was originally part of the Harkness family estate. The property was willed to the state and donated for "public health." DMR has administrative responsibility for the camp. The camp is open year-round to pass holders (individuals and organizations serving people with disabilities) for day and overnight use.

PA 03-118—HB 6678

Public Health Committee

AN ACT CONCERNING CONTINUING EDUCATION FOR PROFESSIONS REGULATED BY THE DEPARTMENT OF PUBLIC HEALTH

SUMMARY: This act establishes continuing education requirements for funeral directors and embalmers, alcohol and drug counselors, nursing home administrators, and massage therapists. The act defines acceptable continuing education courses and activities for these health professions, requires participants to document their continuing education and maintain records for a set period, and gives the Department of Public Health (DPH) authority to discipline individuals not complying with its requirements. DPH can grant continuing education waivers or extensions under certain circumstances. The act also clarifies that DPH has disciplinary authority over marital and family therapists who violate licensure laws and regulations.

EFFECTIVE DATE: October 1, 2003

FUNERAL DIRECTORS AND EMBALMERS

The act requires licensed funeral directors and embalmers to complete at least six hours of continuing education annually in order to renew their license. The continuing education must be in areas such as bereavement care; business management and administration; funeral-related religious customs and traditions; pre-need, cremation, and cemetery services; natural sciences; restorative arts and embalming; federal and state laws; counseling; funeral service merchandising; sanitation and infection control; organ donation; and hospice care.

Continuing education must be in courses offered or approved by the Academy of Professional Funeral Service Practice, educational offerings sponsored by a hospital or other licensed health care institution, or courses offered by a regionally accredited higher education institution.

A licensee must get a certificate of completion from the continuing education provider for all successfully completed continuing education hours. He must keep the certificate for at least three years following the license renewal date. The licensee must provide DPH with the certificate if requested.

Failure to meet the act's continuing education requirements can result in disciplinary action against the licensee, including the refusal, revocation, or suspension of a license.

DPH must waive the continuing education requirements for licensees applying for their first license renewal. It can waive the requirement for a specific period or give a licensee an extension to meet the requirements because he has a medical disability or illness.

ALCOHOL AND DRUG COUNSELORS

Beginning October 1, 2004, licensed or certified alcohol and drug counselors must complete a minimum 20 hours of continuing education annually. Continuing education must be in areas related to the individual's practice and include educational offerings sponsored by a hospital or other licensed health care institution or courses offered by (1) regionally accredited higher education institutions or (2) individuals or organizations on a list of approved continuing education providers maintained by the Connecticut Certification Board, Inc.

The act imposes the same certificate of completion, retention period, submittal of information, disciplinary action, and waiver requirements described above for funeral directors and embalmers.

NURSING HOME ADMINISTRATORS

Beginning October 1, 2004, nursing home administrator licensees must complete at least 20 hours of continuing education annually in areas related to their practice. These activities can include courses offered or approved by the Connecticut Association of Healthcare Facilities, the Connecticut Association of Not-for-Profit Providers, the Connecticut Chapter of the American College of Health Care

Administrators, accredited colleges, or programs presented or approved by the National Continuing Education Review Service of the National Association of Boards of Examiners of Long Term Care Administrators, or by state and federal agencies.

The act imposes the same certificate of completion, retention period, DPH submission requirements, and waiver provisions described above for the other professions.

A licensee failing to complete continuing education requirements is subject to disciplinary action as described above.

MASSAGE THERAPISTS

The act requires massage therapists to complete a minimum 24 hours of continuing education every four years, beginning on the first license renewal date after October 1, 2003. It must be in areas related to the individual's practice, including courses offered by providers approved by the National Certification Board for Therapeutic Massage and Bodywork. No more than six units can be completed via the Internet or distance learning, and up to 12 units can be from providers not approved by the national board. The act defines a continuing education unit as 50 to 60 minutes of participation in accredited continuing education.

Under the act, DPH can require the licensee to submit evidence of continuing education on forms it may prescribe. The act requires the licensee to keep records, certificates, or other evidence of compliance with the continuing education requirements for six years. A licensee's failure to demonstrate meeting the continuing education requirements can be grounds for DPH to take disciplinary action against him.

Under the act, the continuing education requirements do not apply to people continuously licensed since October 1, 1993, or to those applying for their first renewal. The act allows DPH to waive the continuing education requirements for a specific time period or give the person an extension because of medical disability or illness.

PA 03-124—HB 5612

Public Health Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING RETIRED DENTISTS

SUMMARY: This act establishes a reduced annual license fee of \$100 for dentists who practice for no fee and for at least 100 hours per year at a public health facility, but do not otherwise practice dentistry. The regular annual license fee for a practicing dentist is \$450.

"Public health facilities" include community health centers, group homes, and schools and preschools operated by a local board of education or a Head Start program. They also include facilities such as hospitals, rest homes, health care facilities for the handicapped, nursing homes, residential care homes, mental health facilities, home health care agencies, homemaker-home health aide agencies, substance abuse treatment agencies, infirmaries operated by educational institutions, and intermediate care facilities for people with mental retardation.

EFFECTIVE DATE: October 1, 2003

PA 03-159—sSB 1144

Public Health Committee

Judiciary Committee

AN ACT CONCERNING THE TREATMENT OF DRUG OVERDOSES

SUMMARY: This act allows those licensed health care practitioners who can prescribe an opioid antagonist to prescribe, dispense, or administer it to a drug user in need of intervention without being civilly or criminally liable. Under the act, an "opioid antagonist" is naloxone hydrochloride or any other similarly acting and equally safe drug approved by the federal Food and Drug Administration for treating a drug overdose. By law, physicians and surgeons, physician assistants, dentists, advanced practice registered nurses, and podiatrists may prescribe them.

The act requires the Department of Public Health (DPH) to publish a report on the causes and rates of statewide fatal and nonfatal drug overdoses for at least the past three years. The report must include (1) trends in drug overdose death rates and (2) suggested data collection improvements. DPH must report by January 1, 2004 to the governor and the Public Health Committee.

EFFECTIVE DATE: The reporting provision takes effect July 1, 2003; the provision on administering an opioid antagonist, on October 1, 2003.

BACKGROUND

Opioid Antagonist

Opioid antagonists “sit” on the brain’s opioid receptor sites, displacing any opioids (such as heroin), reducing cravings for opiates, and blocking their euphoric and other effects. Some opioid antagonists, like naloxone, rapidly reverse the symptoms of overdose when given after a narcotic overdose.

PA 03-162—sSB 834

*Public Health Committee
Appropriations Committee*

AN ACT CONCERNING THE SUBSTANCE ABUSE REVOLVING LOAN FUND

SUMMARY: This act increases to \$10,000, from \$4,000, the maximum amount of any loan the Department of Mental Health and Addiction Services can make from its Substance Abuse Revolving Loan Fund. But it prohibits a loan from exceeding the maximum allowed by federal law, which is currently \$4,000. The department makes loans from this fund to help private nonprofit agencies establish group homes for people recovering from substance abuse. Loans must be repaid within two years.

EFFECTIVE DATE: October 1, 2003

PA 03-164—sSB 1151

*Public Health Committee
Human Services Committee*

AN ACT CONCERNING COLLABORATIVE PRACTICE BETWEEN PHYSICIANS AND PHARMACISTS

SUMMARY: This act adds pharmacists working in nursing homes to those pharmacists who can establish collaborative agreements with physicians to manage patients’ drug therapy. Existing law allows physicians and hospital pharmacists to enter into collaborative agreements to manage the drug therapy of individuals receiving inpatient hospital services. The agreements must be based on written protocols and approved by the hospital. They can authorize a pharmacist to implement, modify, or discontinue a drug therapy the physician prescribes. The pharmacist can also order associated lab tests and administer drugs.

All treatments must be based on a written protocol specific to each patient.

The act expands this by also allowing pharmacists employed by or under contract with a nursing home to enter into such collaboratives with physicians. The agreements must be based on written protocols for purposes of managing the drug therapy of individual patients in nursing homes and are subject to the nursing home’s approval. Each patient’s collaborative drug therapy management must be based on a written protocol specific to that patient and developed by the treating physician in consultation with the pharmacist. The protocol must be reviewed and approved by the nursing home’s active, organized medical staff.

Under the act, the nursing home that employs the pharmacist must determine that he is competent to participate in each collaborative agreement, just as hospitals must do now for hospital pharmacists participating in collaborative agreements with physicians. The nursing home, as a hospital must currently do, must file a copy of the criteria it uses to judge competence with the Pharmacy Commission.

The act specifies that records collected or maintained under the prescription drug error reporting program do not have to be disclosed for six months from the date the records were created. Also, these records are not subject to subpoena, discovery, or introduction into evidence in any judicial proceeding except as otherwise specifically provided by law.

EFFECTIVE DATE: October 1, 2003

PA 03-166—sSB 1123

*Public Health Committee
Human Services Committee
Appropriations Committee
Finance, Revenue and Bonding Committee*

AN ACT CONCERNING ACCESS TO LOW-COST PRESCRIPTION DRUGS

SUMMARY: This act establishes a revolving loan program to provide loans to federally qualified health centers (FQHCs) to establish pharmacies or contract pharmacy arrangements with community pharmacies or other pharmacy contractors. The Connecticut Health and Educational Facilities Authority (CHEFA) must administer the program and may capitalize it with up to \$500,000. Loans cannot be made after June 30, 2008. CHEFA must submit an annual report to the Public Health Committee on

the program, and the Department of Social Services (DSS) must assist FQHCs applying for loans and report on the program to various legislative committees.

FQHCs are community health centers that receive federal funding and meet specific federal criteria, including those governing the services they provide. Federal law (see BACKGROUND) allows certain entities, such as FQHCs, to purchase drugs at discounted prices by creating an in-house pharmacy or contracting with a retail pharmacy.

EFFECTIVE DATE: October 1, 2003

REVOLVING LOAN PROGRAM

The act authorizes CHEFA to provide loans to FQHCs to pay for the cost of establishing a pharmacy facility or for a contract pharmacy arrangement with a community pharmacy or other pharmacy contractor. Under the act, the pharmacy serves as a centralized prescription drug distributor for FQHCs that have affordable drug programs for their qualified low-income patients according to federal law ("§ 340B" of the Public Health Service Act). An FQHC can apply for a loan of up to \$125,000, with a term between four and 10 years. Loan proceeds can be used to purchase or lease computers, automated medication dispensing equipment, and inventory and for other costs of starting a pharmacy. Borrowing is subject to CHEFA eligibility, loan approval, credit, and underwriting criteria and requirements.

The act establishes a separate account to hold program funds. CHEFA can accept contributions from any public or private source for deposit in the account. Loan repayments must be deposited in it, and any investment earnings in it must be kept there and used for account purposes. Any balance remaining in the account at the end of any fiscal year must be carried forward for the next fiscal year.

The act prohibits any loans after June 30, 2008. CHEFA may withdraw money remaining in or credited to the account after that date and use it for other CHEFA purposes, subject to specific restrictions governing contributions made to the account.

The act gives CHEFA the authority to exercise those powers necessary or appropriate to carry out its provisions, including powers it currently has concerning loans to health care institutions in general.

CHEFA must adopt procedures to carry out its responsibilities under the act that address

eligibility, loan approval, credit, and other underwriting requirements and criteria.

CHEFA ANNUAL REPORT

Beginning October 1, 2004, the act requires CHEFA to submit annually to the Public Health Committee a report that (1) describes the pharmacy facilities or contract pharmacy arrangements receiving loans, general loan terms, and repayment rates; (2) assesses the effect of the loans on the number of prescriptions sold at the federal supply schedule price; (3) addresses the need for additional funding; (4) provides estimated savings to the state and patients from filling prescriptions through facilities receiving loans; and (5) provides other information CHEFA deems relevant.

DSS RESPONSIBILITIES

The DSS commissioner must assist any FQHC applying for a loan by providing nonindividually identifiable information about potential participants in the affordable pharmaceutical drug program. The act also requires DSS to report annually to the Public Health, Human Services, and Appropriations committees, beginning October 1, 2004, on the actual savings to the state from FQHC affordable drug programs and estimated savings if all FQHCs participated in such programs.

BACKGROUND

§ 340B Drug Program

Section 340B of the federal Public Health Service Act requires drug manufacturers to enter into agreements with the Department of Health and Human Services to provide outpatient drugs to covered entities at discounted prices. It specifically includes FQHCs as covered entities. Generally, the discounted prices are at least as good as the prices paid by state Medicaid agencies. An FQHC must adhere to certain requirements to receive the discounted pricing. It must (1) be the purchaser and owner of the covered drugs and (2) dispense these drugs only to patients of the health center.

Most FQHCs with their own licensed in-house pharmacy purchase drugs at these discounted prices. Other FQHCs that do not operate in-house pharmacies purchase drugs at these prices through contractual agreements with retail pharmacies. The agreement must meet

federal “contracted pharmacy guidelines.”

PA 03-187—sHB 5930

Public Health Committee

Government Administration and Elections Committee

**AN ACT CONCERNING
CONFIDENTIALITY OF EMPLOYEE
ASSISTANCE PROGRAM CLIENT
COMMUNICATIONS**

SUMMARY: This act prohibits anyone from requiring an employee assistance professional or employee to disclose any information or records concerning or confirming the employee’s voluntary participation in an employee assistance program (EAP) sponsored or authorized by the employer. Existing law prohibits anyone from requiring state employees to disclose information or records about their participation in an EAP sponsored or authorized by the state.

The act defines an “EAP” as one sponsored or authorized by an employer to help employees identify and resolve personal concerns, including health, marital, family, financial, alcohol, drug, gambling, legal, emotional, stress, or other personal issues that may affect job performance. “Employee assistance professional” is a person required by job description or employment contract to provide services through an EAP.

The act prohibits an EAP, including its agents and representatives, from disclosing any information or records about an employee’s voluntary participation in a program without the person’s prior written consent, unless disclosure is necessary to prevent harm to the employee or others. Records of state employees, who already have this written consent protection, also are subject to disclosure when necessary to prevent harm under the act.

Existing law, unchanged by the act, prohibits disclosing information that identifies an employee to anyone, other than a person or entity employed by or affiliated with the employer, without written authorization, unless disclosure is:

1. limited to the employee’s dates of employment, position held, and wage or salary;
2. made to a third party who maintains or prepares employment records or performs other employment-related services for the employer;
3. made pursuant to a lawfully issued administrative summons or judicial

order, including a search warrant or subpoena;

4. made pursuant to a law enforcement agency’s request for an employee’s home address and dates of attendance at work;
5. in response to an apparent medical emergency or to apprise the employee’s physician of a medical condition of which the employee may not be aware;
6. made to comply with federal, state, or local laws; or
7. made pursuant to a collective bargaining agreement.

EFFECTIVE DATE: October 1, 2003

PA 03-188—sHB 6446

Public Health Committee

Planning and Development Committee

Judiciary Committee

**AN ACT CONCERNING PREMARITAL
BLOOD TEST REQUIREMENTS AND
MARRIAGE CERTIFICATES**

SUMMARY: This act allows couples to obtain a marriage license from the town clerk where either partner lives and be married in any town in the state. Under prior law, they had to obtain the license from the town clerk where the ceremony was to be performed. They still have this option under the act.

The act also repeals requirements that (1) the couple be tested for syphilis and the woman for rubella immunity before getting a license, (2) allow a probate court judge to waive this requirement in some cases, and (3) the public health commissioner adopt regulations related to this testing.

EFFECTIVE DATE: October 1, 2003

PA 03-203—sSB 946

Public Health Committee

Judiciary Committee

Appropriations Committee

**AN ACT CONCERNING CRIMINAL
HISTORY RECORDS**

SUMMARY: This act (1) requires the Department of Mental Retardation (DMR) to conduct state criminal background checks on everyone applying for a job in a DMR program that provides direct care to clients, (2) allows

DMR to require private providers that it licenses for direct services to conduct such checks on certain prospective employees, and (3) requires DMR to study issues involved with requiring national criminal history checks for DMR's and private providers' direct care staff.

The act allows certain financial service institutions and professionals, in specified situations, to make criminal history information that appears on employment application forms available to people outside the hiring process. Finally, it permits police-sponsored athletic organizations to obtain state and national criminal history records from the Department of Public Safety (DPS) for prospective coaches. EFFECTIVE DATE: October 1, 2003 for the DMR and police athletic organization background checks, and upon passage for financial institution background information availability and the DMR report requirement.

DMR BACKGROUND CHECKS

The act conforms law to practice by:

1. requiring DMR to subject everyone applying for a job in a DMR program that provides direct services to clients to state criminal history record checks and
2. permitting DMR to require private providers that it licenses or contracts with for residential, day, or support services to require job applicants who will have direct and ongoing contact with clients and their families to submit to these checks. If DMR requires a private provider to do this, the act makes the costs of the checks an allowable cost on its annual cost report.

The act prohibits DMR and any private provider that requires background checks from hiring anyone until the check results are available.

The act also requires DMR to report on the fiscal, logistical, and legislative issues involved with requiring national criminal history checks for DMR and private providers' direct care staff. The report must describe the type of check required, the legislative authority needed to do it, estimated costs, and any other additional issues. DMR must submit the report to the Public Health Committee by January 1, 2004.

CRIMINAL HISTORY INFORMATION AND FINANCIAL SERVICES INSTITUTIONS

The law permits only members of a business' personnel department, the person in charge of employment in a firm with no personnel department, and people conducting employment interviews to obtain criminal history information about an applicant or employee contained in an employment application. The act allows certain financial service institutions and professionals, in specified situations, to make this information available to other people, as necessary.

1. It allows a broker-dealer or registered investment advisor to make it available in connection with (a) the filing, possible filing, collection, or retention of information contained in a uniform security industry form; (b) legal compliance responsibilities; or (c) self-regulatory organization rules promulgated according to federal law.
2. It allows banks or credit unions to make it available in connection with (a) management risks related to their safety, soundness, security, or privacy; (b) waivers they may seek under the Federal Deposit Insurance Act; (c) obtaining a security or fidelity bond; or (d) their compliance responsibilities under federal law.
3. It allows licensed insurance producers to make it available in connection with (a) management risks related to their security or privacy or (b) their compliance responsibilities under federal law.

POLICE-SPONSORED ATHLETIC ACTIVITY

The act requires DPS to conduct a national and state criminal history record check on any coach in a police-sponsored athletic activity who will be in direct contact with children under age 18. It must do this when any sworn police officer asks it to do so. The department can charge the sponsoring organization for the cost of conducting the checks.

PA 03-209—sSB 1107
Public Health Committee
Insurance and Real Estate Committee

**AN ACT CONCERNING THE PRACTICE
 OF PHYSICAL THERAPY**

SUMMARY: This act adds “wellness care” to physical therapists’ scope of practice and allows them and their assistants to provide such care to anyone without symptoms of illness or injury, with or without a referral from a physician, podiatrist, natureopath, chiropractor, dentist, advanced practice nurse, or physician assistant. By law, except for this exception for wellness care, physical therapists and their assistants can only treat a patient referred by one of these licensed providers.

The act defines wellness care as services related to conditioning and fitness, strength training, workplace ergonomics, or injury prevention. It specifies that it does not prohibit or limit other licensed or certified providers from giving such care within the scope of their practice. The act states that it does not require an employer or insurer to pay for wellness care provided by a physical therapist.

The act also requires physical therapists to complete 20 hours annually of continuing education in order to renew their licenses. The continuing education must be in areas related to their practice. Therapists must obtain certificates of completion from continuing education providers and submit them to the Department of Public Health (DPH) at its request. They must keep the certificates for three years after the license renewal to which the certificates apply. DPH can discipline a therapist who fails to comply with these requirements.

The act (1) waives the continuing education requirement for an individual’s first license renewal and (2) allows DPH to waive the requirements for a specific period for a therapist who has a medical disability or illness or grant him more time to fulfill them.

EFFECTIVE DATE: October 1, 2003, with the sections that apply to licensed physical therapist assistants taking effect on the date the public health commissioner publishes notice in the *Connecticut Law Journal* of his intent to implement their licensure and the licensure of athletic trainers, as authorized by PA 00-226.

PA 03-211—sHB 5931
Public Health Committee
Judiciary Committee
Education Committee

**AN ACT CONCERNING THE PROVISION
 OF MEDICAL CARE FOR STUDENTS'
 HEALTH CARE NEEDS**

SUMMARY: This act:

1. requires school boards to let diabetic students test their own glucose levels in school if a physician’s or advanced practice registered nurse’s (APRN) written order states the student needs to self-test and is capable of doing so;
2. expands the types of school personnel who can administer medication to students under specified circumstances, expands the scope of the regulations that govern administration, and shifts authority to adopt regulations from the public health commissioner to the State Board of Education (SBE);
3. specifies the school personnel who can recommend medical evaluations for students, requires school board policies to address procedures for recommending such evaluations, and clarifies and expands the provisions of the law requiring school boards to adopt policies prohibiting school personnel from recommending psychotropic drugs for a child;
4. requires health care providers to report to school districts when they immunize or conduct a health care assessment on a child seeking to enroll in a public school and to report on immunizations and assessments for each child enrolled in that school;
5. immunizes from civil liability volunteers and certain nonprofit organizations when, under specified conditions, a volunteer uses an automatic prefilled cartridge injector on a child who apparently needs an injection due to an allergic reaction;
6. prohibits school boards from denying a student access to school transportation solely because he needs to carry an automatic cartridge injector or similar equipment to deliver epinephrine to treat allergic reactions;

7. requires school boards to honor APRNs' orders restricting a student's physical activity in school; and
8. explicitly requires in-service programs on the development of exceptional children that school districts must offer for certified school personnel to cover students with attention deficit hyperactivity disorder (ADHD) and learning disabilities.

EFFECTIVE DATE: July 1, 2003

GLUCOSE SELF-TESTING IN SCHOOL

The act bars school boards from prohibiting a child with diabetes from testing his own blood glucose level if the student has a physician's or APRN's written order saying he needs to conduct, and is capable of conducting, the self-testing. It requires the education commissioner to consult with the public health commissioner and adopt guidelines for policies and practices for children's glucose self-testing. It bars the guidelines from being considered as state regulations.

ADMINISTERING MEDICATION IN SCHOOL

School Paraprofessionals and Students with Allergies

The act allows a school nurse supervisor and school medical advisor jointly to approve a plan for a specific school paraprofessional to give medication, including medication administered with a cartridge injector, to a particular student who has a diagnosed allergy that may require prompt treatment to avoid serious harm or death. The plan may be approved only (1) with the written authorization of the student's parents and (2) pursuant to a written order from the student's doctor or an APRN or physician assistant authorized by law to prescribe medication.

Under the act, a "cartridge injector" is a prefilled, automatic device for delivering a standard dose of epinephrine for emergency first aid in response to allergic reactions.

Physical and Occupational Therapists

The act allows a licensed physical or occupational therapist employed by a school district, in the absence of the school nurse and under the nurse's general supervision, to give a student medicine according to the (1) written

order of a licensed physician, dentist, APRN, or physician assistant and (2) written authorization by the student's parent or guardian. The act adds these therapists to the following school personnel who can give medicine under these circumstances: any licensed nurse, the principal, any teacher, or an intramural or interscholastic athletic coach.

Immunity

The act extends the existing immunity from liability for negligent acts or omissions by school personnel giving medicine under the above-specified circumstances to include licensed physical and occupational therapists and school paraprofessionals giving medication under the act. The immunity does not extend to acts or omissions that constitute gross, willful, or wanton negligence.

Regulations on Giving Medication

Prior law allowed the public health commissioner to adopt regulations specifying the conditions under which coaches can give medicine to students participating in intramural or interscholastic athletics. This act shifts the authority for adopting those regulations to the SBE, in consultation with the commissioner, and expands the coverage of the regulations.

Under the act, SBE can adopt regulations it considers necessary to administer the medication provisions of both existing law and the act. It allows SBE's regulations to specify (1) conditions and procedures for all authorized school personnel, not just coaches, to administer medicine to any student, not just student athletes and (2) conditions for students to give themselves medicine.

The act specifies that SBE must adopt any amendments made on and after July 1, 2003 to existing public health regulations concerning administering medication in school.

Controlled Substance Regulations

The school personnel specified in both the law and the act may administer controlled drugs to students under the conditions described above. The act specifies that the controlled drugs covered are those designated in regulations the consumer protection commissioner, rather than the public health commissioner, adopts. It also requires schools to store those drugs as required by the consumer protection commissioner's,

instead of the public health commissioner's, regulations.

Nurse Qualification Regulations

The act requires SBE to consult with the Department of Public Health, rather than receive its technical advice and assistance, when it adopts regulations governing school nurse qualifications.

SCHOOL POLICIES ON RECOMMENDING PUPIL MEDICAL EVALUATIONS AND PSYCHOTROPIC DRUGS

The act requires previously mandated school board policies prohibiting school personnel from recommending psychotropic drugs for children to include procedures (1) for school health or mental health personnel and other school personnel to communicate with each other about children who may need to be recommended for a medical evaluation, (2) establishing how school health or mental health personnel should communicate the need for evaluation to a child's parents or guardian, and (3) for obtaining proper consent from parents or guardians for the school health or mental health personnel to talk about a child with outside medical practitioners.

Under the act, the school health and mental health personnel who can communicate about medical evaluations are (1) nurses; (2) nurse practitioners; (3) medical advisors; (4) school psychologists, social workers, and school counselors; and (5) other school personnel whom a school board identifies in its policy as responsible for communicating with a parent or guardian about a child's need for medical evaluation.

Prior law stated that it did not prohibit school "medical staff" from recommending appropriate medical evaluation of a child. The act specifies that it is the personnel listed above who may recommend the medical evaluations.

The act also specifies that neither its policies nor a school board's procedures prevent a child's planning and placement team from recommending a medical evaluation as part of an initial evaluation or reevaluation needed to determine a child's (1) eligibility for special education and related services or (2) educational needs for an individualized education program.

Finally, the act defines the psychotropic drugs covered by the school recommendation ban as prescription medications, including stimulants and anti-depressants, for behavioral or

social-emotional concerns such as (1) attention deficit, (2) impulsivity, (3) anxiety, (4) depression, and (5) thought disorders.

REPORTING IMMUNIZATIONS AND HEALTH ASSESSMENTS

By law, children must be immunized against certain diseases before they can enroll in a public or private school and must have their health assessed before they can enroll in a public school. Public school students must also have their health assessed in either sixth or seventh grade and again in 10th or 11th grade.

The act requires health care providers who immunize or assess the health of a child seeking to enroll in a public school to report this to a designated representative of the school district for the school in which the child is enrolling. It also requires them to report to the district representative on immunizations and the health assessment results for each child enrolled in that school. Each school board must annually designate a representative to receive these reports.

The act applies to health care providers who are "legally qualified practitioners of medicine." These include physicians, registered nurses, APRNs, nurse midwives, and physician assistants.

IMMUNIZING NONPROFIT VOLUNTEERS

The act immunizes from civil liability volunteers associated with certain nonprofit organizations who, under specified conditions, administer a cartridge injector to a child who apparently needs an injection. The nonprofit organizations, which cannot be licensed health care providers, must offer programs to children under age 17. Volunteers must have (1) been trained in using cartridge injectors by a licensed physician, physician assistant, registered nurse, or APRN and (2) obtained parental or guardian consent to use an injector on the child.

If a trained volunteer uses an injector on a child whose parent or guardian has consented and the child is injured or dies, the act immunizes both the volunteer and the nonprofit that trained him against civil damage claims by the child, parent, or guardian that arise from acts or omissions that constitute ordinary negligence. The immunity does not extend to acts or omissions that constitute gross, willful, or wanton negligence.

ORDERS RESTRICTING SCHOOL PHYSICAL ACTIVITY

The act allows an APRN to give a local or regional school board written notice placing restrictions on a particular pupil's physical activities in school. Under prior law, only medical doctors, surgeons, osteopaths, natureopaths, and podiatrists could give the notice. By law, boards must honor such restrictions.

IN-SERVICE PROGRAMS

The act explicitly requires the in-service training program on the growth and development of exceptional children that each local and regional board of education must provide for its teachers, administrators, and pupil personnel to cover children with attention deficit hyperactivity disorder or learning disabilities. By law, the program must cover gifted and talented children and children who may require special education and methods for identifying, planning for, and working effectively in a regular classroom with children with special needs.

PA 03-222—HB 6435

Public Health Committee

AN ACT CONCERNING HOSPITAL REIMBURSEMENT TO THE OFFICE OF HEALTH CARE ACCESS

SUMMARY: This act extends, by one month, the deadlines by which the Office of Health Care Access (OHCA) must provide information to certain hospitals about assessments to pay for OHCA's costs. By law, each short-term acute care general hospital and children's hospital is assessed annually for the costs of OHCA. OHCA must recalculate the proposed assessment at the end of each fiscal year using actual expenditures during that fiscal year and actual expenditures from the Capital Equipment Purchase Fund.

The act extends by one month, from July 31 to August 31 annually, the date by which OHCA must give each hospital a statement showing the difference between the recalculated assessment and the amount previously paid. It also extends, from August 31 to September 30 annually, the time by which OHCA must make adjustments to these statements based on hospitals' objections and give an adjusted assessment.

EFFECTIVE DATE: July 1, 2003

PA 03-236—sHB 6676

Public Health Committee

Judiciary Committee

Government Administration and Elections Committee

AN ACT CONCERNING PUBLIC HEALTH EMERGENCY RESPONSE AUTHORITY

SUMMARY: This act strengthens the governor's, the Department of Public Health (DPH) commissioner's, and local health directors' powers to respond to public health emergencies. It:

1. authorizes the governor, subject to disapproval by legislative leaders, to declare a public health emergency and order the DPH commissioner to take certain actions;
2. authorizes the commissioner to quarantine, isolate, and vaccinate people during a public health emergency;
3. allows people to refuse vaccination for any reason, including on medical, religious, or conscientious grounds, and allows those who do so to be quarantined or isolated;
4. requires DPH to develop a public health emergency response plan, which legislative leaders must review before it is approved;
5. broadens local health directors' existing quarantine authority, but specifies that they must follow the commissioner's orders during a declared emergency;
6. allows the governor to seize antitoxins and pharmaceutical or other biologic products when there is a shortage during a public health or civil preparedness emergency;
7. immunizes state and local officials and others against liability for damages from their actions or inactions during a public health emergency and requires the state to defend them and indemnify them for their expenses;
8. allows DPH to suspend temporarily license requirements for out-of-state health professionals who work in Connecticut during a public health emergency; and
9. allows DPH to authorize people to register death certificates and carry out related duties during an emergency.

EFFECTIVE DATE: Upon passage

GOVERNOR'S AUTHORITY

Declaring a Public Health Emergency (§§ 1 & 2)

The act authorizes the governor to declare a statewide or regional public health emergency after he makes a good faith effort to inform legislative leaders (see below). He can do this when a communicable disease, other than a sexually transmitted disease, or contamination that poses a substantial risk of a significant number of human fatalities or permanent or long-term disabilities occurs or is an imminent threat. The disease or contamination must be caused by, or the governor must believe it is caused by, bioterrorism, an epidemic or pandemic disease, a natural disaster, or a chemical or nuclear attack or accident.

A “communicable disease” under the act and existing law is a disease or condition that can be directly or indirectly passed or carried from one person or animal to another. Contamination occurs when a biological toxin or chemical, radioactive, or other substance is sufficient to pose a substantial risk of death, disability, injury, or harm to others.

The governor’s declaration must state the nature of the emergency, the towns or geographic areas subject to the declaration, the conditions that create the emergency, how long it will last, and the public health authority responding to the emergency. A “public health authority” under the act is any person or entity authorized to respond under the emergency plan the act requires the public health commissioner to prepare (see below). It could include local or district health directors and licensed health care providers.

The governor’s declaration takes effect when filed with the secretary of the state and the House and Senate clerks. The act allows six members of a 10-member legislative committee to vote to disapprove and nullify the declaration. The committee is composed of the House speaker, Senate president pro tempore, the House and Senate majority and minority leaders, and the Public Health Committee’s chairmen and ranking members. Their disapproval is effective only if they file it with the secretary of the state within the 72 hours after the governor files the declaration. A similar disapproval process applies under existing law when the governor declares a civil preparedness emergency.

The governor can terminate the declaration before its original end date if, after informing legislative leaders, he finds the circumstances no longer pose a substantial risk of human death or disability. He can renew a declaration by following the process for initially declaring an emergency.

Orders Under A Declaration

When he declares a public health emergency, the governor can (1) order the DPH commissioner to implement all or part of the public health emergency response plan and vaccinate people and (2) authorize him to isolate or quarantine people. He can also apply for and receive federal help.

The governor must ensure that the declaration and any orders issued pursuant to it are published in full at least once in a newspaper with general circulation in each county, provided to news media, and posted on the state’s website. But failure to take any of these actions does not invalidate the declaration or orders.

The act allows the DPH commissioner to ask the attorney general to apply to Superior Court for an order to enforce his orders and to provide any other equitable relief it deems appropriate. It allows the commissioner to delegate some or all of his authority to a DPH employee or any local health director, who then acts as the commissioner’s agent.

The act subjects anyone who violates an order issued during a public health emergency to a \$1,000 fine, up to one year in prison, or both for each offense. It imposes the same penalties on anyone who intentionally obstructs, resists, hinders, or endangers any authorized person carrying out any provision of an order.

Seizing Pharmaceuticals and Other Property (§ 13)

The law allows the governor to seize certain types of private property in short supply during a civil preparedness emergency. The act allows him to seize (1) antitoxins, pharmaceuticals, vaccines, or other biological products during a public health or civil preparedness emergency and (2) land and buildings, vehicles, fuel, livestock and animals, and other property during a public health emergency.

DEPARTMENT OF PUBLIC HEALTH
AUTHORITY

Public Health Emergency Response Plan (§ 8)

The act requires the commissioner to establish a Public Health Preparedness Advisory Committee to develop a plan to respond to a public health emergency, which may include an emergency notification service. The committee consists of the commissioner; the six top legislative leaders; the chairmen and ranking members of the Public Health, Public Safety, and Judiciary committees; the Office of Emergency Management director; representatives of local and district health directors whom the commissioner appoints; and any other organizations or individuals the commissioner considers relevant to the effort. It must report annually, beginning by January 1, 2004, on the status of the emergency plan and the resources needed to implement it.

Quarantine and Isolation Authority (§ 3(a))

The act allows the commissioner to quarantine or isolate people when the governor authorizes him to do so when he declares a public health emergency. (Local health directors already have this authority without an emergency declaration, see below.) The act defines “isolation” as the physical separation and confinement of one or more people, singly, in groups, or in a geographic area, who are, or who the commissioner reasonably believes to be, infected with a communicable disease or contaminated. It defines “quarantine” as the physical separation and confinement of one or more people, singly, in groups, or in a geographic area, who (1) are exposed to a communicable disease or contaminated or (2) the commissioner reasonably believes have been directly exposed or contaminated or exposed to others who have been exposed or contaminated. Isolation and quarantine must be used to prevent or limit the transmission of the disease or contamination to the public.

The commissioner can order someone quarantined or isolated if he has reasonable grounds to believe (1) the person is infected with a communicable disease, is contaminated, or has a reasonable risk of having a communicable disease or being contaminated or of passing the disease or contamination to other people; (2) the person poses a significant threat to the public health; and (3) quarantine or isolation is needed

and the least restrictive alternative to protect the public health. The act bars isolating or quarantining anyone who does not meet these conditions.

Isolation and Quarantine Orders (§3 (c) & (d))

The commissioner’s order must be in writing and contain (1) the name of the person or people to be quarantined or isolated or the geographic area where the communicable disease or contamination exists, (2) the basis for his belief that a communicable disease or contamination exists in that area, (3) the duration of the isolation or quarantine, (4) where it will take place, and (5) other necessary terms and conditions. In determining the length of the order, the commissioner must consider, to the extent he knows it, the incubation period of the disease or contamination, when the individual was exposed, and the person’s risk of exposing others.

An order is effective for up to 20 days. The commissioner can issue further orders for successive periods of up to 20 days, but he must do so before the last business day of the confinement period. The order must inform the people affected (1) that they have a right to consult an attorney and have a court hearing; (2) how to ask for a hearing; and (3) that if they ask for a hearing, they have the right to counsel, which the state will pay for if they cannot afford it, and court fees will be waived. Each person affected must receive a copy of the order, or a notice must be provided by a means most likely to reach him.

Isolation and Quarantine Conditions (§ 3(b) & (e); § 5)

The act requires the commissioner to adhere to the following conditions and principles when he isolates or quarantines anyone or any group.

1. The isolation or quarantine must be by the least restrictive means needed to prevent the spread of the disease or contamination to others. It may include confinement in private homes or other private or public places.
2. People who are quarantined must be separated from those isolated.
3. The health status of people in quarantine and isolation must be monitored frequently to determine if they need to stay there.

4. If someone in quarantine becomes infected or contaminated or is reasonably believed to have become so, he must be isolated promptly.
5. People in quarantine or isolation must be released immediately when they are no longer infectious or capable of contaminating others or when a court orders their release.
6. The needs of people in isolation or quarantine must be addressed systematically and competently. This includes providing them with adequate food, clothing, shelter, medication and competent medical care, and a way to communicate with others.
7. The places used for isolation or quarantine must be kept hygienic and safe. They must be designed to prevent further disease transmission.
8. Family and household members and guardians and their wards must be kept together to the extent possible.
9. Cultural and religious beliefs must, to the extent possible, be considered in establishing and maintaining isolation and quarantine sites and in addressing the needs of people placed there.

Isolation or quarantine must be in a place the commissioner determines. It continues until he determines the person is no longer infectious or capable of infecting others or is released by court order. A person wanting treatment by prayer or spiritual means through principles and teachings of an incorporated church and without the use of drugs or material remedies, or through any other religious or spiritual practice, may receive such treatment during confinement.

Only individuals the commissioner authorizes can enter a quarantine or isolation site. These can include physicians; other health care providers; or other people, including family and household members, he decides are needed to meet the needs of the confined people.

Appealing Orders (§ 3 (f)-(m))

A person ordered into quarantine or isolation has the right to a probate court hearing to contest the order. The act applies existing due process procedures governing appeals of municipal health directors' confinement orders to appeals of the commissioner's orders. These include (1) notice requirements, including notice of the respondent's right to counsel and to cross-examine witnesses; (2) the process by which

counsel is appointed for indigent respondents and compensated; (3) the respondent's right to access all records; and (4) procedures that apply if the respondent is hospitalized when the hearing occurs.

The hearing must be held in the probate court where the person is isolated or quarantined. It must occur within 72 hours after the court receives his written request (excluding weekends and holidays), which may include submission by mail, fax, or the Internet. The Judicial Department must pay the court fees for the hearing, but if no funds have been budgeted for this purpose, the court must waive the fees. The request does not stay the confinement order. The act makes the commissioner a party to the proceeding. If an individual could infect or contaminate others, the hearing can be held by any means that allows all the parties to participate fully. If the individual cannot appear personally, the hearing can take place only if his attorney is present. The act also allows the court to extend the hearing for extraordinary circumstances.

The hearing must determine if (1) the person is (a) infected with a communicable disease or contaminated, (b) reasonably believed to have been exposed to such a disease or contamination, or (c) at reasonable risk of having a communicable disease, of having been contaminated, or of passing the disease or contamination to other people; (2) the person poses a reasonable threat to the public health; and (3) quarantine or isolation is needed and is the least restrictive alternative to prevent the spread of disease or contamination and protect the public health. The commissioner must show by a preponderance of the evidence that these conditions are met.

If a person appealing the order is indigent, the act, following existing law for appealing municipal health directors' orders, establishes a process for an attorney to be appointed for him. Under prior law, only the Judicial Department paid for such attorneys, but the act permits payment from the Probate Court Administration Fund, if the Judicial Department budget does not include funds for court appointed attorneys in these cases. When an order applies to people in a designated geographic area, the act allows the court to authorize one or more attorneys to represent them all when they have a common interest. But in this circumstance, an individual can choose to be represented by his own lawyer.

As under existing law, the act gives the individual and his attorney access to all records

before the hearing, including the individual's hospital records. The act gives the commissioner access to these and allows the parties to take notes from these records. Under the act, if any party requests it, all records related to the person's condition must be admitted at the hearing.

The act requires the court to record the hearing. A transcript must be made if someone appeals. It must be made available for free to an indigent appellant. In such cases, the Judicial Department pays for the transcript, unless its budget does not include funds for this purpose, in which case the Probate Court Administration Fund must pay.

If the court finds that the above three conditions are met (i.e., reasonable risk of disease or contamination, reasonable threat to public health, and confinement is needed and the least restrictive alternative), it must:

1. order continued confinement under terms and conditions it finds necessary to prevent exposing others until the time the commissioner determines that the person's release would not pose a reasonable threat to public health or
2. release the person under terms and conditions it believes appropriate to protect the public health.

The court must order the person's immediate release if the conditions required for a confinement order are not proven.

The act permits a person who is quarantined or isolated to ask the probate court every 30 days to modify or terminate its order. After a hearing, the court can continue confinement; modify it if it finds that, although the conditions for confinement still exist, a different remedy is appropriate; or order the person's release if it finds that conditions for the confinement no longer exist. The same process is available under existing law to people the court quarantines or isolates after a municipal health director's order.

The act permits anyone aggrieved by a probate court decision to appeal to Superior Court. The appeal is confined to the record, that is, the transcript and any evidence the probate court received or considered.

Enforcing Orders (§ 4)

The act allows the commissioner to direct law enforcement officers to quarantine or isolate anyone who refuses to obey his confinement order during a public health emergency. He must notify these officers and others about any

infection control procedures they may need.

Vaccinations (§ 6)

The act authorizes the commissioner to issue vaccination orders if the governor authorizes him to do so when he declares a public health emergency. The commissioner can order vaccinations for people, including those who were present in a specific geographic area, as he deems reasonable and necessary to prevent the introduction or stop the progress of the disease or contamination that caused the emergency. He must inform those subject to vaccination orders (1) of the vaccine's benefits and risks and (2) that they can refuse the vaccination for any reason, including health, religion, or conscience. Adults, and parents or guardians for minor children, must give written consent before they or the children are vaccinated.

If a person or group cannot or will not be vaccinated, the act allows the commissioner to order them into quarantine or isolation, as appropriate. A parent may refuse vaccination on behalf of a child under age 18. But refusing vaccination is not grounds for confinement without a reasonable belief that the individual or group poses a reasonable threat to public health because they (1) are infected or contaminated; (2) may be, have been, or become exposed to the disease or contamination; or (3) are at reasonable risk of having a communicable disease or having been contaminated.

A person can appeal a vaccination order to the probate court within 48 hours after receiving it by submitting a written request, which can include submission by mail, fax, Internet, or other means; and the court must hold the hearing within 72 hours of receiving this request. The Judicial Department must pay the court fees unless no funds have been budgeted for this purpose, in which case the court must waive the fees.

The act allows the commissioner to ask the court to extend the time for the hearing based on extraordinary circumstances. (The court may do this on its own in quarantine and isolation appeals.) In deciding whether to grant the extension, the court must consider the rights of those affected by the order, the public's health, the severity of the need, and the availability of witnesses and evidence.

The act gives people appealing vaccination orders the same due process rights it gives those who appeal quarantine and isolation orders. It also applies the same due process procedures for

(1) notice, (2) hearing extensions, (3) access to hospital and other records, (4) appointment and payment of counsel for indigent people, (5) appointment of attorneys to represent groups in a geographic area, and (6) recording and transcribing hearings. In addition, the act allows appellants to present testimony from any licensed healing arts practitioner.

At the hearing, the commissioner has the burden of showing by a preponderance of the evidence that the individual was present in a specific geographic area, and vaccination is reasonable and necessary to prevent the introduction or stop the progress of the disease or contamination that caused the emergency. The court must order the vaccination, or confinement for those who are unable or refuse to be vaccinated, if it finds vaccination is needed and is the least restrictive way to protect the public health. If it does not find this, it must vacate the vaccination order.

The act permits anyone aggrieved by the probate court's decision to appeal to Superior Court. The appeal is confined to the record, that is, the transcript and any evidence the probate court received or considered.

Administering Vaccinations (§ 7)

During a public health emergency, the act allows the commissioner to authorize any qualified person, including dentists, veterinarians, and paramedics, to administer vaccinations if he determines this is needed to protect the public's health, safety, and welfare. (Physicians, nurses, and physician assistants are also qualified to administer injections.) His authorization must be written, specify how long it lasts, and contain the categories of people covered and any additional training they need before administering vaccinations.

Registering Deaths (§ 9)

In a public health emergency, the act allows the commissioner, in consultation with the chief medical examiner, to designate people to register death certificates as needed and perform other related duties, including issuing burial transit, removal, and cremation permits. These are functions normally performed by local registrars of vital statistics.

Out-of-State Health Care Providers Allowed In Emergency (§ 11)

The act allows various health care practitioners licensed, certified, or registered in another state, territory, or the District of Columbia to work in Connecticut during a declared emergency. They can work only within the scope of their practice as permitted by Connecticut law. The act allows the commissioner to suspend, for up to 60 days, state licensing, certification, or registration requirements that apply to them. The act covers emergency medical personnel, physicians and physician assistants, physical therapists, nurses and nurses' aides, respiratory care practitioners, psychologists, marital and family therapists, clinical social workers, professional counselors, paramedics, embalmers and funeral directors, sanitarians, asbestos contractors and consultants, and pharmacists.

The act specifies that it does not protect these practitioners from liability for damages for deaths or injuries that result from their acts or omissions during the ordinary course of their work.

Issuing Potassium Iodide (§ 15)

The act allows the commissioner in a public health emergency to authorize nursing homes, child day care centers and group and family day care homes, and youth camps to provide potassium iodide (which prevents or decreases the likelihood of developing thyroid cancer following exposure to radiation) to their residents, clients, staff, and others present. The facility can do this if:

1. it has obtained prior written permission from the individual, or a parent or guardian for a minor, and
2. each person providing permission has been advised in writing that taking the potassium iodide is voluntary and about the contraindications and potential side effects of taking it.

The act requires the commissioner to adopt regulations establishing criteria and procedures for obtaining written permission and for storing and distributing the potassium iodide.

IMMUNITY FROM LIABILITY (§ 10)

The act applies existing state statutes governing the immunity from personal liability of state officials and employees and the duty of

the state to defend and indemnify them for the costs of their defense to anyone who acts within the scope of his practice on behalf of the state during a declared public health emergency. It does not cover out-of-state providers rendering temporary assistance.

Existing law immunizes state officers and employees against personal liability for damage or injury caused while discharging their duties or in the scope of their employment as long as they did not act wantonly, recklessly, or maliciously. It indemnifies them against financial loss or expenses arising from a negligence or civil rights claim against them and requires the attorney general to defend them.

LOCAL HEALTH DIRECTORS' AUTHORITY (§ 12)

Existing law authorizes municipal health directors to confine people; the act extends this authority to district health directors. It specifies that, in a declared public health emergency, these local health directors must comply with the public health commissioner's orders. But their authority applies even if the governor has not declared an emergency. The act establishes parallel processes for ordering and contesting quarantine and isolation orders. One operates during a declared emergency, the other when a health director acts on his own.

Under prior law, a health director could confine someone he reasonably believed was infected with a communicable disease or constituted a radiation hazard, if he determined the person posed a substantial public health threat and confinement was needed to protect public health. The act replaces the reference to radiation with the more general term, contamination. It changes the general and previously undefined term "confinement" to quarantine and isolation, and gives them the same meanings as they have during a public health emergency. And, by eliminating the previous restriction on directors' confinement authority to cases where people are unable or unwilling to behave in a way so as not to expose others to danger, the act allows directors to isolate or quarantine a person whenever conditions warrant it, regardless of the person's behavior.

The act applies the law's prior requirements for directors' confinement orders to isolation or quarantine orders and generally makes them parallel to the orders the act permits the commissioner to issue during a public health emergency. It extends, from 15 to 20 days, the period for which an order can be effective, and similarly extends the duration of further confinement orders.

The act applies to local directors' decisions the same conditions for isolation and quarantine that apply when the public health commissioner confines people. It also makes most of the notice, hearing, and other due process rights and procedures that previously applied to appeals of orders directors could issue on their own parallel those it establishes for public health emergencies. But the two processes are not identical. The following are the principal differences between them.

1. The hearing on a local director's order is to determine whether a person poses a substantial, rather than a reasonable, threat to public health.
2. The probate court in the appeal of a local director's order appoints a three-judge panel only if the respondent requests it. Prior law required three probate judges to hear an appeal from a confinement order.
3. Such a hearing cannot be extended under extraordinary circumstances, nor does the act prohibit holding a hearing if the respondent or his attorney is not present.
4. The parties do not have specific authorization to ask that all records relating to the respondent be admissible.
5. The court does not have to record the hearing or transcribe it for appeals, and an appeal to Superior Court is not limited to the record.
6. There is no limit on the frequency with which a person can ask the court to modify or terminate a local director's isolation or quarantine order.
7. Alternative treatment during isolation or quarantine does not extend to unincorporated religions and other spiritual practices.

PA 03-240—sSB 1120
Public Health Committee

**AN ACT CONCERNING
RADIOGRAPHERS, ACUPUNCTURISTS,
PROFESSIONAL COUNSELORS AND
COSMETICIANS**

SUMMARY: This act establishes alternative licensure routes for certain radiographers, acupuncturists, professional counselors, hearing instrument specialists, and hairdressers and cosmeticians. Specifically, it requires the Department of Public Health (DPH) commissioner to issue licenses, but allows him to do so only during October 2003.

EFFECTIVE DATE: October 1, 2003

ALTERNATIVE LICENSURES

Radiographers

The act requires DPH to issue a radiographer's license to any applicant who (1) has practiced as a radiographer for at least 10 years, one of which was no earlier than two years before the application date; (2) has a current registration as a radiation therapy technologist originally issued by the American Registry of Radiological Technologists before January 2, 1984; and (3) has a radiographer's license from another state originally issued before January 2, 1984. DPH may not license an applicant who has been disciplined or is the subject of an unresolved complaint.

Acupuncturists

The act requires DPH to license as an acupuncturist any applicant who (1) passed the National Commission for the Certification of Acupuncturists' written examination by test or credentials review, (2) successfully completed the commission's practical examination of point location skills, and (3) successfully completed the clean-needle technique course offered by the Council of Colleges of Acupuncture and Oriental Medicine.

Professional Counselors

The act requires DPH to license as a professional counselor any applicant who (1) received a master's degree in psychology before January 1, 1986 and (2) practiced counseling for at least 10 of the 15 years preceding the

application.

Hearing Instrument Specialists

The act requires DPH to license as a hearing instrument specialist any applicant who (1) received a license to practice medicine in the state on or before October 4, 1971; (2) has a certification from the American Board of Otolaryngology originally issued on or before November 4, 1971; and (3) has been on the faculty of a Connecticut medical school for 10 years, with at least one year within the two years preceding the application.

Hairdressers and Cosmeticians

The act requires DPH to issue a hairdresser and cosmetician license to an applicant who (1) has at least two years of relevant professional experience; (2) is licensed by any other state, the District of Columbia, or a U.S. commonwealth or territory; and (3) is not facing any pending professional disciplinary action or unresolved professional complaints. The initial license application fee is \$50; the annual renewal fee is \$25.

PA 03-247—sHB 6361
Public Health Committee
Judiciary Committee

**AN ACT CONCERNING BIRTH
CERTIFICATES**

SUMMARY: This act (1) allows a probate court to issue a decree confirming that a state resident has changed gender if the person needs the decree to amend a birth certificate in the state or country of birth and (2) allows the Department of Public Health (DPH) to prepare a certificate of foreign birth or a certification of birth registration for an adopted person born in another country.

EFFECTIVE DATE: October 1, 2003

GENDER CHANGE DECREE

A person who has completed gender change treatment can apply for a decree to the probate court in the district where he or she lives. The application must be accompanied by an affidavit from a physician stating that the person has physically changed gender and one from a psychiatrist, psychologist, or clinical social

worker stating that the applicant has socially and psychologically changed gender. Once issued, the decree must be transmitted to the birth certificate registration authority where the person was born. The act does not specify who transmits the decree. It states that it does not limit the public health commissioner's authority to amend Connecticut birth certificates.

CERTIFICATE OF FOREIGN BIRTH

Under prior law, DPH could prepare a certificate of birth registration for someone born in another state or nation and adopted by Connecticut residents. The act creates a separate certificate of foreign birth that DPH, as with the certificate of birth registration, can prepare upon the request of adoptive parents, adopted children over age 16, or the probate court that handled the adoption and upon the submission of satisfactory evidence of the adoption. The certificate of foreign birth contains the same information as the certificate of birth registration (i.e., adopted name, gender, date and place of birth, and date the document is prepared) plus the legal name of the adoptive parent or parents.

The act limits both documents to foreign-born adopted children; it eliminates DPH's authority to prepare a certificate of birth registration for children born in other states.

PA 03-252—sHB 6677

Public Health Committee

Finance, Revenue and Bonding Committee

AN ACT CONCERNING REVISIONS TO CERTAIN DEPARTMENT OF PUBLIC HEALTH STATUTES

SUMMARY: This act makes a number of substantive and technical changes to Department of Public Health (DPH) statutes. It exempts dental clinics operated by the UConn Health Center and its divisions from the requirement that health care facilities with public employees use only safe needle devices until manufacturers design and make needles with self-contained secondary, precautionary-type sheathing devices for dental medicine.

The act also:

1. gives DPH the authority to promulgate regulations on retail food, catering, and itinerant food vending establishments;
2. gives someone aggrieved by an order of a local health director three business

days after receiving the order, instead of 48 hours after the order is issued, to appeal to DPH;

3. defines "homeopathic physician" and establishes training requirements for them;
4. allows DPH to license by endorsement a natureopathic physician licensed in another state with requirements substantially similar to Connecticut's, and sets a \$450 license fee;
5. allows DPH to license by endorsement occupational therapists and occupational therapy assistants licensed or certified in another state with standards substantially similar to Connecticut's;
6. limits the time a physician living and licensed in another state who is employed in this state by an individual to treat his ailment, injury, or disease can practice in the state without a Connecticut license to 30 consecutive days;
7. allows a physician licensed in another state who is board-certified in pediatrics or family medicine to practice as a youth camp physician in Connecticut without a Connecticut license for up to nine weeks, even if the other state's licensure standards are not equivalent to Connecticut's;
8. adds an alternative for clinical social workers to meet continuing education requirements;
9. recognizes certification by the Program for the Assessment of Veterinary Education Equivalence when licensing foreign-educated veterinarians, in addition to the already recognized Educational Commission for Foreign Veterinary Graduates;
10. allows DPH to license by endorsement a veterinarian licensed in another state with requirements substantially similar to Connecticut's;
11. clarifies that DPH can investigate and take disciplinary action against marital and family therapists for violating statutes and regulations concerning their licensure, and provides an alternative licensure route for marital and family therapists for a limited period;
12. clarifies the deadline by which a nurse's aide can appeal a complaint against her;
13. gives DPH the authority to certify

- people who test backflow prevention devices and perform cross-connection surveys, and requires DPH to adopt related regulations;
14. requires DPH to maintain a list of companies and individuals performing radon analytical measurement services and residential mitigation services, instead of a list based on a federal program;
 15. changes criteria related to DPH's determination of fees for water supply testing;
 16. repeals a requirement that DPH adopt regulations on certification criteria and procedures for lead inspectors and lead abatement and removal contractors;
 17. specifies that religious educational activities administered by a religious institution exclusively for children whose parents or guardians are members is not "child day care services" for license and registration purposes;
 18. repeals a requirement for DPH to annually report to the governor and legislature on recommendations for executive and legislative action beneficial to the public interest;
 19. amends the membership and term duration for cemetery association members;
 20. repeals an apparently obsolete provision requiring DPH to annually inspect certain facilities; and
 21. makes technical changes.
- EFFECTIVE DATE: October 1, 2003

HOMEOPATHIC PHYSICIANS

Homeopathy is a system of medicine that attempts to stimulate the body to recover itself. It is based on the "law of similars" which looks for the one substance that, if administered in minute doses to a sick person, would produce similar symptoms in a healthy person if administered in large doses. Under the act, a homeopathic physician must be licensed to practice medicine and surgery and successfully complete at least 120 hours of post-graduate medical training in homeopathy in an approved institution or 120 hours of post-graduate medical training under the direct supervision of a licensed homeopathic physician. The latter training must include 30 hours of theory and 90 hours of clinical practice. The existing Homeopathic

Medical Examining Board must approve the training done under a licensed homeopathic physician.

BACKFLOW PREVENTION DEVICES

The act gives DPH the authority to certify people who test backflow prevention devices and perform cross-connection surveys. DPH must adopt regulations on standards and procedures for issuing and renewing certificates for these activities. The act also allows DPH to take a variety of disciplinary actions against testers of backflow devices and those doing cross-connection surveys for incompetence, illegal performance, negligence, fraud in obtaining a certificate, fraud or material deception in performing professional activities, a felony conviction, or failure to complete training.

Backflow devices prevent contamination of a public water supply when the system's pressure is low.

WATER SUPPLY TESTING FEES

DPH performs examinations and analyses of water samples submitted by local health directors when they believe public health is threatened. DPH makes these examinations without charge unless the town is to be reimbursed for its costs. In that case, DPH charges a fee according to a schedule of fees it establishes that is directly related to operating costs. This act removes the requirement that the fees be directly related to operating costs, but requires that they be based on nationally recognized standards and performance measures for examination and analysis.

RADON SERVICE COMPANIES

Prior law required DPH to publish a list of companies performing radon mitigation or diagnosis and radon testing companies that were listed with the federal Environmental Protection Agency's (EPA) Radon Proficiency Program. Apparently, EPA has not provided this service since 1998. Instead, the act requires DPH to maintain a list of companies or individuals doing radon analytical measurement services and residential mitigation services. The list must contain only those who are included on current lists of national radon proficiency programs approved by DPH. The act also makes related definitional changes concerning radon service providers.

CLINICAL SOCIAL WORKERS

The act specifies that a licensed clinical social worker holding a professional educator certificate with a school social worker endorsement issued by the State Board of Education can meet continuing education requirements for social workers by completing continuing education activities required for the educator certificate. The number of continuing education hours for maintaining the educator certificate must equal that required for social worker continuing education over a one-year period.

CEMETERY ASSOCIATIONS

If a cemetery association fails to comply with the law on managing a perpetual fund, the law specifies that the selectman of the town where the cemetery is located must take over care of the fund and annually report to the probate court. The law allows the selectman to appoint a three-member cemetery commission with members serving two-, four-, and six-year terms, respectively.

The act specifies that the committee can have from three to seven members. If three members are appointed, the terms are the same as prior law. If four members, one member serves two years; one, four years; and two, six years. If five members, one serves two years; two, four years; and two, six years. If six members, two serve two years; two serve four; and two serve six. Finally, if seven members are appointed, two serve two years; two serve four years; and three serve six years.

MARITAL AND FAMILY THERAPISTS' ALTERNATIVE LICENSURE

The act authorizes DPH, during October 2003, to issue a marital and family therapist license to any applicant who (1) earned a master's degree in guidance and personnel services before 1992; (2) has current clinical membership in the American Association of Marital and Family Therapists originally issued before 1992; and (3) has provided counseling services for at least 10 years within the 15-year-period immediately before applying for licensure.

PA 03-266—sSB 568

*Public Health Committee
Judiciary Committee*

AN ACT CONCERNING HOSPITAL BILLING PRACTICES

SUMMARY: This act makes a number of changes to the laws governing hospital bed funds; hospital debt collection practices; and hospital services to, and payment for, uninsured patients.

The act:

1. requires hospitals to file more detailed information on their free care and reduced care with the Office of Health Care Access (OHCA);
2. amends the definition of "hospital bed fund";
3. requires the already mandated public notices and written summaries about hospitals' bed funds be in English and Spanish;
4. requires the written summaries to describe other hospital policies concerning free or reduced-cost care for indigent people and to notify patients that they can reapply if rejected;
5. requires collection agents to make bed fund summaries available and hospitals to require their collection agents to include a summary of the bed fund policy in all bills and collection notices;
6. redefines "uninsured person" for purposes of hospital billing for services and collection and requires collection agents to give patients written notice of their insurance status;
7. prohibits referral to a collection agent or initiating an action against a patient for fee collection unless certain conditions are met;
8. requires hospitals to file annual debt collection reports with OHCA;
9. requires hospitals and others involved in debt collection to discontinue such activities when they become aware that the debtor is eligible for bed funds or other financial assistance;
10. limits prejudgment and post-judgment interest on debt arising from hospital services to 5% per year;
11. increases the homestead exemption from \$75,000 to \$125,000 in the case of a money judgment for hospital services;

12. requires, in the case of hospital services, that an order for installment payments and a default on those payments occur before a judgment creditor can apply to collect the judgment; and
13. specifies that compliance with the installment payment stays any property execution or foreclosure.

EFFECTIVE DATE: October 1, 2003

HOSPITAL REPORT ON FREE CARE AND DEBT COLLECTION

By law, hospitals must file annually with OHCA their policies on free or reduced-cost services to the indigent and their debt collection practices. The act also requires hospitals to report (1) the number of applicants for free and reduced-cost care, (2) the number of approved applicants, and (3) the total and average values of free and reduced-cost care provided.

HOSPITAL BED FUNDS

Hospital Bed Fund Defined

By law, a hospital bed fund refers to gifts of money, stock, other financial instruments, or other property made to establish a fund to provide medical care to patients at a hospital. A fund may be established by gift, bequest, subscription, solicitation, dedication, or any other means. This act specifies that medical care, for purposes of a bed fund, includes both inpatient and outpatient care.

Information Posting

By law, information on the bed fund must be posted conspicuously in public places of the hospital where patients are admitted. This includes the admissions office, emergency room, social services department, and the patient accounts or billing office. The information must be in plain language and in 48 to 72 point type. The information must include (1) notification that the bed funds exist and of the hospital's program to administer them and (2) the contact person for fund applications. The act requires the notice to be in English and Spanish.

Written Summary

By law, hospitals must provide the public with a one-page summary describing the bed funds and how to apply for them. Patients who

cannot pay any outstanding medical bill from the hospital must be allowed to apply or reapply for the funds. Applicants for bed fund assistance must receive written notification of any award or rejection of funds and the reasons for rejection.

The act requires that the summary be in English and Spanish and available in a place and manner allowing for easy public access to it. It requires the summary also to (1) describe any other free or reduced-cost policies for the indigent that the hospital includes in its report to OHCA and (2) notify the patient that he is entitled to reapply after rejection and that additional funds may become available annually. Collection agents, in addition to the already required patient admission office, emergency room, social services department, and patient accounts or billing office, must make the summary available and every hospital having or administering a bed fund must require its collection agents to include the summary in all bills and collection notices they send.

The act defines "collection agent" as a person employed by, or under contract to, a hospital who is engaged in collecting payment from consumers for medical services provided by the hospital, including attorneys performing debt collection activities.

Annual Compilation

The law requires hospitals with bed funds to maintain and annually compile information on applications for the funds, the fair market value of the principal of each fund, total earnings of each fund, and other related information. This information must be permanently retained by the hospital and made available to OHCA upon request. The act specifies that the number of patients, rather than patient accounts as under prior law, receiving bed funds be compiled.

UNINSURED PATIENTS

By law, hospitals providing services to an uninsured patient are prohibited from collecting from the patient more than the cost of providing the services. Under prior law, an "uninsured patient" was a person with income at or below 200% of the federal poverty level (FPL) who (1) has been denied eligibility for health care coverage under Medicaid or the General Assistance program for failure to satisfy income or other eligibility requirements and (2) was not eligible for hospital service coverage under Medicare or CHAMPUS; Medicaid; any health

insurance program of another nation, state, or U.S. territory or commonwealth; or any other government or private health or accident insurance or benefit program.

The act increases the allowable income of an “uninsured patient” to 250% of FPL. It requires collection agents to give written notice to the patient as to whether the hospital deems him insured or uninsured and the reasons for the determination.

REFERRAL TO A COLLECTION AGENT OR INITIATING AN ACTION AGAINST A PATIENT

The act prohibits a hospital from referring to a collection agent or initiating an action against a patient or his estate to collect fees for care provided at the hospital on or after October 1, 2003, unless it has determined that the individual is uninsured and not eligible for a bed fund.

The act specifies that it does not affect a hospital’s ability to begin an action against a patient or his estate to collect coinsurance, deductibles, or fees arising from care, provided they may be eligible for reimbursement through awards, settlements, or judgments arising from claims, suits, or proceedings. Also, it specifies that the act does not preclude the hospital from initiating an action against the patient or his estate where payment or reimbursement is made directly to the patient.

DEBT COLLECTION ACTIVITIES

Debt Collection Report

The act requires each hospital to file an annual debt collection report with OHCA, beginning March 1, 2004, that includes (1) whether the hospital uses a collection agent to assist with debt collection; (2) the name of collection agents used; (3) the hospital’s processes and policies for assigning debt to a collection agent and for compensating the agent for services; and (4) the recovery rate on accounts assigned to collection agents, not including Medicare accounts, for the most recent fiscal year.

Discontinuing Debt Collection

The act requires a (1) hospital, (2) consumer collection agency acting for the hospital, (3) an attorney representing the hospital, or (4) any hospital employee or agent to discontinue

collection efforts when they become aware that a hospital debtor receives information that he is eligible for hospital bed funds, free or reduced-price hospital care, or any other program that would eliminate or reduce debt liability. They must refer the collection file to the hospital for an eligibility determination, and collection cannot resume until the determination is made.

Pre- and Post-Judgment Interest

The act limits prejudgment and post-judgment interest on debt arising out of hospital services to 5% per year. The court has discretion as to whether to award interest.

Homestead Exemption

The law exempts from attachment and post-judgment collections up to \$75,000 of the value of an individual’s homestead. “Value” is the fair market value of the real estate minus the amount of any statutory or consensual lien that encumbers it. “Homestead” is owner-occupied real property or a mobile home that is used as a primary residence.

In the case of a money judgment for hospital services, the act increases the homestead exemption to \$125,000.

Installment Payments to Satisfy Judgments

The act provides that, in the case of a judgment concerning hospital services, a judgment creditor cannot apply to collect a judgment until the court has (1) issued an order for installment payments, (2) found that the debtor has defaulted on payments under the order, and (3) lifted the mandatory stay on execution or foreclosure. The court must determine whether noncompliance or default occurred and decide whether to modify the installment payment plan, continue it, or lift the stay.

The act also specifies that compliance with the installment payment order, in cases of judgments concerning hospital services, stays any property execution or foreclosure pursuant to that judgment. The stay includes executions on wages and bank accounts and execution or foreclosure of real property. Under prior law, such a stay was at the court’s discretion.

PA 03-272—sSB 1146
Public Health Committee
Human Services Committee
Appropriations Committee

**AN ACT CONCERNING
 RECOMMENDATIONS FOR ROOM
 TEMPERATURES IN NURSING HOME
 FACILITIES, WHISTLEBLOWING BY
 HEALTH CARE FACILITY EMPLOYEES
 AND REPORTS BY EMPLOYERS
 REGARDING HEALTH EMERGENCIES,
 DISEASES OR HAZARDS IN A
 WORKPLACE**

SUMMARY: This act requires employers to notify employees of potential risks from a health emergency, disease cluster, or imminent hazard and recommended measures to reduce the associated risks.

It also provides protections against discriminatory treatment of, or retaliation against, health care facility employees who submit a complaint, or initiate or cooperate in a government investigation or proceeding, related to conditions, care, or service issues at that facility. The act defines “discriminatory treatment” as discharge, demotion, suspension, or any other detrimental changes in employment terms or conditions, or the threat of any such actions. A “health care facility” is any facility or institution primarily providing services for the prevention, diagnosis, or treatment of human health conditions.

It requires a health care facility that discriminates or retaliates against an employee to reinstate him and reimburse him for lost wages, lost work benefits, and any reasonable legal costs he incurs. The act’s provisions and remedies are in addition to others available in statute or common law.

Finally, the act requires the Department of Public Health (DPH) to adopt recommendations on minimum and maximum temperatures for areas in nursing homes and rest homes. They may be based on standards set by national public or private entities after research into appropriate temperature settings to ensure residents’ health and safety. DPH must make these recommendations available to nursing homes, rest homes, and the public, and post them on its website.

EFFECTIVE DATE: October 1, 2003

**NOTIFICATION OF POTENTIAL RISK
 FROM HEALTH EMERGENCIES, DISEASE
 CLUSTERS, OR IMMINENT HAZARDS**

By law, the commissioners of public health and labor, either on their own or when notified by an occupational or auxiliary clinic, can inaugurate site-specific or industry-wide studies or other surveillance activities in response to a health emergency, suggested disease cluster, or imminent hazard. The act also allows the commissioners to initiate such studies and surveillance activities upon notice from an employer.

Based on the results of the hazard evaluations, studies, or surveillance activities, the act requires the commissioners to recommend to an employer measures for reducing the risk of death, disability, injury, or harm from the health emergency, disease cluster, or imminent hazard.

The act requires the employer to, in turn, immediately notify all employees at potential risk. The employer must also notify the commissioners and include information on (1) the nature of the health emergency, disease cluster, or imminent hazard; (2) the level at which exposure is determined hazardous, if known; (3) potential acute and chronic effects of exposure at hazardous levels; (4) symptoms of those effects; (5) appropriate emergency treatment; (6) employer precautions; and (7) precautions employees should take.

The act specifies that notification made according to these provisions is not admissible as evidence of the facts stated in any lawsuit or action under workers’ compensation against the employer making the notification.

An employer failing to make a required notification, or who knowingly gives false information, can be assessed a civil penalty of up to \$1,000 per violation.

PA 03-274—sSB 1148
Public Health Committee
Appropriations Committee
Finance, Revenue and Bonding Committee

**AN ACT CONCERNING OUTPATIENT
 SURGICAL FACILITIES**

SUMMARY: This act requires certain outpatient surgical facilities using specified levels of sedation or anesthesia to obtain a license from the Department of Public Health (DPH). The

licensure requirement applies to outpatient surgical facilities (1) established, operated, or maintained by an entity, individual, firm, partnership, corporation, limited liability company, or association, but not one operated by a hospital (hospital-based outpatient surgical facilities are already subject to DPH and Office of Health Care Access (OHCA) requirements) and (2) providing surgical services for human health conditions that include the use of moderate or deep sedation or analgesia or general anesthesia, as these levels are defined by the American Society of Anesthesiologists or other entity recognized by DPH.

The act provides initial exceptions from licensure based on certain OHCA determinations, but facilities initially receiving an exception must become licensed by March 30, 2007. No facility can be established between July 1, 2003, and July 1, 2004, unless it satisfies one of these exceptions.

The act specifies that outpatient surgical facilities that have received anesthesia accreditation continue to be subject to such accreditation requirements (see BACKGROUND). The act's provisions do not apply to licensed dentists and licensed outpatient clinics.

Finally, the act establishes an advisory committee to address various outpatient surgical facility issues.

EFFECTIVE DATE: July 1, 2003, except the advisory committee provisions which take effect upon passage.

LICENSURE OF OUTPATIENT SURGICAL FACILITIES

Exceptions to Licensure

The act requires an outpatient surgical facility to obtain a license from DPH unless the entity operating the facility (1) provides evidence to OHCA that it was operating on or before July 1, 2003; (2) obtains from OHCA by July 1, 2003, a determination that a certificate of need (CON) is not required and provides OHCA with satisfactory evidence that it began developing the facility before that date; or (3) between July 1, 2003, and June 30, 2004, obtains a CON based on OHCA's policies and procedures in effect as of July 1, 2003.

If an outpatient surgical facility meets any of the exceptions, the act allows it to operate without a license until March 30, 2007. But it must obtain a license from DPH by March 30,

2007.

OHCA Determinations for Exceptions For Facilities in Development

For purposes of meeting the second licensure exemption above, the act specifies the factors OHCA must consider in determining whether facility development has begun. These are whether the applicant has (1) contractually committed to a site; (2) spent significant funds on predevelopment, such as for consultation and equipment; or (3) contracted with third-party payers for services related to the facility's operation.

The applicant may ask for a review and reconsideration by OHCA if the agency denies its exception request. OHCA must give notice of the grounds for its denial and hold a hearing according to the Uniform Administrative Procedure Act .

APPLICABILITY OF EXISTING LAW

The act prohibits an entity from establishing or operating an outpatient facility without complying with OHCA statutes, including CON. It also specifies that beginning July 1, 2004, any entity meeting the definition of outpatient surgical facility is subject to the rights and obligations existing in law as of June 30, 2003. The act prohibits the use or introduction of its provisions into any proceeding to suggest, infer, or otherwise indicate or imply that the entity is or is not a free-standing outpatient surgical facility under OHCA statutes. It specifically provides that it creates no implication and should not be used in any manner in any proceeding concerning whether a CON is required on or after July 1, 2004.

WAIVER FROM PHYSICAL PLANT AND STAFFING REQUIREMENTS

The act allows DPH to grant a waiver to outpatient surgical facilities from existing licensure requirements concerning physical plant and staffing, but only if the patients' health, safety, and welfare is ensured.

ADVISORY COMMITTEE

The act directs the DPH and OHCA commissioners to develop an advisory committee to (1) review laws, regulations, standards, policies, and practices; (2) analyze

alternatives; and (3) make recommendations on issues related to licensure and regulation of outpatient surgical facilities to ensure patient access and safe operation.

The committee must include the presidents of the Connecticut Hospital Association and Connecticut State Medical Society or their designees and can include representatives from hospitals, physicians, patients, and others as the commissioners find necessary.

The commissioners must report their findings and recommendations to the Public Health Committee by January 1, 2004.

BACKGROUND

Anesthesia Accreditation

PA 01-50 (CGS § 19a-691) establishes accreditation requirements for certain unlicensed health care facilities (e.g., physicians' offices) where various levels of anesthesia and sedation are administered. Health care practitioners or practitioner groups operating unlicensed facilities must meet at least one of four specified accreditation standards before using moderate or deep sedation or analgesia or general anesthesia. Dentists with DPH-issued permits to use general anesthesia or conscious sedation are exempt from these requirements. The act required accreditation by the later of January 1, 2003, or 18 months after the date on which such anesthesia is first administered at the facility.

PA 03-275—sSB 1150

Public Health Committee

Human Services Committee

AN ACT CONCERNING A DEMONSTRATION PROJECT FOR LONG-TERM ACUTE CARE HOSPITALS

SUMMARY: Under this act, the Office of Health Care Access (OHCA), in consultation with the departments of Public Health (DPH) and Social Services (DSS), can authorize up to four demonstration projects allowing chronic disease hospitals to establish and operate new long-term acute care hospitals or satellite facilities. The purpose of the demonstration projects is to study service quality, patient outcomes, and cost-effectiveness of using such hospitals or facilities. The demonstration must be designed to serve people who need long-term hospitalization in an acute care setting, need 24-

hour on-site physician availability, and are not suited for skilled nursing facility placement.

Chronic disease hospitals interested in the demonstration project can apply to OHCA by January 1, 2005 for a certificate of need (CON). Each authorized project must collect and report data on its cost-effectiveness and effect on quality and patient outcomes. Data must include (1) length and cost of stay, (2) number of intensive care days per patient, (3) type of discharge, and (4) other data requested by OHCA. OHCA determines how the data is reported.

OHCA must report, by January 1, 2007, to the Public Health and Human Services committees on findings and recommendations concerning the demonstration projects. It must consult with DPH and DSS on the report.

The act also allows DPH to waive certain licensure and regulatory requirements. DPH also establishes state payment standards for services provided by these facilities under the demonstration project.

EFFECTIVE DATE: October 1, 2003

CHRONIC DISEASE HOSPITALS AND SATELLITE FACILITIES

The act defines "chronic disease hospital" as a nonprofit facility licensed as a chronic disease hospital by DPH on or before January 1, 2003. A "satellite facility" is a long-term acute care facility operated as part of a long-term acute care hospital under Medicare.

Under the act, new long-term acute care hospitals and satellite facilities may be eligible to operate as demonstration projects if they are (1) located within a licensed short-term acute care general or children's hospital; (2) under the common ownership and control of a chronic disease hospital; and (3) certified, or become certified, for Medicare participation as a long-term acute care hospital.

WAIVER OF LICENSURE REQUIREMENTS

The act allows DPH, at its discretion, to waive licensure and regulatory requirements otherwise applicable to chronic disease hospitals for new long-term acute care hospitals and satellite facilities. It specifies that DPH does not have to adopt or amend regulations for these demonstration projects.

PAYMENTS TO HOSPITALS

The act specifies that payments to hospitals based on DSS-established inpatient hospital rates must include any inpatient service days provided in a new long-term acute care hospital or satellite facility established as a demonstration project.

For rate-setting and cost-per-discharge settlement purposes, the act specifies that the inpatient stay of a Medicaid-eligible patient must include both short- and long-term acute care hospital days provided in a new long-term acute care hospital or satellite facility established as a demonstration project.

The act allows a short-term acute care hospital to enter into an agreement with a chronic disease hospital that establishes a new long-term acute care hospital or satellite facility under the demonstration project to distribute state payments received for services provided by the long-term acute care hospital or satellite facility.

BACKGROUND

Certificate of Need (CON)

CON is a regulatory process, administered by OHCA, for review of certain proposed capital expenditures by health care facilities, acquisition of major medical equipment, institution of new services or functions, termination of services, transfer of ownership, and decreases in bed capacity. Generally, a CON is a formal OHCA statement that a health care facility, medical equipment purchase, or service change is needed.

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-15—sSB 1029
Public Safety Committee

AN ACT CONCERNING BOILERS AND HOT WATER HEATERS

SUMMARY: The law exempts certain types of boilers and hot water heaters from regulation. This act eliminates obsolete provisions pertaining to them (e.g., steam fire engines) and other provisions irrelevant to current practice (e.g., town boiler inspectors and references to pressure capacities and safety devices on steam heating and residential hot water heaters and boilers).

EFFECTIVE DATE: October 1, 2003

PA 03-33—HB 6199
Public Safety Committee
Higher Education and Employment Advancement Committee

AN ACT CONCERNING STUDENT MEMBERS OF THE ARMED FORCES CALLED TO ACTIVE DUTY DURING A SEMESTER AND COLLEGE COURSE FEES

SUMMARY: This act requires the state's community-technical colleges, Connecticut State University System, and University of Connecticut to allow students called to active duty in the armed forces during any semester to reenroll in any course for which they paid tuition but did not complete because of their active-duty status. Students have four years from the date of release from active duty to reenroll. The schools may not impose any additional tuition, student fee, or related charge on the affected students for the courses, unless they had fully reimbursed the students for courses not completed.

EFFECTIVE DATE: October 1, 2003 (PA 03-278, changes the effective date to upon passage, May 12, 2003.)

PA 03-60—SB 263
Public Safety Committee
General Law Committee

AN ACT CONCERNING RAFFLE TICKET SALES AND THE PROHIBITION OF

INTERACTIVE ON-LINE LOTTERY GAMES

SUMMARY: This act expressly permits people to pay for raffle tickets with a debit card, check, cash, or credit card and exempts the sale of raffle tickets from the law that voids wagering contracts.

The act prohibits the Connecticut Lottery Corporation from offering interactive on-line lottery games, including on-line video lottery games for promotional purposes.

EFFECTIVE DATE: October 1, 2003

PA 03-85—sHB 5663
Public Safety Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING ELIGIBILITY FOR BENEFITS TO VETERANS

SUMMARY: This act makes all veterans who have at least 90 days active-duty service in the armed forces since August 2, 1990 eligible for property tax, education, and other war service benefits, even if they did not serve in a war or war theater. Under prior law, veterans of this period were eligible only if they served in Somalia after December 2, 1992; in Bosnia after December 20, 1995; or during Operation Desert Shield and Operation Desert Storm, August 2, 1990 to June 30, 1994.

On the other hand, the act eliminates benefits for veterans of the:

1. Cuban pacification, September 12, 1906 to April 1, 1909;
2. Nicaraguan campaign, August 28 1912 to November 2, 1913;
3. Haitian campaign, July 9, 1915 to December 6, 1915; and
4. Berlin airlift, August 14, 1961 to June 1, 1962.

It also eliminates benefits for (1) veterans with active-duty service in South Korea's demilitarized zone between February 1, 1955 and August 1, 1990; (2) veterans who did not serve in a combat or combat-support role in the Lebanon conflict, July 1, 1958 to November 1, 1958; and (3) some veterans of the Mexico expedition.

EFFECTIVE DATE: Upon passage

ELIGIBILITY FOR BENEFITS

By law, veterans who served in the U.S. armed forces in wartime and, in some cases, qualified survivors (usually spouses and dependent children) are eligible for a range of benefits unavailable to other veterans. Veterans who served in the armed forces of any government associated with the United States during the qualifying periods are also eligible. To qualify for the benefits, the veteran must have at least 90 days active-duty service, unless he was separated from service earlier because of a service-connected disability or the military operation lasted less than 90 days and he served for the duration.

Under prior law, eligibility was based on service during any of specified wars, conflicts, or operations, including the Spanish-American War, the Mexican border period, World Wars I and II, the Korean hostilities, the Vietnam Era, and Operation Desert Shield and Desert Storm. In the following cases, the veteran had to have served in a combat or combat-support role: Lebanon, September 29, 1982 to March 30, 1984; Grenada, October 25, 1983 to December 15, 1983; Operation Earnest Will, February 1, 1987 to July 23, 1987; and Panama, December 20, 1989 to January 31, 1990. In the following cases, the veteran had to have served in the country where the conflict occurred: South Korea's demilitarized zone after February 1, 1955, Somalia after December 2, 1992, and Bosnia after December 20, 1995.

The act, with some exceptions, adopts, by reference, the federal definition of "period of war," which means the:

1. Spanish-American War;
2. Mexican border period (May 9, 1916 to April 5, 1917);
3. World Wars I and II;
4. Korean conflict;
5. Vietnam Era (February 28, 1961 to May 7, 1975);
6. Persian Gulf War (August 2, 1990 until a date prescribed by the President or law); and
7. a period beginning on the date of any future congressional declaration of war and ending on the date prescribed by the presidential proclamation or concurrent resolution of Congress (38 USC 101(11)).

The act retains (1) existing law's Vietnam Era dates (February 28, 1961 to July 1, 1975) and (2) the following wars and conflicts not included in the federal law: Lebanon, September

29, 1982 to March 30, 1984; Grenada, October 25, 1983 to December 15, 1983; Operation Earnest Will, February 1, 1987 to July 23, 1987; and Panama, December 20, 1989 to January 31, 1990.

Because the Persian Gulf War, which began on August 2, 1990, continues until a presidential proclamation or passage of a federal law designating an ending date, the act makes all veterans who served at any time between August 2, 1990 and the date the war ends eligible for war service benefits provided they meet the law's minimum 90-day active-duty service or earlier separation requirement. This includes veterans of Enduring Freedom, Noble Eagle, and Iraqi Freedom. Under prior law, veterans of this period had to have served in Somalia, in Bosnia, or during Operation Desert Shield and Operation Desert Storm during specified periods.

But the act eliminates benefits for (1) veterans of the Cuban pacification, Nicaraguan campaign, Haitian campaign, and Berlin airlift; (2) veterans with active-duty service in South Korea's demilitarized zone after February 1, 1955, unless they served since August 2, 1990; (3) veterans who did not serve in a combat or combat-support role in the Lebanon conflict, July 1, 1958 to November 1, 1958; and (4) some veterans of the Mexico expedition, by adopting the federal dates—May 9, 1916 to April 5, 1917. Under prior law, the expedition dates were March 10, 1916 to April 6, 1917.

By adopting the federal definition, the act also, for purposes of the Persian Gulf War, gives wartime benefits to all veterans with at least 90 days active-duty service anywhere since August 2, 1990, without requiring that the veteran serve in a war theater or have combat service.

BACKGROUND

War Service Benefits

The major wartime benefits are listed below.

Property Tax Exemption. Wartime veterans are eligible for a minimum \$1,500 local property tax exemption. (In addition to U.S. veterans, veterans who served in the armed forces of U.S. allies in World Wars I and II, but not other wars, qualify for this benefit.)

Education Benefits. The law waives tuition at the state's public colleges and universities for wartime veterans. It also provides state education aid to children between ages 16 and 23 of veterans who are killed in action, die in accidents or from illness while on active duty, or are

totally and permanently disabled. The amount of aid is based on need, up to \$400 per year.

Medical Treatment. Wartime veterans are eligible for admission to the Veterans' Home and Hospital, and wartime veterans with no adequate means of support are eligible for admission to other hospitals at state expense.

Civil Service Examination Bonus Points. The law gives wartime veterans five bonus points and disabled wartime veterans 10 bonus points on initial state civil service examinations, as long as they meet the minimum competency scores. The same bonus awards apply to initial municipal civil service examinations.

Fee Exemptions. Wartime veterans are eligible for an exemption from any local itinerant vendor's license fee.

Firing Squads. Wartime veterans are entitled to funeral firing squads.

Soldiers, Sailors and Marines Fund. Needy wartime veterans are eligible for benefits such as food, clothing, and medical assistance from this fund.

Temporary Financial Assistance. Wartime veterans who need help because of disability or other service-related cause are eligible for temporary financial assistance from the veterans' affairs commissioner in an amount and for a time he decides.

Retirement. Members of the Municipal Employees' Retirement System who leave municipal employment to enter the armed forces while the United States is at war and are reemployed by the municipality within six months of discharge, are credited with the period of service as though they had been continuously employed.

Wartime veterans who become members of the State Employees' Retirement System or Teachers' Retirement System may purchase retirement credit for their entire time of service, under certain circumstances. (Nonwartime veterans may purchase credit for up to 30 months.)

State police officers and correction officers and instructors who return to work from military leave within 90 days after discharge receive retirement credit for any period of wartime service. The law also provides retirement credit for wartime service prior to the veteran's employment, if he pays the appropriate contributions to the retirement fund.

Motor Vehicle Registration Fee Exemptions. Disabled wartime veterans qualify for registration fee exemptions for up to three vehicles they own or lease in the passenger,

camper, or combination passenger and commercial registration categories. Former prisoners of war and Congressional Medal of Honor recipients qualify for two such registrations.

Disabled wartime veterans with certain Veterans' Administration-rated disabilities also qualify for free special license plates and an identification card. The plates allow the veteran to park overtime without penalty as long as he does not leave the vehicle at any one location for more than 24 hours. Surviving spouses may keep the plates and identification cards until death or remarriage.

Veterans' Cemetery

Wartime veterans are eligible for burial in the state veterans' cemetery. Eligibility is based on CGS § 27-122b, rather than CGS § 27-103, which the act amends. Based on the former, veterans of any war fought after the Lebanon peace-keeping mission (1982-1984) are not eligible for burial in the cemetery. But, in practice, it appears that the Veterans' Department uses CGS § 27-103 when determining eligibility.

Related Acts

PA 03-44 increases the maximum income a person can have and be eligible for the veterans' optional property tax exemption by \$25,000, to \$41,200 for a single veteran or a survivor of a veteran and \$45,000 for a married veteran.

PA 03-33 requires the state's higher education institutions to allow students called to active duty in the armed forces during any semester to reenroll in any course for which they paid tuition but did not complete because of their active duty status. The schools may not charge them additional tuition or other fee for the courses, unless they had fully reimbursed them for courses not completed.

PA 03-24 requires financial institutions and federal banks to keep on file for 26 months the mortgage application of a member of the U.S. armed forces reserves or National Guard member called into active duty before a financial institution or federal bank makes a determination on it. If an applicant returns from active duty within two years after submitting his application and meets certain conditions, the financial institution or bank must process his application in accordance with the initial terms and conditions.

PA 03-160—sHB 5674
Public Safety Committee
Appropriations Committee

**AN ACT CONCERNING THE ALVIN W.
 PENN RACIAL PROFILING
 PROHIBITION ACT**

SUMMARY: This act (1) requires local police departments and the Department of Public Safety (DPS) to give annual traffic-stop reports to the African-American Affairs Commission pursuant to the racial profiling law and (2) reinstates the requirement (in effect until January 1, 2003) that departments give such reports to the chief state's attorney.

The act requires DPS and local police to give to the commission, instead of just the chief state's attorney, a copy of each complaint they receive about discriminatory stops and written notification of the reviews and dispositions.

It requires the commission to (1) review the traffic stop data and complaints and (2) annually, beginning January 1, 2004, report its review results and recommendations to the governor, legislature, and other entities it deems appropriate. A prior law that required the chief state's attorney to conduct the reviews, within available appropriations, and provide one report to the governor and legislature expired in January 2003.

The act bars police from recording in racial profiling traffic-stop forms or complaints about discriminatory stops any information, such as the driver's license number, name, or address, that can be used to identify the person stopped or the complainant. The act does not affect the recording of non-personally identifying characteristics such as age, race, color, gender, and ethnicity, which the law already requires.

The act names the law banning racial profiling "The Alvin W. Penn Racial Profiling Prohibition Act."

EFFECTIVE DATE: Upon passage

BACKGROUND

Racial Profiling Law and Traffic-Stop Data

This law prohibits police and law enforcement agencies from engaging in racial profiling, defined as the detention, interdiction, or other disparate treatment of someone solely because of his race or ethnicity. It requires DPS and local police to adopt written policies that prohibit race-based traffic stops. The law

requires them to collect and record the following traffic-stop data:

1. the number and identifying characteristics (age, race, color, ethnicity, and gender) of people stopped for traffic violations;
2. the alleged traffic violation that led to the stop;
3. whether any arrest was made, search conducted, or warning or citation issued; and
4. additional information police consider appropriate.

PA 03-178—sSB 1027
Public Safety Committee
Appropriations Committee
Finance, Revenue and Bonding Committee

**AN ACT CONCERNING CHARITABLE
 BINGO AND SEALED TICKET SALES**

SUMMARY: This act:

1. increases, from \$400 to \$600, the total value of all the \$51 to \$200 prizes that a bingo permittee may award on any day;
2. allows a class A bingo permittee to award two special weekly grand prizes of up to \$125 each, instead of one, and makes the law conform to practice by requiring, instead of allowing, the special grand prize money to accumulate for up to 16 weeks or \$2,000 if there are no winners;
3. creates a new type of annual permit, costing \$50, that allows qualified organizations to sell sealed tickets in conjunction with social functions or events they conduct or sponsor; and
4. sets a \$50 fee for sealed ticket permits issued to a class C bingo permittee.

EFFECTIVE DATE: October 1, 2003

BINGO PERMITS

An organization conducting bingo must have (1) a class A permit, which is an annual permit that allows games one day each week; (2) a class B permit, which is a special events permit that allows games over a 10-day period; or (3) a class C permit, which is an annual permit that allows games one day per month.

BINGO PERMITTEES AND PRIZES

With exceptions, the law limits to \$50 the maximum value of any prize that a bingo permittee may award. One exception allows a permittee to award prizes valued at \$51 to \$200 in one day if the total value does not exceed \$400. The act increases the total value of such prizes that may be awarded to \$600 in any day.

Another exception allows a class A permittee to award one special weekly grand prize of up to \$125. If no one wins this prize, the permittee may add the money to the following week's special grand prize for up to 16 weeks or \$2,000. (This is called a progressive jackpot.) The act allows the permittee to award two such grand prizes. It requires, rather than allows, the money to accumulate when there are no winners.

SEALED TICKETS

Under prior law, the Division of Special Revenue (DSR) could issue a sealed ticket permit to qualified organizations that hold a bingo, bazaar, club liquor, or nonprofit club permit. The act allows DSR also to issue annual permits to qualified organizations to sell sealed tickets in conjunction with social functions or events that they sponsor. The organization must have been organized for at least two years before applying for the permit. For purposes of the new permit, a qualified organization is a charitable, civic, educational, fraternal, veterans', or religious organization; volunteer fire department; or grange. With minor exceptions, these are the same organizations that qualify for existing permits.

Under existing law, the fee for a permit to sell sealed tickets to an organization (1) authorized to conduct bingo under a class A permit is \$50, (2) authorized to conduct bingo under a class B permit or one that holds a bazaar permit is \$5 per day, and (3) that holds a nonprofit club or club permit is \$75. The act sets a \$50 fee for permits issued to sell sealed tickets (1) to an organization authorized to conduct bingo under a class C permit or (2) in conjunction with social functions or events.

PA 03-191—HB 6298
Public Safety Committee

AN ACT AUTHORIZING MULTI-JURISDICTIONAL LOTTERY GAMES

SUMMARY: This act allows the Connecticut Lottery Corporation to (1) enter into agreements with U.S. territories to promote and operate joint lottery games (e.g., Powerball) and (2) continue to participate in any joint lottery games in which it participates on July 1, 2003, regardless of whether any government-authorized lottery outside of the United States is a participant. Prior law limited the agreements to other states.

EFFECTIVE DATE: July 1, 2003

PA 03-214—HB 6292
Public Safety Committee
Energy and Technology Committee

AN ACT ENSURING THE SAFETY OF VACANT BUILDINGS

SUMMARY: This act requires building owners who wish to resume electricity delivery to certain buildings to contract with a licensed electrician to inspect the electric conductors and equipment, including the main power disconnect switch, to determine that they are electrically safe and not a public safety hazard. The act applies to any building (or part of a building) that has been unoccupied and disconnected from the electric grid for six or more months. In areas served by Connecticut Light and Power and United Illuminating, but not municipal utilities, the act requires the electrician to give written notice of his determination to the company that provides electric distribution services. Once notified, the company must resume electricity delivery promptly.

The act requires the building owner to pay for the inspection.

EFFECTIVE DATE: October 1, 2003

PA 03-231—sHB 6582
Public Safety Committee
Judiciary Committee

AN ACT CONCERNING PYROTECHNIC AND OTHER FIRE HAZARDS

SUMMARY: This act allows local fire marshals and police to order people, verbally or in writing, to immediately vacate a building, other than a factory, when they determine there is a risk of death or injury from overcrowding, blocked exits, or indoor pyrotechnics use. A violation of the order carries a fine of \$200 to \$1,000,

imprisonment for up to six months, or both.

The act also:

1. requires owners of certain places of public assembly to announce publicly the location of exits before any event or performance starts;
2. requires such places to have a main entrance through which two-thirds of the people the building is designed to accommodate may exit during an emergency;
3. adds certain fire safety violations to the nuisance abatement statutes, allowing courts to order abatement on finding clear and convincing evidence that a nuisance exists;
4. establishes a fine and jail term for anyone who operates fireworks displays without the required permit or competency certificate and causes a death or injury in the process;
5. gives local fire marshals the same authority as the state fire marshal to seize and dispose of illegal fireworks; and
6. requires attending physicians and health care providers immediately to notify local fire marshals when they treat any injury resulting from the use of fireworks.

EFFECTIVE DATE: Upon passage

PUBLIC ANNOUNCEMENT OF EXITS

The act requires that before any event or performance at any theater; concert, music, or assembly hall; or any building, auditorium, or room used for public gatherings of more than 100 people, the owner, proprietor, manager, or agent make a public announcement identifying the location of emergency exits.

EXITS IN PLACES OF PUBLIC ASSEMBLIES

The act requires places of public assembly as defined in the state fire safety code to have a main entrance through which two-thirds of the people the building is designed to accommodate may exit during an emergency. It applies to new construction and buildings renovated after July 9, 2003 to increase capacity or change occupancy.

FIRE SAFETY VIOLATIONS AND NUISANCE STATUTES

The act adds the following fire safety violations to the nuisance abatement statutes, thus allowing courts to order abatement when they find by clear and convincing evidence that a nuisance exists:

1. failure to install required smoke detection and warning equipment;
2. maintaining (a) combustible material or (b) conditions that endanger a building or present a fire hazard to the building occupants;
3. failure to maintain fire sprinklers where required by law;
4. failure to comply with regulations governing installation of oil burners and related equipment;
5. failure to comply with regulations governing the safe storage, use, and transportation of flammable or combustible liquids;
6. failure to comply with regulations providing safeguards for preventing and controlling fire and explosion hazards with regard to dry cleaning;
7. failure to comply with regulations governing installation and operation of gas equipment and gas piping;
8. failure to comply with regulations for storing or transporting hazardous chemicals by pipeline;
9. failure to comply with regulations concerning the use, storage, and transportation of explosives and blasting agents; and
10. failure to comply with laws and regulations governing the use, sale, or possession of fireworks.

FIRE MARSHALS' AUTHORITY TO SEIZE FIREWORKS

Seizure and Condemnation Authority of Local Fire Marshals

The act gives local fire marshals the same authority existing law gives the state fire marshal to seize, remove, store, dispose of, or cause removal of fireworks possessed or being kept, offered for sale, or sold illegally. By law, when any fireworks are seized, the Superior Court having jurisdiction issues a summons ordering the violator to appear. If the court finds that the fireworks are being illegally kept or sold, it must

order them destroyed.

Penalties for Violating Fireworks Statutes

By law, anyone conducting, handling, or firing fireworks displays must obtain a certificate of competency or permit from the state fire marshal. Anyone operating without the required permit or certificate is subject to a fine of up to \$100, imprisonment for up to 90 days, or both. The act retains this penalty. But it also makes a violation a class A misdemeanor (see Table on Penalties). If a death or injury results from the violation, the penalty is a maximum fine of \$10,000, imprisonment for up to 10 years, or both. It is unclear if this new penalty supercedes the existing penalty.

PHYSICIAN REPORT OF FIREWORKS INJURIES

The act requires attending physicians and health care institutions and providers to notify the local fire marshal immediately whenever they treat any fireworks injury. They must telephone the local fire marshal in the jurisdiction where the injury occurred and, within 48 hours, file a written report with the state fire marshal's office on a form the office provides. This provision already applies to certain types of burns.

BACKGROUND

Fire Marshals' Authority Under Law

By law, fire marshals may order building owners to remedy any situation that presents a fire hazard. But they do not appear to have the authority to immediately close a building for such hazards or for failure to obey the order.

Public Assemblies

Under the state fire safety code, the definition of assembly occupancies includes buildings designed to accommodate 50 or more people for such purposes as worship, entertainment, eating and drinking, and amusement. They include armories, assembly halls, auditoriums, bowling lanes, conference rooms, courtrooms, dance halls, libraries, mortuary chapels, movie theaters, museums, churches, skating rinks, and theaters (State Fire Safety Code § 4-1.2).

Nuisance Crimes

By law, the state may bring a nuisance action if there have been at least three arrest warrants or arrests for certain crimes within a 365-day period indicating a pattern of criminal activity, including:

1. murder or capital murder;
2. 1st or 2nd degree manslaughter or 2nd degree manslaughter with a gun;
3. 1st degree assault, sexual assault, or aggravated sexual assault;
4. 2nd degree assault involving serious physical injury;
5. 1st degree assault of an aged, blind, or disabled person;
6. 2nd degree assault with a gun;
7. prostitution;
8. transmitting gambling information;
9. selling, possessing with intent to sell, or producing illegal drugs; and
10. selling or disposing of liquor without a permit.

PA 03-253—sHB 6526

Public Safety Committee

Judiciary Committee

AN ACT CONCERNING HOISTING EQUIPMENT

SUMMARY: This act (1) requires hoisting equipment operators to hold a valid crane or hoisting equipment operator's license issued by the Examining Board for Crane Operators, (2) requires the operator to have his license in his possession when operating the equipment, (3) requires a hoisting equipment operator apprentice to register with the board and prohibits him from operating such equipment unless registered, and (4) allows the board to issue a registration certificate for apprentice training under the supervision of a licensed hoisting equipment operator.

The act exempts from the licensure provisions (1) anyone engaged in the occupation of a hoisting equipment operator in Connecticut on October 1, 2003, as long as he obtains a license by October 1, 2004; (2) engineers "under the jurisdiction of the United States"; (3) engineers or operators employed by public utilities or industrial manufacturing plants; or (4) anyone engaged in boating, fishing, agriculture, or arboriculture.

From October 1, 2003 through October 1, 2004, the board must issue a hoisting equipment operator's license to anyone who presents a notarized statement from his employer showing the dates and "duties of employment operating such equipment" or proof of ownership and control of a company using such equipment.

The act also requires (1) the board to establish, in regulations, a safety code for operating and maintaining hoisting equipment and (2) the public safety commissioner, with board advice and consent, to adopt regulations governing hoisting equipment operators that contain the same specifications as regulations governing crane operators. The specifications for crane operators cover licensure qualifications, examination requirements, procedures for issuing and renewing licenses and registration certificates, and application fees.

The act defines "hoisting equipment" as motorized equipment (1) used in construction, demolition, or excavation work; (2) used at construction sites or projects, other than ones involving residential structures of less than four stories, the estimated cost of which exceeds \$1.25 million; and (3) with a manufacturer's rated lifting capacity over five tons and a manufacturer's rated maximum reach over 32 feet.

EFFECTIVE DATE: October 1, 2003

Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-38—SB 924

*Transportation Committee
Banks Committee*

**AN ACT CONCERNING NOTICE
REQUIREMENTS RELATIVE TO THE
SALE OF MOTOR VEHICLES TO
SATISFY MECHANIC'S LIENS**

SUMMARY: By law, certain entities such as motor vehicle mechanics ("bailees for hire") have a legal right to sell a motor vehicle left in their custody for repairs if the owner has not reclaimed it and satisfied the mechanics' lien upon it within 30 days. The vehicle's sale at public auction by the bailee allows him to recover what he is owed for repairs, storage, and costs associated with the vehicle's sale. The bailee must follow certain statutorily specified procedures for notifying the Department of Motor Vehicles (DMV) and advertising the sale for it to be valid.

This act (1) sets a 10-day time limit within which DMV must provide the bailee with the name and address of any lienholder recorded on the vehicle's title certificate and (2) requires the bailee to send written notice to each such lienholder by postage paid registered or certified letter within 10 days of receiving the DMV information.

The bailee must still advertise the impending sale in a newspaper published or circulated in the town where his business place is located and may not sell the motor vehicle for at least 90 days after the work was completed.

EFFECTIVE DATE: Upon passage

repair, replacement, or maintenance of a product, instead of just for repair service and (2) cover operational or structural failure due to normal wear and tear in addition to defects in material, skill, or workmanship.

By law, an extended warranty provider is someone who issues, makes, provides, or offers to provide an extended warranty to a buyer. The act requires that a provider also be contractually obligated to provide service under the extended warranty. Also by law, a retail seller of an extended warranty is excluded from the provider definition if it is the manufacturer of the covered product. The act expands this exclusion to include a subsidiary of the manufacturer.

EFFECTIVE DATE: July 1, 2003

BACKGROUND

Requirements for Extended Warranty Contracts

By law, among other things, an extended warranty contract must have (1) a clear description of the product; (2) a clear statement of when the contract begins and how long it lasts, covered and excluded parts and services, and any coverage limitations; (3) an explanation of the procedures the buyer must follow to obtain performance under the contract; and (4) a statement of the buyer's right to cancel the agreement. The extended warranty provider must also be insured under a reimbursement policy issued by an insurer authorized to do business in Connecticut and file a copy of its extended warranty form and reimbursement policy with the insurance commissioner.

PA 03-50—sSB 922

*Transportation Committee
Insurance and Real Estate Committee
General Law Committee*

**AN ACT CONCERNING THE PURCHASE
OF EXTENDED WARRANTY
CONTRACTS ON MOTOR VEHICLES**

SUMMARY: This act subjects motor vehicle extended warranty contracts to the statutory requirements for other types of extended warranties. It expands the definition of an extended warranty to contracts or agreements to (1) perform or provide indemnification for

PA 03-96—sSB 948

*Transportation Committee
Appropriations Committee*

AN ACT CONCERNING MOBILE HOMES

SUMMARY: This act codifies a Department of Transportation (DOT) program for issuing permits for transporting oversize mobile and modular homes that was required as a pilot program by a 1998 law (SA 98-4).

Under the act, the DOT permits would allow (1) a mobile home wider than 14 feet but not more than 16 feet wide, (2) a mobile home attached to a towing vehicle when their

combined length is 100 feet or less if the towing vehicle is over 80 feet long, or (3) a mobile home attached to a towing vehicle when their combined length is 104 feet if the towing vehicle is 80 feet long or less. The permits must specify the conditions for transporting the units including, at least, the time period during which movement is authorized. The act requires the transportation commissioner to adopt implementing regulations.

The mobile homes covered by the act are defined under another law as "mobile manufactured homes." Under this law, a mobile manufactured home is a detached residential unit (1) with three-dimensional components that are intrinsically mobile with or without a wheeled chassis or (2) built on or after June 15, 1976 in accordance with federal manufactured home construction and safety standards. In either case, it must contain sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities, plumbing and electrical connections for attachment to outside systems, and be designed for long-term occupancy on rigid supports at the site where it is to be used as a residence.

EFFECTIVE DATE: October 1, 2003

PA 03-115—sHB 6404

Transportation Committee

Finance, Revenue and Bonding Committee

Judiciary Committee

**AN ACT CONCERNING THE
DEPARTMENT OF TRANSPORTATION**

SUMMARY: This act:

1. authorizes changeable message outdoor advertising signs with certain characteristics and doubles current fees for Department of Transportation (DOT) outdoor advertising sign permits;
2. establishes a fine for knowingly injuring, destroying, removing, or disturbing monuments established by the national or Connecticut geodetic surveys used for the Connecticut coordinate system, increases the fine for such acts with respect to surveyors' property markers, and includes in the latter offense such acts when done to surveyors' markers for street or highway lines;

3. makes it a class B misdemeanor (up to a \$1,000 fine, up to six months imprisonment, or both) for someone who has not received a DOT-issued livery service permit to hold himself out to be a motor vehicle in livery service operator with the intent to obtain benefit or injure or defraud another person;
4. requires the DOT commissioner to notify local state legislators within one year from the date he has determined that property previously acquired in a municipality they represent is no longer required for highway purposes and will be disposed of according to state law governing surplus state property;
5. allows DOT to replace the Pearl Street Bridge over the railroad tracks in Middletown with a new bridge that has a minimum overhead clearance over the tracks of 17 feet, 11 inches, instead of the 20-foot, six inch minimum clearance that state law would otherwise require;
6. specifies that the 43-foot maximum distance between the kingpin and the rearmost axle on a 53-foot trailer that allows it to be legally operated on designated state highways is measured from the kingpin to the rearmost axle that is actually in contact with the ground;
7. requires any vehicle used for landscaping purposes that has a caged trailer to display an orange triangular caution sign on the rear of the trailer;
8. designates commemorative or memorial names for 19 state highway segments, 10 bridges, and one tunnel;
9. repeals an obsolete statutory reference to the DOT commissioner participating in motor carrier regulatory hearings before the Department of Public Utilities Control; and
10. makes numerous technical changes.

EFFECTIVE DATE: Upon passage except (1) outdoor advertising structure permit fee provisions are effective July 1, 2003 and (2) the changeable message advertising sign, slow moving vehicle warning sign, legislator notification provisions, and the technical changes are effective October 1, 2003.

CHANGEABLE MESSAGE ADVERTISING SIGNS AND DOT PERMIT FEES

Changeable Message Signs

The act allows outdoor advertising signs that may legally be within 660 feet of a state highway right-of-way to display a changing message board produced by electronic or mechanical means or by remote control as long as (1) the static display lasts at least six seconds, (2) the message change occurs with all moving parts or illumination moving or changing simultaneously over a period of three seconds or less, and (3) the message has no illumination that moves, appears to move, or changes intensity during the static display period of the message.

Outdoor Advertising Structure Permit Fees

The act doubles fees for DOT outdoor advertising structure permits.

1. The application fee for a panel that is less than 300 sq. ft. increases from \$25 to \$50.
2. The application fee for a panel that is 300-900 sq. ft. or more increases from \$50 to \$100.
3. The annual permit fee for a panel that is 300 sq. ft. or less increases from \$10 to \$20.
4. The annual permit fee for a panel that is 301-600 sq. ft. increases from \$20 to \$40.
5. The annual permit fee for a panel that is 601-900 sq. ft. increases from \$30 to \$60.

DAMAGING, REMOVING, OR DISTURBING SURVEYORS' MARKERS AND SURVEY MONUMENTS

The act prohibits knowingly injuring, destroying, disturbing, or removing any monument established by the National Geodetic Survey or Connecticut Geodetic Survey for use in determining either spatial locations under the Connecticut coordinate system or precise elevation data. It establishes a fine of \$2,000 to \$5,000 for such acts.

The act increases the fine for such acts when done to any surveyors' property line markers from a \$150 to \$500 fine to a \$500 to \$1,000 fine. It also applies the fine to such acts done to surveyors' markers that delineate street or highway lines.

KINGPIN TO REAR AXLE DISTANCE FOR 53-FOOT TRAILERS

By law, the maximum length of the semitrailer portion of a tractor-trailer unit is 48 feet, except that trailers up to 53 feet in length may be operated legally on designated state routes as long as the distance between the kingpin (the articulation point where the semitrailer attaches to the tractor) and the rearmost axle is not more than 43 feet. The act specifies that this kingpin-to-rear-axle distance must be determined based on the rearmost axle that is actually in contact with the road. (Some trailers are equipped with a liftable rear axle that is only used when it is required for proper weight distribution. Under the act, this lift axle would only be used to determine the maximum distance when it is actually being used in the lowered position.)

COMMEMORATIVE AND MEMORIAL NAMES

The act repeals the designation of the new terminal at Bradley International Airport as the "Robert F. Juliano Terminal Building" and, instead, names Special Service Road 403 in Windsor Locks between the eastern and western junctions of Special Service Road 401 as the "Robert F. Juliano Highway."

The act names 18 other highway segments, 10 bridges, and one tunnel as follows:

1. Route 40 in Hamden from the North Haven-Hamden town line to the junction of Route 10 in Hamden as the "Edward Armeno Memorial Highway";
2. Route 796 in Milford, currently known as the "Milford Parkway Connector," as the "Daniel S. Wasson Connector";
3. Route 142 in Branford from the junction of Route 1 to Double Bench Road as the "William E. Keish, Jr. Memorial Highway";
4. Route 349 in Groton as the "William J. Snyder, Sr. Memorial Highway";
5. Route 101 between Abington and East Killingly as the "Leif Erickson Highway";
6. Route 15 through Derby, Ansonia, and Seymour as the "Veteran's Memorial Highway";
7. Route 174 in Newington from Route 173 east to Route 176 as the "Francis Kochanowicz Memorial Highway";

8. Route 173 in West Hartford from the Newington-West Hartford town line to the junction of State Road 529 as the “Roger Fissette Hannon-Hatch VFW Post 9929 Memorial Highway”;
9. Route 69 in Waterbury from Washington Street to East Main Street as the “Officer Walter T. Williams III Memorial Highway”;
10. Route 69 in Waterbury from East Main Street to State Road 844 as the “Officer Bruce Hanley Memorial Highway”;
11. Route 314 from State Road 543 to Jordan Lane in Wethersfield as the “Antranig Ozanian Memorial Highway”;
12. Special Service Road 411 from Route 3 to Route 99 in Rocky Hill as the “Nicholas LaRosa Memorial Highway”;
13. Route 130 in Bridgeport from the Fairfield town line to the Stratford town line as the “Alvin W. Penn Memorial Highway”;
14. Route 5 in North Haven from the Hamden-North Haven town line to State Road 720 as the “Korean War Veterans Chapter 204 Memorial Highway”;
15. Route 5 in North Haven from State Road 720 to Route 22 as the “VFW Post 10128 Memorial Highway”;
16. Route 190 from the Suffield-Enfield town line easterly to Elm Street as the “Sergeant Elijah Churchill Memorial Highway” (Subsequently Repealed—See BACKGROUND);
17. Route 108 in Trumbull from the Stratford-Trumbull town line to State Road 711 as the “Trooper Ernest Morse Memorial Highway”;
18. Route 173 in West Hartford from State Road 529 to the junction for Route 4 as the “Trooper Carl P. Moller Memorial Highway”;
19. the “bridge over the Saugatuck River” in Westport as the “Ruth Steinkraus Cohen Memorial Bridge” (There are several bridges over the Saugatuck River in Westport; the act does not identify which bridge.);
20. Footbridge No. 827OR over the railroad tracks in Seymour as “Kisson’s Crossing”;
21. Bridge No. 1751 over Quaker Lane and Trout Brook on I-84 in West Hartford as “The 76th Division Memorial Bridge”;
22. Bridge No. 00233 on Route 166 passing over I-95 in Old Saybrook as the “Rosario J. Aloisio Memorial Bridge”;
23. Bridge No. 00024 passing over I-95 at Wilson Avenue in Stamford as the “Stamford Firefighters L786 World Trade Center Memorial Bridge”;
24. Bridge No. 02430 passing over Fenn Brook on Route 67 in Roxbury as the “Hurlbut Bridge”;
25. Bridge No. 01747 passing over I-84 on Route 173 in West Hartford as the “Thomas DeAngelis Memorial Bridge”;
26. Bridge No. 1748 on Mayflower Road passing over I-84 in West Hartford as the “Joseph Lenihan Memorial Bridge”;
27. Bridge No. 1392 on Route 156 in Old Lyme crossing over the Lieutenant River as the “John A. Fox Memorial Bridge”;
28. Bridge No. 3485 on I-84 in West Hartford crossing over Woodruff Road as the “Patrick L. Brooks Memorial Bridge”; and
29. Bridge No. 007773, commonly known as the “West Rock Tunnel” as the “Hero’s Tunnel.”

BACKGROUND

Related Acts

PA 03-265, which passed after PA 03-115, makes three modifications to the commemorative road and bridge designations. It (1) rescinds the designation of a section of Route 190 as the “Sergeant Elijah Churchill Memorial Highway”; (2) changes the designation of the bridge on Route 156 in Old Lyme from the “John A. Fox Memorial Bridge” to the “Thomas A. Fox Memorial Bridge”; and (3) redesignates Route 115 in Derby, Ansonia, and Seymour from the “Veteran’s Memorial Highway” to the “Veterans Memorial Highway.”

PA 03-171—sSB 921

*Transportation Committee
Education Committee*

AN ACT CONCERNING THE OPERATION OF MOTORCYCLES AND IMPOSING LIMITATIONS ON LICENSED MOTOR VEHICLE AND MOTORCYCLE OPERATORS WHO ARE SIXTEEN OR SEVENTEEN YEARS OF AGE

SUMMARY: This act:

1. modifies the requirements for 16- and 17-year olds driving under learners' permits,
2. establishes restrictions for 16- and 17-year olds for specific time periods following receipt of their drivers' licenses, and
3. eliminates the separate license for operating a motorcycle and replaces it with a motorcycle endorsement on a regular driver's license.

The learner's permit requirements and driving restrictions apply to 16- and 17-year olds who apply for a learner's permit on October 2, 2003 or thereafter. Thus, anyone who applies for a learner's permit on or before October 1, 2003 will be under the prior learner's permit requirements and will have unrestricted driving privileges upon licensure.

EFFECTIVE DATE: October 1, 2003, except that the learner's permit and driving restriction requirements do not apply to anyone who applies for a learner's permit on or before October 1, 2003

LEARNERS' PERMITS

The act: (1) allows a person to operate a motor vehicle on a multiple-lane, limited-access highway during any point in the learner's permit period instead of only after the first third of the permit period has passed (60 days if home-trained/40 days if trained through driver education or commercial training); (2) expands the mandatory safe driving practices course all 16- and 17-year olds must complete from five to eight hours, and the alcohol and drug impact component of the course from two to four hours; (3) requires the maximum fee for the safe driving practices course (previously \$40) to be determined by the Department of Motor Vehicles (DMV) commissioner by regulation; and (4) requires 16- and 17-year olds who, while residing in another state, completed the necessary classroom instruction but not the safe driving practices component, to take the course in Connecticut prior to licensure and requires the commissioner to determine the maximum course fee by regulation.

The act also: (1) designates as an infraction any violation of the driving restrictions; (2) authorizes the commissioner to suspend a license until age 18, after notice and opportunity for a hearing, for a second or subsequent violation of the restrictions; and (3) authorizes the

commissioner to adopt implementing regulations for the restriction provisions.

DRIVING RESTRICTIONS

Once a 16- or 17-year old receives a driver's license, the act establishes the following restrictions on driving privileges:

1. for the first three months of licensure, he may transport only one passenger, who must be either his parent or guardian (at least age 25 and a licensed driver) or a DMV-licensed driving instructor (see **BACKGROUND** for additional requirement); and
2. for the fourth through sixth month of licensure, he may transport, in addition to the above, only other immediate family members.

In addition, the act prohibits a 16- or 17-year old licensed driver from (1) operating a vanpool vehicle or any public service motor vehicle; (2) carrying more passengers than the vehicle has seat-belt-equipped seating positions; and (3) if endorsed to operate a motorcycle, carrying any passenger on the motorcycle for the first six months he is authorized to operate one.

MOTORCYCLES

Previously, the law required anyone operating a motorcycle on a public road to get a DMV motorcycle operator's license. The act eliminates the separate motorcycle license. Instead, it requires anyone seeking authorization to operate a motorcycle to get an "M" endorsement on his class 1 or 2 driver's license. (Class 1 and 2 licenses are "regular" licenses that do not authorize operation of a commercial motor vehicle.) In practice, the DMV has apparently already begun issuing the M endorsement to anyone who already holds a driver's license.

BACKGROUND*Related Acts*

PA 03-265 makes two substantive changes to the requirements summarized above. It modifies the passenger restriction during the first three months of licensure to allow the single passenger a 16- or 17-year old licensee may transport during this period to also be any person who (1) is at least age 20, (2) has been licensed to operate the type of vehicle the teenage driver

is operating for at least four years prior to the time he is being transported, and (3) has not had this license suspended at any time during this four-year period.

PA 03-265 also requires the person who signs a home training certification for a 16- or 17-year-old to have a suspension-free driving record for at least the four years preceding the date he signs the certificate. By law, certain adults related to a minor driver's license applicant may certify that they have provided sufficient training to the minor.

PA 03-180—HB 5145

*Transportation Committee
Judiciary Committee*

**AN ACT INCREASING THE FINE FOR
INSTALLING OR USING MUFFLER
SYSTEMS THAT CAUSE EXCESSIVE
NOISE**

SUMMARY: This act increases the fine for violating certain requirements relating to the mechanical equipment on motor vehicles, primarily mufflers and exhaust pipes. It changes the fine from an infraction to an offense punishable by a fine of \$150. The change in classification requires violators to appear in court since the option of mailing in the fine through the Centralized Infractions Bureau is eliminated.

Previously, as an infraction, a violator who paid the fine by mail and did not appear in court paid a total of \$78. This included a \$35 fine, a 50% surcharge on the fine for the Special Transportation Fund (STF surcharge), an additional fee of \$1 for each \$8 or fraction thereof of the fine for police training, and a \$20 court cost surcharge.

Under the act, the \$150 fine is still subject to the 50% STF surcharge, but, since the offense is no longer classified as an infraction, the \$1 for \$8 fee for additional police training and the \$20 court assessment no longer applies. Therefore, a violator who is found guilty must pay a total of \$225.

EFFECTIVE DATE: October 1, 2003

**MOTOR VEHICLE EQUIPMENT
VIOLATIONS SUBJECT TO INCREASED
FINE**

The offenses subject to the increased fine and offense reclassification include:

1. operating, constructing, equipping, or adjusting a motor vehicle in a way that causes unnecessary or unusual noise;
2. operating a motor vehicle with an improper muffler; failure to maintain a muffler in good working order; installing or using a muffler lacking interior baffle plates or other effective muffling devices, a gutted muffler, a muffler cutout, or a straight exhaust; installing or using any mechanical device that amplifies the noise emitted by the vehicle; removing or replacing all or part of a muffler except to repair or replace it; or using an extension or device on an exhaust system or tail pipe that will cause unnecessary or unusual noise;
3. excessive fumes or exhaust smoke from a motor vehicle;
4. violating requirements applicable to the construction, placement, or positioning of exhaust pipes on a motor vehicle;
5. operating a motor vehicle with a defective horn; and
6. operating a siren, whistle, or bell on a motor vehicle except as specifically permitted by statute.

PA 03-190—HB 5685

*Transportation Committee
Environment Committee*

**AN ACT INCREASING THE GROSS
VEHICLE WEIGHT OF BULK MILK
PICKUP TANKERS**

SUMMARY: This act allows bulk milk pickup tankers to have a gross vehicle weight of up to 99,000 pounds, instead of a maximum of 80,000 pounds, when this higher weight is permitted under the federal maximum truck weight law.

EFFECTIVE DATE: October 1, 2003

BACKGROUND

State and Federal Maximum Truck Weight Laws

Connecticut's maximum truck weight law allows (1) a vehicle combination with four or more axles to have a maximum gross weight of 73,000 pounds when the distance between the first and last axles is at least 28 feet or (2) a gross vehicle weight of up to 80,000 pounds through application of the "federal bridge formula." The

federal formula determines the maximum allowable gross vehicle weight based on the number of axles it has and the distance between the first and last axles (its wheelbase). Thus, to weigh up to 80,000 pounds under this formula, a four-axle vehicle would have to have at least 57 feet between its first and last axles and a five-axle vehicle would require only 51 feet between them.

Currently, federal law authorizes no more than 80,000 pounds gross weight on any vehicle, but recognizes “grandfather rights” for states that permitted higher gross weights prior to passage of the federal law. Connecticut does not have grandfather rights for gross weight but has them for axle weights. Thus, its maximum single and tandem axle weights are higher than the federal maximums.

PA 03-194—HB 5681 (VETOED)

*Transportation Committee
General Law Committee*

**AN ACT CONCERNING THE PROVISION
OF AIR FOR TIRE INFLATION
PURPOSES**

SUMMARY: This act requires anyone licensed to sell fuel at a retail food store he owns and operates and which dispenses less than 10,000 gallons of gasoline in a month to provide free public use of an air compressor during business hours for tire inflation. Fuel retailers meeting these criteria were previously exempt from the requirements.

By law, fuel retailers subject to the free air requirements must post a state-approved sign in a conspicuous location on the premises informing the public that free air is available during business hours. The air compressor must be able to produce at least 80 pounds per square inch outlet pressure.

EFFECTIVE DATE: October 1, 2003

PA 03-210—sHB 5686

*Transportation Committee
Energy and Technology Committee*

**AN ACT REQUIRING REDUCTION IN
HAZARDOUS ROAD GLARE AND LIGHT
POLLUTION FROM PRIVATE AREA
FLOODLIGHTING LOCATED WITHIN
THE STATE RIGHT-OF-WAY**

SUMMARY: This act (1) prohibits floodlights intended to illuminate private property from being located in a state highway right-of-way unless they meet certain light pollution reduction and other requirements; (2) prohibits a floodlight from being located in a state highway right-of-way if the private property it is intended to illuminate is across the highway from the utility pole on which it would be mounted; and (3) requires any existing luminaire that violates either of the above requirements to be brought into compliance with the act by October 1, 2005. The act defines a floodlight as a luminaire with an output greater than 1,800 lumens and a luminaire as the complete lighting system, including the lamp and fixture.

EFFECTIVE DATE: October 1, 2003

**RESTRICTIONS ON FLOODLIGHTS USED
TO ILLUMINATE PRIVATE PROPERTY**

The act prohibits a luminaire intended for private property illumination from being located on a state highway right-of-way unless (1) it is designed to maximize energy conservation and minimize light pollution, glare, and light trespass; (2) the maintained illuminance levels it produces are equal to the minimum levels recommended by the Illuminating Engineering Society of North America for the lighting application; and (3) the luminaire is sufficiently shielded and aimed so that (a) its direct light is not visible at any point on the highway where the viewing height is four feet or more and the distance from the pole is 70 feet or more and (b) there is no light trespass onto properties adjacent to the one for which the illumination is intended and its direct light is not visible at a viewing height of five feet or more at any point along the adjacent property line.

Under the act:

1. “light trespass” is light from the luminaire that shines beyond the boundaries of the property meant for illumination;
2. “direct light” is light that can be seen directly from the light source and other light-emitting or reflecting parts of the luminaire;
3. “light pollution” is direct light emitted above the horizontal plane running through the lowest point on the luminaire;
4. “glare” is the sensation produced by the illumination within the visual field that is sufficiently greater than the

illumination to which the eyes are adapted and thus causes annoyance, discomfort, or loss in visual performance and visibility; and

5. "illuminance" is the density of luminous flux incident on a surface that is represented by the luminous flux divided by the area of the surface when it is uniformly illuminated.
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Notice to Readers: Special session legislation may have substantively changed provisions in these acts (see table and summaries in Part II).

PA 03-1—HB 6397 (VETOED)

Emergency Certification

**AN ACT CONCERNING STATE
EXPENDITURE AND REVENUE
ADJUSTMENTS**

SUMMARY: This act reduces FY 2003 allotments to the General, Special Transportation, and Mashantucket Pequot and Mohegan funds and reduces grants to towns. It raises General Fund and municipal revenues for FYs 2003 to 2005 and reduces FY 2003 Special Transportation Fund revenues.

The act also:

1. establishes an early retirement incentive program for state employees and requires the state to offer to rehire state employees who received layoff notices on or after November 1, 2002;
2. transfers money from various special funds, including the Special Transportation and Soldiers', Sailors', and Marines' funds, to the General Fund;
3. eliminates the continuous eligibility policy for children in the HUSKY program;
4. requires Medicaid and State Aided General Assistance (SAGA) recipients to pay \$1 for all outpatient medical services and each prescription;
5. suspends Medicaid coverage for parents of children enrolled in the HUSKY program with incomes between 100% and 150% of the federal poverty level until July 1, 2005;
6. reduces the dispensing fee paid to pharmacies for each prescription dispensed under the Medicaid, SAGA, ConnPACE, and AIDS drug assistance programs from \$3.85 to \$3.60 per prescription;
7. requires the Department of Social Services (DSS) to adopt a preferred drug list by July 1, 2003; and
8. eliminates a scheduled increase in the personal needs allowance for recipients of assistance under the State Supplement Program (SSP).

The act also:

1. adds three new brackets to the state income tax and increases the tax rates on income in those brackets from 4.5% to 5%, 5.5%, and 5.75%;
2. reduces the property tax credit against the income tax for those with higher incomes;
3. limits the clothing and footwear exemption from the sales tax to items costing no more than \$50 instead of \$75;
4. eliminates sales tax exemptions for certain advertising services, services to private water companies, for-profit health and athletic club services, newspapers, and magazine subscriptions;
5. increases the sales tax on computer and data processing services from 1% to 3%;
6. increases the cigarette tax by 40 cents per pack from \$1.11 to \$1.51;
7. imposes tax surcharges for 2003 and 2004 on corporations, limited liability companies and partnerships, and S corporations;
8. temporarily increases the real estate conveyance tax;
9. reduces property tax exemptions for certain new and newly acquired manufacturing machinery and equipment and commercial trucks; and
10. delays scheduled phase-outs of the succession and transfer tax and the tax on gifts under \$1 million.

EFFECTIVE DATE: Various, see below.

ADJUSTMENTS IN FY 2003 BUDGET (§§ 1-5)

The act:

1. reduces General Fund appropriations for specified programs and requires total reductions to be no more than the greater of the governor's January 24, 2003 reduction or the act's reduction (\$80.56 million);
2. reduces FY 2003 appropriations for Town Road Aid grants by \$7.5 million and Mashantucket Pequot and Mohegan Fund grants to towns by \$20 million;

3. reduces total funds transferred from FY 2002 General Fund resources to various programs and agencies from \$29.05 million to \$25.4 million; and
4. requires the governor to economize to reduce FY 2003 requisitions for certain specified functions by \$36.5 million.

EFFECTIVE DATE: Upon passage

SPECIAL PROVISIONS (§ 6)

Restrictions and Limitations

The act:

1. requires that its reductions affecting municipal grants or appropriated accounts with more than one grantee be applied proportionately;
2. specifies that the maximum 1.75% additional allotment reduction imposed in each appropriated account not apply to appropriations for municipal aid, personal services, higher education operating expenses, or entitlements;
3. requires the Department of Correction to delay opening a facility in Suffield until July 1, 2003; and
4. bars the governor from further modifying FY 2003 allotments for priority school district grants.

Transfers to the General Fund

The act transfers the following amounts to the General Fund: \$21 million from the Special Transportation Fund, \$10 million from the Probate Court Administration Fund, and \$2.5 million from the commercial recording account. From the Soldiers', Sailors', and Marines' Fund, it transfers \$8.9 million of fund principal to the General Fund for FY 2003 and, for FYs 2004 and 2005, amounts needed to fund state reimbursements for local property tax relief for veterans.

Early Retirement Incentive Program

The act establishes a retirement incentive program for active full- and part-time state employees who are at least age 52 and have a minimum of 10 years of actual state service, if they retire directly from state employment between March 1 and June 1, 2003. The incentive allows an eligible employee to add up to three years to his age or service credit, thereby allowing him to retire early or enhance his

pension benefit. The act also specifies additional eligibility requirements and conditions and requires the state Retirement Commission to (1) ask for an actuarial interim valuation for the State Employee Retirement System (SERS) that takes the early retirement incentive program into account and (2) certify revised state contributions for the FY 2004-05 biennium to the General Assembly.

Transfers of Funds for Nursing Home Staffing

The act establishes a Nonprofit Nursing Home Incentive account and transfers to it \$1 million of an FY 2003 appropriation for nursing home staffing. It requires the DSS to use the account to provide supplemental grants to certain nursing homes for FY 2003 to improve their patient care and staffing levels. The act establishes a formula for distributing the funds to qualifying nursing homes.

The act also transfers an additional \$1 million of the nursing home staffing appropriation to DSS' account for DSH-Urban Hospitals in Distressed Municipalities.

Rehiring Laid-Off State Employees

By March 1, 2003, the act requires the Office of Policy and Management (OPM) secretary to offer each state employee who received a layoff notice from the state on or after November 1, 2002 the opportunity to be reinstated in his former position, subject to state personnel policies and collective bargaining agreements in effect on the act's effective date. The requirement does not apply to grant-funded or durational positions that ended or to dismissals based on performance. It requires rehired employees to suffer no interruption in service or pension credit for their layoff period.

EFFECTIVE DATE: Upon passage

HUSKY PROGRAM CHANGES (§§ 7 & 10)

Elimination of Continuous Eligibility

The act eliminates the HUSKY A and B programs' continuous eligibility policy, which allowed children determined eligible for benefits to remain eligible for a full 12 months, even if a change in family income or other circumstances would otherwise have made them ineligible.

Elimination of Certain Adult HUSKY A Coverage

From March 15, 2003 to July 1, 2005, the act suspends coverage for parents and needy caretaker relatives of children enrolled in HUSKY A (which is Medicaid managed care) with incomes between 100% and 150% of the federal poverty level.

EFFECTIVE DATE: Upon passage

HOME HEALTH SERVICES MEDICATION ADMINISTRATION FEE (§ 8)

The act requires the DSS home health fee schedule, which lists what the state will pay for various home health services for its medical assistance programs, to include a fee for a nurse who makes a home visit solely to administer medications. It allows such medication administration to include blood pressure checks, glucometer readings, pulse rate checks, and similar health status indicators. The act requires the fee to include administration of medications while the nurse is present, pre-pouring additional doses for the client to self-administer at a later time, and teaching self-administration. The act explicitly prohibits DSS from paying for medication administration when other nursing services are provided at the same visit. It allows DSS to establish prior authorization requirements for this service. It requires the DSS commissioner, before implementing the change, to consult with the chairmen of the Public Health and Human Services committees.

EFFECTIVE DATE: Upon passage

MEDICAID COPAYMENT (§ 9)

The act requires the DSS commissioner to impose a \$1 copayment on Medicaid recipients for (1) each outpatient medical service by an enrolled Medicaid provider to a Medicaid recipient not enrolled in a managed care plan (low-income elderly and people with disabilities), as permitted under federal law, and (2) each drug prescription at the time it is filled. The commissioner may modify the prescription copayment requirement for certain people who receive less than a 30-day supply and may exempt institutional residents from the copayment requirement, to the degree permitted under federal law.

EFFECTIVE DATE: Upon passage

REDUCTION IN PHARMACY DISPENSING FEE UNDER MEDICAL ASSISTANCE PROGRAMS (§ 11)

As of February 15, 2003, the act reduces, from \$3.85 to \$3.60, the per-prescription dispensing fee DSS pays to pharmacies under the Medicaid, SAGA, General Assistance (GA), Connecticut Pharmaceutical Assistance Contract to the Elderly and Disabled (ConnPACE), and Connecticut AIDS Drug Assistance programs.

EFFECTIVE DATE: Upon passage

MEDICAID GUARANTEED ELIGIBILITY ELIMINATED (§ 12)

The act eliminates the guaranteed eligibility policy in the Medicaid program. Under this policy, adults determined eligible for benefits remained eligible for six months, even if a change in status (such as income) during that time would have otherwise made them ineligible.

EFFECTIVE DATE: Upon passage

REDUCTION IN TFA EXTENSIONS (§ 13)

The act reduces, from three to two, the number of six-month extensions that Temporary Family Assistance (TFA) recipients can receive at the end of the program's normal 21-month eligibility period, starting July 1, 2003.

EFFECTIVE DATE: July 1, 2003

CONNPACE COPAYMENT AND ANNUAL FEE INCREASE (§§ 14 & 15)

The act (1) increases the copayment for ConnPACE participants to \$16.25 per prescription and applies it to everyone, regardless of income or enrollment date; (2) increases the annual fee from \$25 to \$30; and (3) makes several technical changes. The copayments were previously \$12 or \$15 per prescription depending on participants' income or enrollment date. The act also codifies the program's current income limits, which are \$20,300 for single people and \$27,500 for married couples, adjusted annually for inflation.

EFFECTIVE DATE: Upon passage

TRANSITIONAL CHILD CARE REDUCED INCOME ELIGIBILITY (§ 16)

The act reduces income eligibility for transitional child care benefits from 75% of statewide median income to 55%, starting

February 15, 2003. These benefits are available to families transitioning off the TFA program.
EFFECTIVE DATE: Upon passage

NURSING HOME RATE INCREASE DELAY (§ 17)

The act delays a scheduled 2% Medicaid rate increase for certain nursing homes from January 1, 2003 until June 1, 2003.
EFFECTIVE DATE: Upon passage

SAGA AND GA MEDICAL AND PRESCRIPTION COPAYMENTS (§ 18)

The act requires the DSS commissioner to impose a \$1 copayment on recipients of SAGA and town GA medical benefits for (1) each outpatient medical service by an enrolled provider to a recipient and (2) each drug prescription at the time it is filled. The commissioner may modify the prescription copayment requirement for certain people who receive less than a 30-day supply and may exempt institutional residents from the copayment requirement.
EFFECTIVE DATE: Upon passage

DSS PREFERRED DRUG LIST (§ 19)

The act requires DSS to adopt a preferred drug list for its medical assistance programs by July 1, 2003 in consultation with the 11-member Medicaid Pharmaceutical and Therapeutics Committee. Prior law established this committee and required DSS to adopt a preferred drug list when it recommended one. This act requires the committee to convene by March 31, 2003. The act requires DSS, instead of the committee, to review the list at least once a year and make additions and deletions to it.
EFFECTIVE DATE: Upon passage

TRANSFERS FROM ENERGY CONSERVATION AND LOAD MANAGEMENT FUNDS (§§ 20 & 21)

From February 2003 through July 2005, the act requires the Department of Public Utility Control (DPUC) to authorize electric distribution companies to send a total of \$1 million per month from their energy conservation and load management funds to a nonlapsing account in the General Fund to pay for state agencies' electricity costs and conservation projects. Each fund's contribution to the \$1 million must be in

proportion to its fund receipts. Starting with FY 2003, the act requires the comptroller to count as revenue for the preceding fiscal year any payments from the funds she receives through the last day of July or, if that day is a weekend or holiday, through the next regular business day after that date.

The electric company energy conservation and loan management funds are funded by a surcharge of 3 mills on each kilowatt-hour of electricity the companies sell. By law, the companies must use the funds to implement cost-effective energy management programs and electricity market transformation initiatives.
EFFECTIVE DATE: Upon passage

INCOME TAX (§§ 22-24)

New Brackets and Increased Rates

Starting with the 2003 tax year, the act increases the number of personal income tax brackets from two to five by adding three new brackets for taxable incomes over \$100,000 for joint filers, \$53,125 for single filers, \$50,000 for married people filing separately, and \$80,000 for heads of household. It increases the tax rate on income in the new brackets from a flat 4.5% to 5.0%, 5.5%, and 5.75% as shown in Table 1.

Table 1: Old And New income Tax Rates And Brackets

TAX RATE		CT. TAXABLE INCOME (INCOME EXCEEDING APPLICABLE EXEMPTION)			
		Married Filing Jointly or as Surviving Spouse		Single and Trusts & Estates	
Prior Law	Act	From	To	From	To
3.0% (Trusts & Estates: 4.5%)	3.0%	\$1	\$20,000	\$1	\$10,000
	4.5%	20,001	100,000	10,001	53,125
4.5%	5.0%	100,001	200,000	53,126	106,500
	5.5%	200,001	500,000	106,501	265,500
	5.75%	Over \$500,000		Over \$265,500	
TAX RATE		Head of Household		Married Filing Separately	
Prior Law	Act	From	To	From	To
3.0%	3.0%	\$1	\$16,000	\$1	\$10,000
4.5%	4.5%	16,001	80,000	10,001	50,000
	5.0%	80,001	156,000	50,001	100,000
	5.5%	156,001	396,000	100,001	250,000
	5.75%	Over \$396,000		Over \$250,000	

The act eliminates the flat 4.5% income tax rate on trusts and estates and instead subjects their taxable income to the same tax rates as apply to single filers and establishes new tax brackets for married people filing separately instead of applying the singles' brackets to such filers.

The act requires the Department of Revenue Services (DRS) commissioner to issue special withholding tables by March 1, 2003 that as far as practicable, result in six months worth of withholding under the new rates by June 30, 2003. It also requires estimated taxpayers to adjust their June 2003 tax payments for any increase that applies to them for the 2003 tax year.

EFFECTIVE DATE: Upon passage and applicable to tax years starting on or after January 1, 2003 for the new tax rates and brackets; upon passage for the withholding table and estimated tax requirements.

Property Tax Credit Phase Out

The act reduces property tax credits available to people with Connecticut adjusted gross incomes (AGI) over \$100,500 for joint filers, \$78,000 for heads of household, \$54,500 for singles, and \$50,250 for married separate filers by (1) applying the existing credit phase-out for such taxpayers to the full \$500 credit instead of only the first \$400 of it and (2) eliminating the residual \$100 credit available regardless of income (see Table 2).

Table 2: Old and New Property Tax Credit Phase-Out

MAXIMUM CREDIT		CONNECTICUT ADJUSTED GROSS INCOME			
		Married Filing Jointly or as Surviving Spouse		Married Filing Separately	
Prior Law	Act	From	To	From	To
\$500	\$500	\$24,001	\$100,500	\$12,001	\$50,250
460	450	100,501	110,500	50,251	55,250
420	400	110,501	120,500	55,251	60,250
380	350	120,501	130,500	60,251	65,250
340	300	130,501	140,500	65,251	70,250
300	250	140,501	150,500	70,251	75,250
260	200	150,501	160,500	75,251	80,250
220	150	160,501	170,500	80,251	85,250
180	100	170,501	180,500	85,251	90,250
140	50	180,501	190,500	90,251	95,250
100	0	Over \$190,500		Over \$95,250	
MAXIMUM CREDIT		CONNECTICUT ADJUSTED GROSS INCOME			
		Head Of Household		Single	
Prior Law	Act	From	To	From	To

\$500	\$500	\$19,001	\$78,500	\$12,501	\$54,500
460	450	78,501	88,500	54,501	64,500
420	400	88,501	98,500	64,501	74,500
380	350	98,501	108,500	74,501	84,500
340	300	108,501	118,500	84,501	94,500
300	250	118,501	128,500	94,501	104,500
260	200	128,501	138,500	104,501	114,500
220	150	138,501	148,500	114,501	124,500
180	100	148,501	158,500	124,501	134,500
140	50	158,501	168,500	134,501	144,500
100	0	Over \$168,500		Over \$144,500	

(The singles income levels shown in Table 2 apply through January 1, 2004. After that date, the income threshold for starting the credit phase-out for single filers increases each year, reaching \$64,500 in 2009.)

EFFECTIVE DATE: Upon passage and applicable to tax years starting on or after January 1, 2003.

SALE AND USE TAX

Computer and Data Processing Services (§§ 26 & 27)

The act increases the sales and use taxes on computer and data processing services from 1% to 3%, starting March 1, 2003 and repeals the final step of a scheduled phase-out of the taxes on such services.

EFFECTIVE DATE: Upon passage and applicable to sales occurring on or after March 1, 2003.

Exemptions Eliminated (§§ 28 & 58)

The act extends the 6% sales and use tax to sales of the following formerly exempt items and services:

1. advertising or public relations services for developing media and cooperative direct mail advertising;
2. health and athletic club services, unless provided by a municipality or nonprofit organization or unless the charges for the services are included in club dues or fees subject to the dues tax;
3. newspapers;
4. magazine subscriptions; and
5. sale, storage, use, or consumption of goods or services to private water companies for use in operating or managing a body of water, well, or distributing plant or system used to supply water to at least 50 consumers.

EFFECTIVE DATE: March 1, 2003 and applicable to sales on or after that date.

Exemption for Clothing and Footwear (§ 29)

The act limits the sales tax exemption for clothing and footwear to items costing less than \$50. Prior law exempted clothing and footwear costing less than \$75.

EFFECTIVE DATE: March 1, 2003 and applicable to sales on or after that date.

GIFT TAX PHASE-OUT DELAY (§ 30)

The act delays by one year the remaining steps of the phase-out of the tax on gifts of between \$25,000 and \$1 million, thus maintaining the 2003 gift tax rates until January 1, 2005. Under the act, the phase-out resumes as of that date and runs until January 1, 2009. The phase-out was formerly scheduled to run from January 1, 2004 to January 1, 2008.

EFFECTIVE DATE: Upon passage and applicable to calendar years starting January 1, 2003.

CIGARETTE TAX (§§ 31-33)

The act increases the cigarette tax by 40 cents per pack, from \$1.11 to \$1.51 (55.5 to 75.5 mills per cigarette), starting March 1, 2003. It also imposes a 40-cent "floor" tax on each pack of cigarettes (20 mills per cigarette) that dealers and distributors have in inventory at the close of business or at 11:59 p.m. on February 28, 2003, whichever is earlier.

EFFECTIVE DATE: Upon passage. The tax increase applies to cigarettes sold on or after March 1, 2003.

BUSINESS TAX SURCHARGES (§§ 34-37)

The act imposes tax surcharges of 20% for 2003 and 10% for 2004 on (1) the corporation tax and (2) the annual \$250 tax on limited liability companies, limited liability partnerships, limited partnerships, and S corporations. Companies subject to the corporation tax must calculate the surcharge based on their tax liability before credits and adjust their June 2003 installment payments to incorporate its changes in their liability for the 2003 income year.

EFFECTIVE DATE: Upon passage and applicable to income years or tax years, as appropriate, starting on or after January 1, 2003; upon passage for the provision concerning the corporation tax installments due in June 2003.

PETROLEUM PRODUCTS GROSS EARNINGS TAX REVENUE (§ 38)

For FY 2003, the act suspends transfers to the Special Transportation Fund (STF) of petroleum products gross earnings tax revenue derived from motor fuel sales. The law ordinarily requires the DRS commissioner to transfer \$5 million of such revenue to the STF every quarter.

EFFECTIVE DATE: Upon passage

ACCRUALS OF TAX PAYMENTS (§§ 39-41)

By law, the comptroller counts ("accrues") certain tax payments received during July as part of the state's revenue for the preceding fiscal year, which ends June 30. This act:

1. extends the deadline for accruing corporation tax payments to payments postmarked by August 15;
2. allows the comptroller to accrue all personal income tax payments instead of only payments withheld by employers from employee wages, if they are postmarked by July 31; and
3. starting with FY 2003, allows the comptroller to accrue all real estate conveyance tax payments postmarked by July 31.

EFFECTIVE DATE: Upon passage

REAL ESTATE CONVEYANCE TAX (§ 42)

From March 1, 2003 to June 30, 2004, the act increases both the state and municipal portions of the real estate conveyance tax. Starting July 1, 2004, tax rates revert to their prior levels.

The act increases the municipal tax from 0.11% to .25% of the sale price. It also gives the 17 "targeted investment communities" and any town that has a manufacturing plant that qualifies for enterprise zone benefits the option of increasing their municipal real estate conveyance taxes by an additional quarter point to 0.5%.

The act increases the state tax rates (1) from 0.5% to 0.75% on residential property sold for \$800,000 or less and on conveyances to financial institutions holding delinquent mortgages on the property and (2) from 1.0% to 1.25% on sales of nonresidential property or on any part of the sale price of a residential property greater than \$800,000. Like the municipal increases, the state increase applies only from March 1, 2003 through June 30, 2004.

EFFECTIVE DATE: March 1, 2003

**SUCCESSION AND TRANSFER TAX
PHASE-OUT DELAY (§ 43)**

The act delays each remaining step of the phase-out of the succession tax by two years and, by barring the scheduled rate reduction for January 1, 2003 from taking effect, maintains the 2002 tax rates through the end of 2004. It affects estates of people who die on or after January 1, 2003 that exceed certain values, and that pass either to collateral descendants, such as brothers, sisters, nephews, and nieces (Class B heirs) or to other, more remote, heirs (Class C heirs).

Under prior law, the succession tax was scheduled for elimination as of January 1, 2004 for Class B heirs and as of January 1, 2006 for Class C heirs. The act delays elimination for Class B heirs to January 1, 2006 and for Class C heirs to January 1, 2008.

EFFECTIVE DATE: Upon passage and applicable to transfers from estates of those who die on or after January 1, 2003.

**HOTEL TAX ALLOCATION TO TOURISM
DISTRICTS (§ 44)**

The act requires the DRS commissioner to hold back for the General Fund an extra \$1 million per year in FYs 2003, 2004, and 2005 from the state's 12% tax on hotel and lodging house rooms. She must deduct the funds proportionately from the revenue ordinarily distributed to the state's 11 tourism districts without reducing statutorily required allocations to the Capital City Economic Development Authority, Greater Hartford Arts Council, New Haven Coliseum Authority, Stamford Center for the Arts, Maritime Center Authority in Norwalk, and Greater Fairfield Tourism District to market Bridgeport attractions.

EFFECTIVE DATE: Upon passage

ATTORNEY OCCUPATIONAL TAX (§ 45)

The act extends the annual \$450 occupational tax on attorneys admitted to practice in Connecticut to attorneys admitted to practice here temporarily to conduct a particular case, and credits the resulting revenue to the Judicial Department's Other Expense account.

EFFECTIVE DATE: Upon passage

COURT FEES (§§ 46-52)

New Fees and Fee Increases

The act establishes three new court fees and increases seven as shown in Table 3. It credits General Fund revenue attributable to these changes to the Judicial Department's Other Expense account.

Table 3: Court Fee Changes

ACTION	OLD FEE	NEW FEE
Additional fee to designate a case as complex litigation, payable to the Superior Court clerk when the request is filed	None	\$250
Open, set aside, modify, or extend small claims judgment	None	\$25
Execution against bank payments due to judgment debtor (recoverable by the judgment creditor as part of the action's taxable cost)	None	\$35
Entry fee for civil actions claiming damages under \$2,500, summary process, landlord-tenant, and paternity actions *	\$75	\$120
Entry fee for all other civil actions *	\$185	\$220
Copy of certificate of judgment in foreclosure action	\$20	\$25
Uncertified copy of judgment file	\$10	\$15
Certified copy of judgment file	\$15	\$25
Prejudgment remedy application	\$50	\$100
Wage or property execution	\$20	\$35

*The figures shown exclude an additional \$5 fee.

Fee Exemptions

The act extends the exemption from certain court fees already granted to various state officials and employees to attorneys employed by the Department of Social Services. It also expands the fees from which the officials are exempt to include new fees on executions against money payable to judgment debtors by banks and credit unions.

EFFECTIVE DATE: Upon passage

**COMMUNITY SERVICE LABOR PROGRAM
FEE (§ 53)**

The act requires anyone who enters the Judicial Department's Community Service Labor Program to pay a \$205 fee and requires the revenue to be deposited into the department's Alternative Incarceration Program Account in the General Fund. Anyone unable to pay cannot be excluded from the program if (1) he files an affidavit with the court that he is indigent or cannot pay, (2) the Court Support Services Division confirms his indigency, and (3) the

court find him so.

EFFECTIVE DATE: July 1, 2003

**JUDICIAL DEPARTMENT OTHER EXPENSE
ACCOUNT REVENUE (§ 54)**

The act credits all revenue from specified fees and taxes established or increased on or after its effective date, up to a maximum of \$1.5 million in FY 2003 and \$4.9 million annually thereafter, to the Judicial Department's Other Expense account.

EFFECTIVE DATE: Upon passage

**PRESCRIPTION PRIOR AUTHORIZATION
AND GENERIC SUBSTITUTION (§ 55)**

The act limits the Medicaid, SAGA, GA, and ConnPACE programs' requirement for prior authorization for brand name prescription drugs when a chemically equivalent generic drug is available to only those situations where the generic costs less than the brand name drug.

EFFECTIVE DATE: Upon passage

**PROPERTY TAX EXEMPTION FOR
MANUFACTURING MACHINERY AND
EQUIPMENT AND TRUCKS (§ 56)**

By law, certain machinery, equipment, and large trucks are exempt from property taxes for five years after being acquired. For machinery, equipment, and trucks approved for the exemption for assessment years beginning October 1, 2002 and October 1, 2003, the act (1) reduces the exemption from 100% to 75% of the assessed value of the property and (2) subjects the remaining 25% of the value to municipal taxation. It requires assessors and boards of assessors who approved machinery or truck exemptions for the 2002 assessment year to adjust their records accordingly and notify the property owner of the tax due.

EFFECTIVE DATE: Upon passage

REPEALED LAWS (§ 57)

*State Supplement Program Personal Needs
Allowance*

The act eliminates a scheduled increase in the personal needs allowance for those receiving assistance under the State Supplement Program.

Estate Tax

The act repeals a law that automatically and immediately incorporates changes in the federal estate tax into Connecticut's estate tax.

EFFECTIVE DATE: Upon passage

PA 03-2—HB 6495

Emergency Certification

**AN ACT CONCERNING MODIFICATIONS
TO CURRENT AND FUTURE STATE
EXPENDITURES AND REVENUES**

SUMMARY: For FY 2003, the act reduces General Fund, Special Transportation Fund, and Mashantucket Pequot and Mohegan Fund allotments and reduces grants to towns. It also increases General Fund revenues for FYs 2003, 2004, and 2005; reduces FY 2003 Special Transportation Fund revenue; and increases municipal revenue for FYs 2003 and 2004.

The act makes many major changes to implement its spending reductions. It:

1. implements an early retirement incentive program for state employees;
2. eliminates the continuous eligibility policy for the HUSKY A program under which a child determined eligible for benefits remains eligible for 12 months, regardless of changes in his status that would make him ineligible;
3. requires Medicaid and State Aided General Assistance (SAGA) recipients to pay \$1 for all outpatient medical services and each prescription;
4. suspends Medicaid coverage for parents of children enrolled in the HUSKY program with incomes between 100% and 150% of the federal poverty level until July 1, 2005;
5. reduces the dispensing fee paid to pharmacies for each prescription dispensed under the Medicaid, SAGA, ConnPACE, and AIDS drug assistance programs from \$3.85 to \$3.60 per prescription;
6. requires the Department of Social Services (DSS) to adopt a preferred drug list by July 1, 2003; and
7. eliminates a scheduled increase in the personal needs allowance for recipients of assistance under the State Supplement Program (SSP).

- The act also increases many state taxes. It:
1. increases the income tax rate from 4.5% to 5% for adjusted gross incomes (AGI) over \$44,000 for joint filers, \$22,500 for single filers, \$22,000 for married people filing separately, and \$35,000 for heads of household;
 2. caps the price of clothing and footwear exempt from the sales tax at items costing no more than \$50 instead of \$75;
 3. extends the sales tax to for-profit health and athletic clubs, newspapers, and magazine subscriptions;
 4. imposes a 3% sales tax on advertising services for developing media and cooperative direct mail advertising;
 5. increases the cigarette tax by 40 cents per pack from \$1.11 to \$1.51;
 6. imposes a 20% tax surcharge for 2003 on corporations, limited liability companies and partnerships, and S corporations; and
 7. from March 15, 2003 to June 30, 2004, increases the municipal real estate conveyance tax from 0.11% to .25% of the sale price and gives 18 towns the option of increasing their municipal real estate conveyance tax by an additional quarter point to 0.5%.

EFFECTIVE DATE: Various, see below.

REDUCTIONS IN FY 2003 APPROPRIATIONS (§§ 1-3)

The act reduces General Fund appropriations for specified programs in agencies by the totals shown in Table 1. It requires total reductions to be no more than the greater of the governor's January 24, 2003 reductions or the act's reduction.

Table 1: FY 2003 General Fund Reductions

AGENCY	REDUCTION
Legislative	(\$30,000)
State Comptroller	(350,000)
Office of Policy and Management	(17,048,500)
Office of Workforce Competitiveness	(410,000)
Department of Administrative Services	(300,000)
Department of Information Technology	(550,000)
Department of Public Works	(3,000,000)
Department of Public Safety	(2,850,000)
Labor Department	(350,000)
Department of Economic and Community Development	(950,000)
Department of Public Health	(304,000)
Department of Mental Retardation	(4,000,000)

AGENCY	REDUCTION
Department of Mental Health & Addiction Services	(5,264,000)
Department of Social Services	(43,517,333)
Department of Education	(4,053,197)
State Library	(843,000)
University of Connecticut	(1,210,419)
University of Connecticut Health Center	(464,312)
Charter Oak State College	(14,814)
Regional Community-Technical Colleges	(784,275)
Connecticut State University	(868,422)
Department of Correction	(3,499,170)
Department of Children and Families	(2,873,255)
Children's Trust Fund	(285,000)
Judicial Department	(2,500,000)
TOTAL	(\$88,213,303)

The act also reduces FY 2003 appropriations (1) from the Special Transportation Fund for Town Road Aid grants by \$9 million and (2) from the Mashantucket Pequot and Mohegan Fund for Grants to Towns by \$21.5 million.
EFFECTIVE DATE: Upon passage

REDUCTIONS IN FY 2002 FUNDS (§ 4)

The act reduces or eliminates amounts transferred from FY 2002 General Fund resources as shown in Table 2.

Table 2: Transfers from FY 2002 General Fund Resources

AGENCY	ITEM	PRIOR LAW	THE ACT	DIFFERENCE
Office of Policy and Management	Amistad	\$75,000	\$50,000	(\$25,000)
	Adopt-a-House in Stamford	10,000	0	(10,000)
	Waterbury Youth Net	200,000	150,000	(50,000)
Veterans' Affairs	Transitional Living Services for Veterans	400,000	0	(400,000)
Agriculture	Wine Council	25,000	2,765	(22,235)
	Grants for Water Programs	75,000	0	(75,000)
Environmental Protection	Recreational Fishing Programs	1,000,000	0	(1,000,000)
	Women's Business Development Center	10,000	0	(10,000)
Economic and Community Development	Entrepreneurial Centers	200,000	150,000	(50,000)
	Tax Abatement	2,243,276	2,178,276	(65,000)
Public Health	Tobacco Education	361,208	0	(361,208)
	Biomedical Research	500,000	300,000	(200,000)
Mental Health & Addiction Services	Connecticut Mental Health Center	450,000	350,000	(100,000)
	Regional Action Councils	200,000	0	(200,000)
	Grants for Mental Health Services	375,000	275,000	(100,000)
Social Services	Stamford Hospital	2,500,000	2,250,000	(250,000)

AGENCY	ITEM	PRIOR LAW	THE ACT	DIFFERENCE
	Yale-New Haven Hospital	3,300,000	2,970,000	(330,000)
	Nursing Home Staffing	2,000,000	1,000,000	(1,000,000)
	Elderly Express	80,000	30,000	(50,000)
	Teen Pregnancy Prevention	25,000	0	(25,000)
State Library	Basic Cultural Resources Grant	130,000	65,000	(65,000)
	Grants- Local Institutions in Humanities	205,000	155,000	(50,000)
Children & Families	Fund Neighborhood Center	90,000	77,500	(12,500)
Judicial	Alternative Incarceration Program	400,000	200,000	(200,000)
TOTALS		\$29,051,513	\$24,400,570	(\$4,650,943)

EFFECTIVE DATE: Upon passage

ADDITIONAL REDUCTIONS REQUIRED (§ 5)

The act eliminates funding for the items shown in Table 3 from the FY 2003 budget based on its direction to the governor to make economies in those areas.

Table 3: Additional FY 2003 General Fund Reductions

REDUCTION FOR	REDUCTION AMOUNT
Early Retirement Incentive Program Savings attributable to managers	(\$4,500,000)
Fleet reduction	(2,250,000)
Additional allotment reduction of up to 1.75% in any appropriated account	(12,750,000)
Corrections initiative	(10,000,000)
Executive and Judicial branch travel	(1,000,000)
Energy cost reduction due to transfer from Energy Conservation and Load Management Fund	(6,000,000)
TOTAL	(\$36,500,000)

The act specifies that the maximum 1.75% additional allotment reduction it imposes in each appropriated account does not apply to appropriations for municipal aid, personal services, higher education operating expenses, or entitlements (§ 6).

EFFECTIVE DATE: Upon passage

FUND TRANSFERS AND SPECIAL PROVISIONS (§ 6)

Proportional Reductions

The act overrides conflicting laws and special acts to require that its reductions affecting municipal grants or appropriated accounts with more than one grantee be applied proportionately.

Suffield Correctional Facility

The act requires the Department of Correction to open a facility in Suffield on or after July 1, 2003, effectively delaying the opening of the expanded McDougal Correction Center. (PA 03-6 later repealed this provision, eliminating the delay.)

Transfers to the General Fund

The act transfers the following amounts to the General Fund: \$52 million from the Special Transportation Fund, \$10 million from the Probate Court Administration Fund, and \$2.5 million from the Commercial Recording Account.

Priority School District Grants

The act bars the governor from modifying allotments for priority school district grants for FY 2003.

EFFECTIVE DATE: Upon passage

EARLY RETIREMENT INCENTIVE PROGRAM (§ 6)

Additional Retirement Credit

The act establishes an early retirement incentive program for active full-and part-time state employees who retire directly from state employment between March 1 and June 1, 2003. The incentive allows an eligible employee to add up to three years to his age or service credit. The credit must be applied first to the employee's actual age to reach age 55, with any remainder added to his service. Additional credit for hazardous duty members must be applied to their service. (Hazardous duty members may retire after 20 years' hazardous duty service regardless of age.) Credit must be applied in one-month units.

Eligibility

To be eligible for the retirement incentive, a state employee must:

1. be at least age 52 by May 31, 2003;
2. be a member of Tier I, Tier II, or Tier IIA of the State Employees Retirement System (SERS) (Special Act 03-2 later expanded eligibility to cover state employees who are members of the Teachers' Retirement System and

explicitly excluded part-time higher education instructors.); and

3. have at least 10 years of actual state service in SERS or 20 years for hazardous duty employees. (The requirement to have 10 years actual state service effectively excludes Tier IIA members from eligibility because Tier IIA applies only to state employees hired on or after July 1, 1997.)

Employees laid off or whose positions were abolished between November 1, 2002 and May 31, 2003 are eligible for the retirement incentive program if they would have been eligible had they not lost their jobs. Such former employees who are at least age 52 on March 1, 2003 are eligible to receive benefits under the plan as of that date. Such employees who turn 52 before May 31, 2003 are eligible to receive benefits as of the first day of the month following their birthdays. Laid-off employees who retire are not eligible for rehire. Any such employee who has already received payment for unused sick and vacation time need not repay the amount.

Retirement Effective Dates

Retirements must take effect on March 1, April 1, May 1, or June 1, 2003. The act gives the state the option of deferring retirements on a case-by-case basis until no later than June 1, 2004 for (1) hazardous duty employees, (2) State Retirement Division employees, and (3) employees of the Office of Policy and Management's (OPM) budget division. (SA 03-2 adds extensions through June 1, 2004 for (1) employees of the state treasurer primarily responsible for issuing state debt or in-house short term investment management of state and municipal funds and (2) at the request of the CORE-CT steering committee, employees assigned to the CORE-CT project (a project to replace the state's core financial and administrative data systems with a new integrated system) at least three days per week and critical to its implementation. SA 03-2 also allows the Legislative Management Committee's personnel policies subcommittee to extend the retirement date of any employee who is critical to the legislative process to no later than December 1, 2003.)

The state must ask the employee, in writing, to defer his retirement and send a copy to the employee's bargaining unit representative. An employee who refuses the state's request to stay past May 31, 2003 remains eligible for the

retirement incentive.

Additional Restrictions

The act imposes the following additional conditions.

1. It defines a full-time employee as one who works at least 35 hours per week.
2. It requires the employee's actual age to be used to calculate all related benefits including Plan B actuarial reductions and group life insurance.
3. It requires the employee's actual, not his projected, wages to be used to calculate benefits and requires accrued vacation days as of the retirement date to be added to service.
4. It excludes disability retirement and employees eligible for terminated vested retirement benefits.

Payment for Unused Sick and Vacation Days

The act requires retiring employees to be paid for unused sick and the balance of vacation time according to existing rules but requires the payments to be made over three years, with one-third of the amount owed paid on July 1, 2005; July 1, 2006; and July 1, 2007. The act gives the state the choice of making the payment in one installment by July 1, 2005 if the total payment is less than \$2,000.

Restrictions on Refilling Positions

The act requires the OPM secretary to make sure that at least 2,000 state positions are refilled between March 1, 2003 and June 30, 2004. It also allows up to 80% of the positions in any employer unit that are vacated because of the early retirement incentive program to be refilled for FYs 2004 and 2005. But it specifies that, of the refilled positions, at least 70% must be classified as essential and no more than 30% may be classified as nonessential. (The act does not define "essential" and "nonessential.")

The act requires that in refilling positions under these provisions, union-represented positions be offered first to employees laid off on or after December 1, 2002 who have reemployment or State Employee Bargaining Agent Coalition (SEBAC) rights to them, and then to other such laid off employees who may be qualified for them.

The act specifies that a laid-off employee reemployed by the state under the act's job refill

provisions must be considered to have been continuously employed by the state between his layoff date on or after November 1, 2002 and June 30, 2003 and that the employee suffer no interruption in service or pension credit for the layoff period.

SERS Valuation

The act requires the state Retirement Commission to (1) ask for an actuarial interim valuation for SERS that takes the early retirement incentive program into account and (2) certify revised state contributions for the 2003-05 biennium to the General Assembly. EFFECTIVE DATE: Upon passage

HUSKY PROGRAM CHANGES (§§ 7 & 10)

Elimination of Continuous Eligibility

The act eliminates the HUSKY A and B programs' continuous eligibility policy, which allowed children determined eligible for benefits to remain eligible for a full 12 months, even if a change in family income or other circumstances would otherwise have made them ineligible.

Elimination of Certain Adult HUSKY A Coverage

From April 1, 2003 to July 1, 2005, the act suspends coverage for parents and needy caretaker relatives of children enrolled in HUSKY A (which is Medicaid managed care) with incomes between 100% and 150% of the federal poverty level. EFFECTIVE DATE: Upon passage

HOME HEALTH SERVICES MEDICATION ADMINISTRATION FEE (§ 8)

The act requires the DSS home health fee schedule, which lists what the state will pay for various home health services for its medical assistance programs, to include a fee for a nurse who makes a home visit solely to administer medications. It allows such medication administration to include blood pressure checks, glucometer readings, pulse rate checks, and similar health status indicators. The act requires the fee to include administration of medications while the nurse is present, pre-pouring additional doses for the client to self-administer at a later time, and teaching self-administration. The act explicitly prohibits DSS from paying for

medication administration when other nursing services are provided at the same visit. It allows DSS to establish prior authorization requirements for this service. It requires the DSS commissioner, before implementing the change, to consult with the chairmen of the Public Health and Human Services committees.

EFFECTIVE DATE: Upon passage

MEDICAID COPAYMENT (§ 9)

The act requires the DSS commissioner to impose a \$1 copayment on Medicaid recipients for (1) each outpatient medical service by an enrolled Medicaid provider to a Medicaid recipient enrolled in a fee-for-service plan (low-income elderly and people with disabilities), as permitted under federal law, and (2) each drug prescription at the time it is filled. The commissioner may modify the prescription copayment requirement for certain people who receive less than a 30-day supply and may exempt institutional residents from the copayment requirement, to the degree permitted under federal law.

By law, the commissioner may require coinsurance from Medicaid recipients but, under prior law, was expressly prohibited from imposing a copayment for prescription drugs. Federal law allows imposition of a nominal deductible, coinsurance, copayment, or similar charge, but it exempts people institutionalized in a hospital, long-term care facility, or other medical institution who are required to spend down nearly all their income to pay for the medical services, as well as children, pregnant women, emergency services, and family planning (42 C.F.R. § 447.53 (a) and (b)). EFFECTIVE DATE: Upon passage

REDUCTION IN PHARMACY DISPENSING FEE UNDER MEDICAL ASSISTANCE PROGRAMS (§ 11)

As of March 1, 2003, the act reduces, from \$3.85 to \$3.60, the per-prescription dispensing fee DSS pays to pharmacies under the Medicaid, State-and-Town-Administered General Assistance (SAGA and GA), Connecticut Pharmaceutical Assistance Contract to the Elderly and Disabled (ConnPACE), and Connecticut AIDS Drug Assistance programs. EFFECTIVE DATE: Upon passage

MEDICAID GUARANTEED ELIGIBILITY ELIMINATED (§ 12)

The act eliminates the guaranteed eligibility policy in the Medicaid program. Under this policy, adults determined eligible for benefits remained eligible for six months even if a change in status (such as income) during that time would have otherwise made them ineligible.

EFFECTIVE DATE: Upon passage

REDUCTION IN TFA EXTENSIONS (§ 13)

The act reduces, from three to two, the number of six-month extensions that Temporary Family Assistance (TFA) recipients can receive at the end of the program's normal 21-month eligibility period, starting July 1, 2003.

EFFECTIVE DATE: July 1, 2003

CONNPACE COPAYMENT AND ANNUAL FEE INCREASE (§§ 14 & 15)

The act (1) increases the copayment for ConnPACE participants to \$16.25 per prescription and applies it to everyone, regardless of income or enrollment date; (2) increases the annual program fee from \$25 to \$30; and (3) makes several technical changes. The copayments were previously \$12 or \$15 per prescription depending on participants' income or enrollment date. The act also codifies the program's current income limits, which are \$20,300 for single people and \$27,500 for married couples, adjusted annually for inflation.

EFFECTIVE DATE: Upon passage

TRANSITIONAL CHILD CARE REDUCED INCOME ELIGIBILITY (§ 16)

The act reduces income eligibility for transitional child care benefits from 75% of statewide median income to 55%, starting March 1, 2003. These benefits are available to families transitioning off the TFA program.

EFFECTIVE DATE: Upon passage

NURSING HOME RATE INCREASE DELAY (§ 17)

The act delays a scheduled 2% Medicaid rate increase for certain nursing homes from January 1, 2003 until June 1, 2003.

EFFECTIVE DATE: Upon passage

SAGA AND GA MEDICAL AND PRESCRIPTION COPAYMENTS (§ 18)

The act requires the DSS commissioner to impose a \$1 copayment on recipients of SAGA and town GA medical benefits for (1) each outpatient medical service by an enrolled provider to a recipient and (2) each drug prescription at the time it is filled. The commissioner may modify the prescription copayment requirement for certain people who receive less than a 30-day supply and may exempt institutional residents from the copayment requirement.

EFFECTIVE DATE: Upon passage

DSS PREFERRED DRUG LIST (§ 19)

The act requires DSS to adopt a preferred drug list for its medical assistance programs by July 1, 2003 in consultation with the 11-member Medicaid Pharmaceutical and Therapeutics Committee. Prior law established the committee in DSS and required DSS to adopt a preferred drug list when this committee recommended one. This act requires the committee to convene by March 31, 2003. The act requires DSS, instead of the committee, to review the list at least once a year and make additions and deletions to it.

EFFECTIVE DATE: Upon passage

TRANSFERS FROM ENERGY CONSERVATION AND LOAD MANAGEMENT FUNDS (§§ 20 & 21)

From February 2003 through July 2005, the act requires the Department of Public Utility Control (DPUC) to authorize electric distribution companies to send a total of \$1 million per month from their energy conservation and load management funds to a nonlapsing account in the General Fund to pay for state agencies' electricity costs and conservation projects. Each fund's contribution to the \$1 million must be in proportion to its fund receipts. Starting with FY 2003, the act requires the comptroller to count as revenue for the preceding fiscal year any payments from the funds she receives through the last day of July or, if that day is a weekend or holiday, through the next regular business day after that date.

The electric company energy conservation and loan management funds are funded by a surcharge of 3 mills on each kilowatt-hour of electricity the companies sell. By law, the companies must use the funds to implement cost-

effective energy management programs and electricity market transformation initiatives.
EFFECTIVE DATE: Upon passage

INCOME TAX (§§ 22-24)

Rate Increase

Starting with the 2003 tax year, the act increases the tax rate on the higher of the two state income tax brackets from 4.5% to 5%. The higher rate applies to taxable income over \$20,000 for joint filers; \$10,000 for single filers and married people filing separately; and \$16,000 for heads of household. Because the act does not change amount of income exempt from the tax or the 3% rate on the lower tax bracket, the increase affects only those with Connecticut adjusted gross incomes (AGIs) over \$44,000 for joint filers; \$22,500 for single filers; \$22,000 for married people filing separately; and \$35,000 for heads of household.

By law, taxable income is Connecticut AGI minus exempt income. For 2003, the maximum exemptions are \$12,000 for married people filing separately; \$12,500 for singles; \$19,000 for heads of household; and \$24,000 for married couples. Exemptions are phased out at higher incomes. Taxpayers with Connecticut AGIs above \$71,000 for joint filers; \$56,000 for heads of household; \$36,000 for singles; and \$35,000 for married separate filers receive no exemptions.

The act also increases the income tax rate for trusts and estates from 4.5% to 5.0%. Under both prior law and the act, trust and estate income is taxed at a flat rate.

Withholding Tables

The act requires the Department of Revenue Services (DRS) commissioner to issue special withholding tables by March 1, 2003 that reflect the act's income tax changes from January 1, 2003. The new tables must, as far as practicable, result in six months worth of withholding under the new rates by June 30, 2003. The commissioner must issue new withholding tables for the second half of the year, beginning July 1, 2003, under the usual procedures.

Estimated Tax Payments

The act also requires taxpayers who must pay estimated tax through the year to adjust their June 2003 estimated tax payments for any

increase that applies to them for the 2003 tax year. It thus overrides a "safe-harbor" provision that ordinarily requires estimated tax payers to make quarterly payments of 25% of their tax liability for the preceding year and total annual payments of 90% of their liability for the current year.

EFFECTIVE DATE: Upon passage and applicable to tax years starting on or after January 1, 2003 for the new tax rate; upon passage for the withholding table and estimated tax requirements.

SALE AND USE TAX

Tax Extensions (§§ 25-27 & 58)

Starting April 1, 2003, the act imposes a 3% sales and use tax on sales of advertising or public relations services for developing media and cooperative direct mail advertising. Taxable services include layout, art direction, graphic design, mechanical preparation, and production supervision. Under DRS policy, "cooperative direct mail advertising" means advertisements or coupons from several businesses sent in one envelope or bundle to potential customers in a specific area.

As of April 1, 2003, the act also extends the 6% sales and use tax to sales of the following items and services:

1. health and athletic club services, unless provided by a municipality or nonprofit organization or unless the charges for the services are included in club dues or fees already subject to the dues tax,
2. newspapers, and
3. magazine subscriptions.

Exemption for Clothing and Footwear (§ 28)

The act limits the sales tax exemption for clothing and footwear to items costing less than \$50. Prior law exempted clothing and footwear costing less than \$75.

EFFECTIVE DATE: Applicable to sales on or after April 1, 2003.

CIGARETTE TAX (§§ 29-31)

The act increases the cigarette tax by 40 cents per pack, from \$1.11 to \$1.51 (55.5 to 75.5 mills per cigarette), starting March 15, 2003.

It also imposes a 40-cent "floor" tax on each pack of cigarettes (20 mills per cigarette) that dealers and distributors have in inventory at the

close of business or at 11:59 p.m. on March 14, 2003, whichever is earlier. By April 15, 2003, each dealer and distributor must report to DRS the number of cigarettes in inventory as of that time and date. Failure to file the report by the due date is grounds for the department to revoke a dealer's or distributor's license, and willful failure to file subjects the dealer or distributor to a fine of up to \$1,000, one year in prison, or both. A dealer or distributor who willfully files a false report can be fined up to \$5,000, sentenced to between one and five years in prison, or both. EFFECTIVE DATE: Upon passage. The tax increase applies to cigarettes sold on or after March 15, 2003.

BUSINESS TAX SURCHARGE (§§ 32-35)

For 2003, the act imposes a 20% surcharge on (1) the corporation tax and (2) the annual \$250 tax on limited liability companies, limited liability partnerships, limited partnerships, and S corporations. The surcharge is due, payable, and collectible as part of each company's total tax for the year. Companies subject to the corporation tax must calculate the surcharge based on their tax liability before credits.

The act requires corporation taxpayers to adjust their June 2003 installment payments to incorporate its changes in their liability for the 2003 income year. It thus overrides a safe-harbor law requiring corporation tax payers to pay installments equal to (1) 90% of their liability for the current income year or (2) 100% of their liability for the previous year, whichever is less. Under the safe harbor law, the percentages due in each quarterly installment are 30% for the first quarter, 40% for the second, 10% for the third, and 20% for the fourth.

EFFECTIVE DATE: Upon passage and applicable to income years or tax years, as appropriate, starting on or after January 1, 2003; upon passage for the provision concerning the corporation tax installments due in June 2003.

PETROLEUM PRODUCTS GROSS EARNINGS TAX REVENUE (§ 36)

For FY 2003, the act suspends transfers to the Special Transportation Fund (STF) of petroleum products gross earnings tax revenue derived from motor fuel sales. Prior law required the DRS commissioner to transfer \$5 million per quarter of such revenue to the STF during FY 2003.

EFFECTIVE DATE: Upon passage

ACCRUALS OF TAX PAYMENTS (§§ 37-39)

By law, the comptroller counts ("accrues") certain tax payments received during July as part of the state's revenue for the preceding fiscal year, which ends June 30. This act:

1. extends the deadline for accruing corporation tax payments for the preceding fiscal year to payments postmarked by August 15 or, if that is a weekend or holiday, the following business day instead of by July 31 or, if that is a weekend or holiday, the following business day;
2. allows the comptroller to accrue for the preceding fiscal year all personal income tax payments instead of only payments withheld by employers from employee wages, if they are postmarked by July 31 or, if that is a weekend or holiday, the following business day; and
3. starting with FY 2003, allows the comptroller to accrue to the preceding fiscal year all real estate conveyance tax payments postmarked by July 31 or, if that is a weekend or holiday, the following business day.

EFFECTIVE DATE: Upon passage

MUNICIPAL REAL ESTATE CONVEYANCE TAX (§ 40)

From March 15, 2003 to June 30, 2004, the act increases the municipal portion of the real estate conveyance tax from 0.11% to 0.25% of the sale price. Starting July 1, 2004, the tax rate reverts to 0.11%.

The act also gives 18 towns, the 17 "targeted investment communities" and a town that has a manufacturing plant that qualifies for enterprise zone benefits, the option of increasing their municipal real estate conveyance taxes by an additional quarter point to 0.5%, during the same 15-month period. This provision applies to Bloomfield, Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham.

The real estate conveyance tax is paid by sellers. Unimproved land or property sold for \$2,000 or less is exempt.

EFFECTIVE DATE: March 15, 2003

HOTEL TAX ALLOCATION TO TOURISM DISTRICTS (§ 41)

The act requires the DRS commissioner to hold back for the General Fund an extra \$1 million per year in FYs 2003, 2004, and 2005 from the state's 12% tax on hotel and lodging house rooms. She must deduct the funds proportionately from the revenue ordinarily distributed to the state's 11 tourism districts without reducing statutorily required allocations to the:

1. Capital City Economic Development Authority,
2. Greater Hartford Arts Council,
3. New Haven Coliseum Authority,
4. Stamford Center for the Arts,
5. Maritime Center Authority in Norwalk, and
6. Greater Fairfield Tourism District to market Bridgeport attractions.

EFFECTIVE DATE: Upon passage

ATTORNEY OCCUPATIONAL TAX (§ 42)

The act extends the annual \$450 occupational tax on attorneys admitted to practice in Connecticut to attorneys admitted to practice here temporarily under court rules as attorneys *pro hac vice* to conduct a particular case. The act requires such attorneys to file an occupational tax return with the DRS commissioner and pay the tax for any year in which they are temporarily admitted and practicing law in the state. It credits General Fund revenue attributable to this change to the Judicial Department's Other Expense account.

EFFECTIVE DATE: Upon passage

COURT FEES (§§ 43-49)

New Fees and Fee Increases

The act establishes three new court fees and increases seven others as shown in Table 4. It credits General Fund revenue attributable to these changes to the Judicial Department's Other Expense account.

Table 4: Court Fee Changes

§	ACTION	OLD FEE	NEW FEE
43	Additional fee to designate a case as complex litigation, payable to the Superior Court clerk when the request is filed	None	\$250
45	Open, set aside, modify, or extend	None	\$25

§	ACTION	OLD FEE	NEW FEE
	small claims judgment		
48, 49	Execution against bank payments due to judgment debtor (recoverable by the judgment creditor as part of the action's taxable cost)	None	\$35
43	Entry fee for civil actions claiming damages under \$2,500, summary process, landlord-tenant, and paternity actions *	\$75	\$120
43	Entry fee for all other civil actions *	\$185	\$220
43	Copy of certificate of judgment in foreclosure action	\$20	\$25
43	Uncertified copy of judgment file	\$10	\$15
43	Certified copy of judgment file	\$15	\$25
43	Prejudgment remedy application	\$50	\$100
46, 47	Wage or property execution	\$20	\$35

*The figures shown exclude an additional \$5 fee.

Fee Exemptions (§ 44)

The act extends the exemption from certain court fees already granted to various state officials and employees to attorneys employed by DSS. It also expands the fees from which the officials are exempt.

The exemption already applies to jury fees, court fees, additional fees for civil cases, property and wage execution fees, and fees for appeals from family support magistrate decisions. The act adds new fees on executions against money payable to judgment debtors by banks and credit unions.

The following officials and employees were already exempt from paying the fees:

1. members of the Division of Criminal Justice or Public Defender Services;
2. Judicial Department employees performing their duties;
3. the attorney general and any assistant attorney general;
4. the consumer counsel;
5. attorneys employed by the Consumer Counsel's Office within the DPUC, DRS, the Commission on Human Rights and Opportunities, the Freedom of Information Commission, the Board of Labor Relations, Office of Protection and Advocacy for Persons with Disabilities, and the Office of Victim Advocate; and
6. any attorney the court appoints either to assist any of the above or to act for them in any special case, while the attorney is acting in that capacity.

EFFECTIVE DATE: Upon passage

COMMUNITY SERVICE LABOR PROGRAM FEE (§ 50)

The act requires anyone who enters the Judicial Department's Community Service Labor Program to pay a \$205 fee. It requires the revenue from the fee to be deposited into the department's Alternative Incarceration Program Account in the General Fund. Under the act, someone who cannot pay may not be excluded from the program if (1) he files an affidavit with the court that he is indigent or cannot pay, (2) the Court Support Services Division confirms his indigency, and (3) the court find him so.

By law, certain people charged with violating drug laws may participate in the Community Service Labor Program. Program activities include performing unpaid labor for government agencies and nonprofit charitable organizations. The court must dismiss the charges against anyone who successfully completes the program.

EFFECTIVE DATE: July 1, 2003

JUDICIAL DEPARTMENT OTHER EXPENSE ACCOUNT REVENUE (§ 51)

The act credits all revenue from specified fees and taxes established or increased on or after its effective date, up to a maximum of \$1.5 million in FY 2003 and \$4.9 million annually thereafter, to the Judicial Department's Other Expense account. The allocation covers revenue from the extension of the attorney's occupational tax (§ 42) and the new court fees and fee increases the act establishes (§§ 43-49).

The Judicial Department must, for each applicable fee or tax, certify to the state treasurer the amounts to be credited to its Other Expense account and to the General Fund.

EFFECTIVE DATE: Upon passage

PRESCRIPTION PRIOR AUTHORIZATION AND GENERIC SUBSTITUTION (§ 52)

The act limits the Medicaid, SAGA, GA, and ConnPACE programs requirement for prior authorization for brand name prescription drugs when a chemically equivalent generic drug is available to only those situations where the generic costs less than the brand name drug.

EFFECTIVE DATE: Upon passage

PROPERTY TAX EXEMPTION FOR MANUFACTURING MACHINERY AND EQUIPMENT AND TRUCKS (§ 53)

By law, certain machinery, equipment, and large trucks are exempt from property taxes for five years after being acquired. The state reimburses municipalities for 100% of the revenue lost from such exemptions approved before October 1, 2000 and 80% for exemptions approved on or after that date.

The act allows a town, by vote of its legislative body, to impose a tax in its 2004 municipal fiscal year on such property exempted from its October 1, 2001, grand list. The tax must be no more than the difference between the state reimbursement grant, as modified by the governor under the extra rescission authority granted in PA 02-1, May 9 Special Session, and the grant specified under the act.

The property tax exemptions and the act apply to:

1. new or newly acquired machinery and equipment used in manufacturing or biotechnology, including machinery and equipment used for research and development, metal finishing, or producing motion pictures, video, or sound recordings;
2. new commercial trucks and vehicles used in combination with them that have a gross vehicle weight rating of more than 26,000 pounds and are used exclusively for carrying freight in inter- or intrastate commerce; and
3. new commercial trucks and vehicles used in combination with them that have gross vehicle weight ratings of more than 55,000 pounds.

EFFECTIVE DATE: Upon passage

CABLE T.V. GROSS EARNINGS TAX (§§ 54 & 55)

The act requires cable t.v. companies to pay their 5% gross earnings tax on a quarterly rather than an annual basis, starting January 1, 2003. It requires companies to file tax returns for quarters ending March 31, June 30, September 30, and December 31 by the last day of the following month, instead of every April 1 for the year ending on the preceding December 31. Quarterly returns must contain the amount of the company's taxable gross earnings and any other information the DRS commissioner requires. Previously, annual returns had to contain the

company's taxable gross earnings, name, and location and its total miles of wire operated.

The act specifies that it does not affect annual returns and taxes for the 2002 tax year due on April 1, 2003 under the prior law.

Starting with FY 2003, the act allows the comptroller to accrue to the preceding fiscal year all cable television gross earnings tax payments postmarked by July 31 or, if that is a weekend or holiday, the following business day.

EFFECTIVE DATE: The quarterly tax payment requirement is effective on passage and applies to calendar quarters starting on or after January 1, 2003. The accrual provision is effective on passage.

BUDGET RESERVE FUND (§ 56)

The act increases the Budget Reserve Fund's maximum balance from 7.5% to 10% of the net General Fund appropriations for the fiscal year in progress. By law, once the fund reaches the maximum, the treasurer may not transfer additional unappropriated General Fund surpluses to it. Also by law, certain surpluses that exceed the maximum allocated to the reserve fund must be transferred for such purposes as funding the State Employees Retirement Fund and paying off state debt.

EFFECTIVE DATE: Upon passage

REPEALED LAWS (§ 57)

SSP Personal Needs Allowance

The act eliminates a scheduled increase in the personal needs allowance for those receiving assistance under the State Supplement Program.

Estate Tax Provision

The act repeals a law that (1) automatically voids the state tax on the estates of people who die after the effective date of either a repeal of the federal estate tax or the state estate tax credit against the federal tax or after a U.S. Supreme Court decision that the federal tax or the state credit is unconstitutional and (2) requires that, if Congress changes the federal estate tax credit, the state tax automatically adjust to absorb the full federal credit.

EFFECTIVE DATE: Upon passage

BACKGROUND

Related Acts

PA 03-4 requires newspaper producers and wholesalers to collect the 6% sales tax when they transfer newspapers to vendors who do not sell any other taxable items and allows these vendors to pass the tax along to their customers by adding it to the retail sales price of the newspapers without remitting the amount to the state.

PA 03-6 eliminates the section of this act that delays the opening of a Suffield correctional facility until at least July 1, 2003.

PA 03-185—HB 6721 (VETOED)

Emergency Certification

AN ACT CONCERNING EXPENDITURES AND REVENUE FOR THE BIENNIUM ENDING JUNE 30, 2005

SUMMARY: The act establishes a state budget and estimates state revenues for FYs 2004 and 2005 and appropriates money for state agencies and programs during those years. It directs funds to be transferred and spent for specified purposes, caps certain expenditures and hiring, and directs certain unspent appropriations from prior years to be carried forward and used for particular purposes in FYs 2004 and 2005. It also directs the state to make certain offers to state employee unions concerning wages, benefits, and other conditions of employment.

The act provides revenues to fund its appropriations. It increases various taxes, reduces and limits tax credits, and cancels scheduled tax reductions. It transfers money from various special and off-budget funds to the state General Fund, earmarks revenues for specific functions and programs, and adjusts revenue transfers to and from various special funds. It raises many state professional and occupational license fees, allows the state to take custody of abandoned property sooner, and extends the hours during which stores may sell alcohol.

EFFECTIVE DATE: July 1, 2003, unless otherwise noted.

APPROPRIATIONS FOR FY 2004-2005
BIENNIUM (§§ 1-20)

The act appropriates money for state agencies and programs for FYs 2004 and 2005. Appropriations, by fund, for each year are shown in Table 1.

Table 1: FY 2004 and 2005 Appropriations By Fund

§§	Fund	Appropriation	
		FY 2004	FY 2005
1,11	General Fund	\$12,484,604,526	\$13,098,654,560
2,12	Special Transportation Fund	900,224,943	921,442,428
3,13	Mashantucket Pequot & Mohegan Fund	100,000,000	100,000,000
4,14	Soldiers', Sailors', and Marines' Fund	3,460,895	3,485,723
5,15	Regional Market Operation Fund	940,855	963,467
6,16	Banking Fund	15,134,757	15,186,508
7,17	Insurance Fund	19,657,754	19,552,499
8,18	Consumer Counsel & Public Utility Control Fund	19,342,341	19,171,466
9,19	Workers' Compensation Fund	22,435,338	22,807,794
10,20	Criminal Injuries Compensation Fund	1,425,000	1,425,000

FUNDING AND EXPENDITURE
DIRECTIVES

Transfers To Maximize Federal Funds (§ 21)

The act allows the governor, with the Finance Advisory Committee's (FAC) approval, to transfer an agency's appropriation from the General Fund, at its request, to another agency to take advantage of federal funds, as long as both agencies certify that the receiving agency will spend the money for the original purpose. Federal funds generated from transfers can be used either to reimburse General Fund spending, expand services, or both as the governor, with FAC approval, determines.

Expenditure Reduction Requirements (§§ 22, 23)

The act requires the Office of Policy and Management (OPM) secretary to reduce spending for personal services and other expenses by \$13 million and \$11 million, respectively in each fiscal year of the biennium.

Rescission Authority (§ 24)

The act allows the governor, with FAC approval, to make deeper-than-normal rescissions in FY 2004 and FY 2005 appropriations to achieve collective bargaining savings required by the act, any other public or special act, or any collective bargaining agreement. By law, the governor's rescission authority is ordinarily limited to 3% of total appropriations from any fund or 5% of any appropriation and may be exercised only when (1) circumstances have changed since the budget was adopted or (2) there are not enough estimated resources to fund all appropriations.

Transfers to Reserve for Salary Adjustments (§ 25)

The act allows the governor to recommend, and the FAC to approve, transfers of FY 2004 and FY 2005 General and Special Transportation Fund appropriations for personal services to the reserve for salary adjustments account to more accurately reflect the impact of collective bargaining and related costs. The governor can make transfers and add necessary amounts from special funds as needed to implement salary increases; other employee benefits; costs, including accrual payments, related to staff reductions or achievement of agency personal services reductions; or other personal services adjustments this act or any other law authorizes.

Department of Administrative Services Positions (§ 30)

The act allows the Department of Administrative Services to fill no more than 124 positions from the General Services Revolving Fund.

Information Technology Positions (§ 31 (a))

To consolidate information technology positions within the Department of Information Technology (DOIT), the act allows the governor, with FAC approval, to make extra rescissions,

revise the number of positions an agency may fill during FYs 2004 and 2005, and transfer funds and positions to DOIT.

Birth-to-Three Program (§ 36)

For FYs 2004 and 2005, the act requires the State Department of Education to transfer \$1 million annually of the federal special education funds it receives to the Department of Mental Retardation for the Birth-to-Three Program to carry out special education-related requirements consistent with federal law.

Department of Social Services (DSS) Disproportionate Share Payments to DMHAS Hospitals (§ 37(a))

The act requires DSS to spend money appropriated to for the Department of Mental Health and Addiction Services (DMHAS)/Medicaid Disproportionate Share only when and in amounts specified by OPM. It requires DSS to make disproportionate share (DSH) payments to DMHAS hospitals for operating expenses and related fringe benefits and requires hospitals to reimburse the comptroller from the fringe benefit payments. The hospitals must deposit all other funds received to “grants – other than federal accounts” and to lapse unspent DSH funds at the end of the fiscal year.

Teachers’ Retirement Fund (§ 38)

The act allows the state to make the Teachers Retirement System contributions it specifies for FYs 2004 and 2005 rather than contribute the actuarially recommended amount for those years.

Department of Higher Education (§ 39)

The act allows the Department of Higher Education to spend \$206,000 in FY 2004 and \$216,000 in FY 2005 from the private occupational school student protection account. It also earmarks \$100,000 of the FY 2004 and FY 2005 Minority Advancement Program appropriations for the Saturday Academy.

Department of Transportation (§ 42(b))

The act carries forward the unspent balance of prior years’ appropriations for the Transportation Strategy Board to FYs 2004 and

2005, but requires OPM to use up to \$640,000 of the money in FY 2004 to fund statutorily required grants-in-aid for regional planning agencies.

Secretary of the State (§ 44)

The act requires up to \$617,000 of the secretary of the state’s costs for other expenses to be paid from the commercial recording account.

Housing Programs (§ 46(a))

The act requires the Department of Economic and Community Development (DECD) commissioner and Connecticut Housing Finance Authority’s (CHFA) executive director, in consultation with the OPM secretary, to develop a plan to transfer DECD’s housing programs to CHFA. The plan must detail the General Fund savings resulting from such a transfer. By January 1, 2004, DECD and CHFA must conclude a memorandum of understanding specifying the programs and responsibilities to be transferred, the timing, and any other matters needed to complete the transfer.

Higher Education Constituent Units (§ 48)

The act caps certain administrative spending by higher constituent units for FYs 2004 and 2005 as shown in Table 2. The spending limits apply to General Fund appropriations and operating fund spending and exclude federal, private, capital bond, and fringe benefit funds.

Table 2: Higher Education Spending Limits

<i>Function</i>	<i>Unit</i>	<i>Spending Limits for FYs 04 & 05</i>
System office spending excluding telecommunication center funds, capital equipment bond funds for identified system-wide projects benefiting individual campuses, and data center funds	Community-Technical Colleges	\$3,100,000
	Connecticut State University	3,100,000
Institutional administration spending (system office, executive management, fiscal operations, and general administration but not logistical services, administrative computing, and development)	Community-Technical Colleges	22,000,000
	Connecticut State University	20,100,000
	UConn	13,700,000

The act requires the higher education commissioner to monitor compliance with the limits and report her findings to the Education and Appropriations committees within 60 days of the end of each quarter of FYs 2004 and 2005.

Higher Education Matching Grant Fund (§ 52)

The act requires each constituent unit that receives higher education matching grant funds to report on how they spend the funds for FYs 2004 and 2005 to the Appropriations and Higher Education committees by March 1, 2004 and March 1, 2005.

Community Justice Centers (§ 56)

The act transfers \$2 million from the Department of Correction's FY 2005 personal services appropriation to its appropriation for community justice centers.

Grant to Stamford Hospital (§ 57)

For FYs 2004 and 2005, the act requires the DSS commissioner to provide annual grants of \$2.5 million to Stamford Hospital from DSS' annual appropriations for DSH-Urban Hospitals in Distressed Municipalities.

Commission on Racial and Ethnic Disparity (§ 58)

For FYs 2004 and 2005, the act allocates \$50,000 per year to the Commission on Racial and Ethnic Disparity from the Judicial Department's other expenses appropriation.

Branford Hospice (§ 59)

For FYs 2004 and 2005, the act allocates \$100,000 per year from OPM's appropriation for reimbursements to towns for property taxes lost on private tax-exempt property to Branford in lieu of taxes on Connecticut Hospice.

FUNDING CARRYOVER PROVISIONS

The act authorizes various unspent balances from prior years' appropriations to be carried forward for one or two fiscal years (FYs 2004 and 2005) rather than lapsing at the end of the fiscal year.

Table 3: Funds Carried Forward

\$	Agency	Purpose	Amount	To
26	OPM	Collective bargaining agreements and related costs	Unspent balance	2004, 2005
27	Comptroller	Core Financial Systems & State Employees Retirement System data base	Unspent balance	2004
28(a)	OPM	Interlocal agreements signed prior to June 30, 2001	Unspent balance	2004, 2005
28(b)	OPM	Litigation settlement costs	Up to \$1.5 million	2004, 2005
28(c)	OPM	Justice Assistance Grants	Up to \$1.3 million	2004
28(d)	OPM	Drug Enforcement Program	Up to \$1 million	2004
29	Office of Workforce Competitiveness	Connecticut Employment and Training Commission - Workforce	Up to \$1 million	2004
31(b), (c)	DOIT and other agencies to which DOIT may transfer funds	Health Insurance Portability and Accountability Act	Unspent balance	2004
32	Police Officer Standards and Training Council	Training at satellite academies	Unspent balance	2004
33(a)	Labor Department	Welfare-to-Work Grant Program	Unspent balance	2004
33(b)	Labor Department	Opportunity Industrial Centers: \$100,000 each for Bridgeport and Waterbury	Up to \$200,000	2004
33(c)	Labor Department	Workforce Investment Act	Unspent balance	2004, 2005
34	Department of Public Health	Children's Health Initiatives, expand "Easy Breathing" Asthma Initiative	Unspent balance	2004
35	Office of Medical Examiner	Equipment	Unspent balance	2004
37(b)	Department of Social Services	Work Performance Bonus account	Any funds transferred to the account with FAC approval	2004
40(a)	Department of Correction	Inmate medical services	Unspent balance	2004
40(b)	Department of Correction	Inmate tracking system	Unspent balance	2004, 2005
41(a)	Department of Motor Vehicles	Commercial Vehicle Information Systems and Networks project	Unspent balance	2004, 2005
41(b)	Department of Motor Vehicles	Upgrading DMV registration and driver license data processing systems	Unspent balance of funds appropriated for converting to	2004, 2005

§	Agency	Purpose	Amount	To
			fully reflective license plates	
42(a)	Department of Transportation	Transportation Strategy Board	Unspent balance	2004, 2005
42(c)	Department of Transportation	Highway planning and research	Unspent balance	2004, 2005
43(a)	Department of Education	Priority school districts	Unspent balance	2004, 2005
43(b)	Department of Education	School construction grants	Unspent balance	2004

EMERGENCY SPILL RESPONSE FUND (§ 45)

For FYs 2004 and 2005, the act requires the comptroller to deposit \$10.5 million of annual petroleum products gross earnings tax revenues into the Department of Environmental Protection’s Emergency Spill Response Account.

TRANSFERS TO THE GENERAL FUND (§ 46)

The act transfers money from various special funds and quasi-public authorities to the General Fund as shown in Table 4.

Table 4: Transfers to the General Fund

From	Annual Transfers in FYs 04 & 05
Connecticut Development Authority	\$7,500,000
Clean Energy Fund	25,000,000
Connecticut Innovations, Inc.	7,500,000

ENERGY CONSERVATION AND LOAD MANAGEMENT FUNDS (§ 47)

Prior law required \$1 million per month be transferred to the General Fund from electric utilities’ energy conservation and load management funds until July 2005. The act eliminates these transfers as of June 2003 and instead requires transfers of \$38.5 million annually from those funds to the General Fund for FYs 2004 and 2005. The act also eliminates a requirement that transferred money be put into a nonlapsing account in the General Fund to pay for state agencies’ electricity costs and conservation projects, and instead requires the money to be unrestricted.

EFFECTIVE DATE: Upon passage

FILLING STATE EMPLOYEE POSITIONS

All State Agencies (§ 49)

Unless the governor recommends it and the FAC approves, the act limits the number of positions state agencies, other than higher education constituent units, may fill to the number recommended by the Appropriations Committee, including revisions resulting from General Assembly action, set out in the Office of Fiscal Analysis report on the state budget.

Higher Education Constituent Units (§§ 50, 51)

For FYs 2004 and 2005, the act allows higher education constituent units to fill up to 100% of the faculty positions vacated because of the 2003 Early Retirement Incentive Program (ERIP). It allows the units to retain 80% of the savings attributable to the ERIP but requires them to (1) reallocate at least 10% of ERIP vacancies to programs in critical workforce areas identified by the Office of Workforce Competitiveness, in consultation with the departments of Higher Education, Education, and Labor, including teacher shortage areas and nursing; (2) submit a reallocation plan to the Higher Education and Employment Advancement Committee by January 1, 2004; and (3) report to the committee on the impact of the reallocations on enrollment in shortage fields by October 1, 2004.

Legislative Commissions (§ 53)

The act bars legislative commissions from filling vacancies during FYs 2004 and 2005 unless the Legislative Management Committee considers them critical to the commissions’ operations.

Secretary of the State (§ 54)

The act requires the FY 2004 and 2005 costs of three positions in the secretary of the state’s office for voter registration to be paid from the commercial recording account.

RATES FOR HOME HEALTH SERVICES NURSE VISITS (§ 55)

The act requires (1) the fee established by DSS for a nurse making a home visit solely to administer medications to expire on September 30, 2003; (2) the DSS commissioner to submit

the new rates to the Appropriations Committee chairmen for their review by September 15, 2003; and (3) the commissioner, after consulting with the chairmen, to establish new rates for such visits starting October 1, 2003

REIMBURSEMENT TO SCHOOL DISTRICTS FOR HEALTH SERVICES TO PRIVATE SCHOOL STUDENTS (§ 60)

For FYs 2004 and 2005, the act continues the existing state reimbursement grants for health services school districts must provide to Connecticut students attending private schools in the district. As under prior law, reimbursement percentages range from 10% to 90%, based on town wealth. A town must receive a minimum 80% reimbursement if (1) its number of children on welfare was more than 1% of its population in 1997 or (2) it has a wealth ranking below 30 and provides such services to more than 1,500 students who do not live in the town.

GAAP ACCOUNTING DEFERRED (§ 61)

The act delays by two years the date after which the comptroller may use Generally Accepted Accounting Principles (GAAP) to maintain the state's financial statements. Under prior law, the comptroller could start implementing GAAP on July 1, 2003. It also requires the comptroller and OPM secretary to submit GAAP conversion plans to the Appropriations Committee by February 1, 2005 and adjusts other deadlines to conform to the two-year implementation delay.

DSS BIOMETRIC IDENTIFICATION SYSTEM (§ 62)

From July 1, 2003 through June 30, 2005, the act suspends operation of DSS' biometric identification system for recipients of General Assistance, Temporary Family Assistance, and other programs as determined by the DSS commissioner. It also requires the commissioner to file her mandatory report on various matters concerning the system with the Appropriations, rather than the Human Services, Committee.

STATE OFFERS TO SEBAC AND STATE EMPLOYEE UNIONS (§ 63)

Within seven days of its passage, the act requires the OPM secretary to offer to modify the state's pension and health agreement with the

State Employee Bargaining Agent Coalition (SEBAC) to incorporate various specific revisions relating, among other things, to the Early Retirement Incentive Program (ERIP) for state employees, refilling vacant positions, eligibility for health benefits, and health copayments. It requires the secretary, also within seven days after passage, to offer all collective bargaining units specified employment terms and conditions relating, among other things, to the timing and size of annual wage increases and increments, furloughs, job security, and contract duration. It requires (1) the secretary to offer contract extensions to each unit and (2) the secretary and SEBAC to negotiate a voluntary schedule reduction program to save the state money.

EFFECTIVE DATE: Upon passage

INCOME TAX

Rate Increase and Additional Bracket (§ 64)

For four tax years, from January 1, 2003 to January 1, 2007, the act increases the number of income tax brackets from two to three by raising the tax rate from 5% to 5.5% on taxable incomes over \$500,000 for joint filers, \$265,000 for single filers, \$250,000 for married people filing separately, and \$396,000 for heads of household.

During the same four years, the act also eliminates the flat 5% income tax rate on trusts and estates and instead subjects their taxable income to the same tax brackets and rates as single filers. Finally, the act establishes new tax brackets for married people filing separately instead of applying the singles' brackets to such filers and sets the income levels for each bracket for married separate filers at 50% of the income levels applicable to the comparable bracket for joint filers.

Starting January 1, 2007, income tax rates and brackets revert to prior levels.

Property Tax Credit (§ 65)

The act reduces the maximum property tax credit against the income tax from \$500 to \$425. As under prior law, the maximum credit is reduced by 10% for each \$10,000 of a taxpayer's Connecticut adjusted gross income (10% for each \$5,000 for married people filing separately) above specified levels. But under the act, the reductions apply to the entire credit instead of only to the credit over \$100, thus eliminating any credit for high-income taxpayers (see Table 5).

Table 5: Maximum Property Tax Credits

Maximum Credit		Ct Adjusted Gross Income			
		Married Filing Jointly		Single (for 2003 only)	
Prior Law	Act	From	To	From	To
\$500	\$425	\$24,001	\$100,500	\$12,501	\$54,500
460	383	100,501	110,500	54,501	64,500
420	340	110,501	120,500	64,501	74,500
380	298	120,501	130,500	74,501	84,500
340	255	130,501	140,500	84,501	94,500
300	213	140,501	150,500	94,501	104,500
260	170	150,501	160,500	104,501	114,500
220	128	160,501	170,500	114,501	124,500
180	85	170,501	180,500	124,501	134,500
140	43	180,501	190,500	134,501	144,500
100	0	Over \$190,500		Over \$144,500	
Maximum Credit		Head of Household		Married Filing Separately	
		From	To	From	To
Prior Law	Act	From	To	From	To
\$500	\$425	\$19,001	\$78,500	\$12,001	\$50,250
460	383	78,501	88,500	50,251	55,250
420	340	88,501	98,500	55,251	60,250
380	298	98,501	108,500	60,251	65,250
340	255	108,501	118,500	65,251	70,250
300	213	118,501	128,500	70,251	75,250
260	170	128,501	138,500	75,251	80,250
220	128	138,501	148,500	80,251	85,250
180	85	148,501	158,500	85,251	90,250
140	43	158,501	168,500	90,251	95,250
100	0	Over \$168,500		Over \$95,250	

The income levels at which the maximum credit reduction starts for singles shown in Table 5 apply only for the 2003 tax year. Starting January 1, 2004, the income at which the reduction starts for single filers increases every year until January 1, 2009, when it reaches \$64,501.

EFFECTIVE DATE: The income tax changes are effective upon passage and apply to tax years starting on or after January 1, 2003.

SALES AND USE TAX

Rate Increase (§§ 66-68)

For four years, from July 1, 2003 through June 30, 2007, the act increases sales and use tax rates from 6% to 6.25%. Starting July 1, 2007, the rate reverts to 6%.

Computer and Data Processing Services (§§ 66, 68)

The act repeals the final step of a scheduled phase-out of the sales and use tax on computer and data processing services formerly scheduled to take effect July 1, 2004, thus maintaining a

1% tax on such services.

Hospital Patient Care Services (§§ 66, 68)

The act permanently eliminates the 5.75% sales and use taxes on hospital patient care services. Under prior law, the tax was suspended for two years, from July 1, 2001 through June 30, 2003, and resumed for payments for such services that hospitals received on or after July 1, 2003.

Exemption for Media and Cooperative Direct Mail Advertising and Public Relations (§ 69)

Starting July 1, 2003, the act restores an exemption from the sales and use tax for advertising and public relations services for developing media and cooperative direct mail advertising. It thus eliminates the 3% sales and use tax PA 03-2 imposed on such services starting April 1, 2003.

Remote Sellers (§ 83)

The act requires new contracts for state agency purchases of supplies, equipment, and similar items from sellers with no physical presence (“nexus”) in Connecticut to include an agreement requiring the contractor and its affiliates to collect use tax on all sales to Connecticut consumers during the term of the state contract. The requirement applies to affiliates that control, are controlled by, or are under common control with, the contractor.

The act specifies certain terms agreements must contain and allows them to provide that a contractor and affiliates collect use tax only on items subject to the 6% tax rate (although the act raises the rate to 6.25% for four years).

By law, the use tax applies to taxable items and services Connecticut residents buy out-of-state for use in the state.

Exemption for Newspapers (§ 103)

Starting July 1, 2003, the act restores an exemption for newspapers from the sales and use tax. PA 03-2 applied a 6% tax to newspaper sales starting April 1, 2003.

BUSINESS TAXES

Surcharges (§§ 70-72)

For tax years 2004 and 2005, the act imposes annual surcharges of 20% and 15%, respectively, on (1) the corporation tax and (2) the \$250 tax on limited liability companies, limited liability partnerships, limited partnerships, and S corporations. Companies subject to the corporation tax must calculate their surcharges based on their tax liability before credits.

EFFECTIVE DATE: Upon passage and applicable to income and taxable years starting on or after January 1, 2004.

Insurance Premium Tax Credit Limit (§ 73)

The act limits the total value of the credits an insurance company or HMO may take against the 1.75% premium tax in any year to 70% of its pre-credit tax liability for that year. This limit already applies to corporation tax credits.

EFFECTIVE DATE: Upon passage and applicable to income years starting on or after January 1, 2003.

R&D Credit Refunds for Capital Base Companies (§ 74)

For the 2002 and 2003 income years, the act restores eligibility for research and development (R&D) credit refunds against the corporation tax to companies that pay the alternative capital base tax for a year when they report no net income. PA 03-120 also reinstates eligibility for such companies for the 2002 income year.

EFFECTIVE DATE: Upon passage and applicable to income years beginning or after January 1, 2002.

Gross Earnings Tax on Satellite T.V. Service (§§ 79,80)

The act imposes a 5% tax on gross earnings from businesses providing one-way video program transmission to Connecticut subscribers by satellite. It requires each satellite TV company's taxable gross earnings to be apportioned to Connecticut based on the proportion of its Connecticut subscribers on the first and last day of each tax year to its total subscribers. It requires companies to report the number of total and Connecticut subscribers to DRS on their tax returns, which must be filed

every year by April 1. The act applies to gross earnings on sales on or after July 1, 2003.

INHERITANCE AND TRANSFER TAXES

Succession Tax Phase-Out Delay (§ 75)

The act delays each remaining step of the succession tax phase-out by two years and, by barring the scheduled January 1, 2003 rate reduction from taking effect, maintains the 2002 tax rates through the end of 2004. Its affects estates of people who die on or after January 1, 2003 that exceed certain values, and that pass either to collateral descendants, such as brothers, sisters, nephews, and nieces (Class B heirs) or to other, more remote, heirs (Class C heirs).

Under prior law, the succession tax was scheduled for elimination as of January 1, 2004, for Class B heirs and as of January 1, 2006, for Class C heirs. The act delays elimination for Class B heirs to January 1, 2006, and for Class C heirs to January 1, 2008.

EFFECTIVE DATE: Upon passage and applicable to transfers from estates of those who die on or after January 1, 2003.

Generation-Skipping Transfer and Estate Taxes (§§ 76-78)

The act decouples Connecticut's generation-skipping transfer and estate taxes from the federal ones by setting the state tax rates at the amount of the federal credit for such state taxes as of January 1, 2001, rather than that allowable as of the date of the transfer or death. It also fixes the value of property subject to the taxes at the value prescribed under the federal tax law in effect as of January 1, 2001.

Under prior law, the state taxes were linked to the corresponding federal taxes in effect on the transfer or death date, and the state tax rates were set to absorb the maximum amount of the federal credit at the time of the transfer or death. The 2001 federal tax reduction phases out the corresponding federal taxes as well as the credit against those federal taxes for the state taxes paid, thus effectively eliminating the state taxes.

EFFECTIVE DATE: Upon passage and applicable to transfers and the estates of people who die on or after January 1, 2003.

Gift Tax Phase-Out Delays (§ 81)

The act delays by two years the remaining steps of the phase-out of the tax on gifts between

\$25,000 and \$1 million, thus maintaining the 2003 gift tax rates until January 1, 2006. Under the act, the phase-out resumes as of that date and runs until January 1, 2010. The phase-out was formerly scheduled to run from January 1, 2004 to January 1, 2008.

EFFECTIVE DATE: Upon passage and applicable to calendar years starting January 1, 2003.

TOBACCO SETTLEMENT FUNDS (§ 82)

The act eliminates an annual transfer of \$12 million from the Tobacco Settlement Fund to the Tobacco and Health Trust Fund. It also reduces the annual transfer from the settlement fund to the Biomedical Research Trust Fund from \$4 million to \$2 million. Except for the \$2 million transfer to the Biomedical Research Fund, the act requires all Tobacco Settlement Fund disbursements to go to the General Fund.

The act also eliminates (1) obsolete language concerning required settlement fund disbursements in FY 1999-00 and FY 2000-01 and (2) a grant program administered by OPM, in consultation with legislative leaders and the chairmen and ranking members of the Public Health and Appropriations committees, to reduce tobacco abuse through prevention, education, cessation, treatment, enforcement, and health needs programs.

UNCLAIMED PROPERTY (§§ 84-102)

By law, most property held or owed in this state and remaining unclaimed by the owner is presumed abandoned after a specified amount of time passes. The state treasurer assumes custody and is responsible for any ownership or other types of claims in the property. The act:

1. reduces the amount of time that must pass without a claim on property before it is presumed abandoned (see Table 6 below);
2. alters some of the requirements for presuming abandonment, alters some definitions, and provides some new ones;
3. provides more specific rules for certain property, such as gift certificates and mineral proceeds (see Table 7 below);
4. changes the treasurer's powers to examine people about unclaimed property, to demand unclaimed property, and to ask the attorney general to bring suit;

5. changes when the treasurer must pay interest on abandoned property and ties the interest rate to one set by the banking commissioner;
6. specifies that the treasurer must follow the Uniform Administrative Procedure Act in adopting regulations to enforce the abandoned property laws; and
7. makes other changes related to the duties of a holder of abandoned property, agreements to locate property, and records of issuing a check, draft, or instrument as prima facie evidence and prohibits holders from imposing abandonment fees.

The act also prohibits selling gift certificates with expiration dates and requires sellers and issuers of gift certificates to maintain a record of the certificate owner's name and address.

Table 6: Time Reductions For Property To Be Considered Abandoned

Property	Considered Abandoned After (years)	
	Prior Law	Act
Held by banks or financial institutions		
• Demand or savings deposit	5	3
• Matured time deposit	5	3
• Funds paid toward purchase of shares in a financial organization, or interest or dividends on the shares	5	3
• Uncashed certified checks, drafts, or traveler's checks for which a financial institution is directly liable	5	3
• Funds or personal property in safe deposit boxes or similar repositories	10	5
Held by insurance companies (proceeds payable on life and other types of insurance policies or matured or terminated annuity contracts)	5	3
Held by business associations (stocks, dividends, profits, ownership interests, etc.)	5	3
Held by government, agencies, or courts	5	3

Table 7: New Rules For Certain Types Of Abandoned Property

Property	Considered Abandoned After (years)
Mineral proceeds	3
Insurance company demutualization payments	3
Wages, other than those collected from minimum or overtime wage law violators and payable under another law to an employee's	1

spouse or next of kin	
Utility deposits, refunds, and other sums owed	1
Unredeemed gift certificates	3

EFFECTIVE DATE: July 1, 2003

EXTENDED HOURS FOR ALCOHOL SALES (§ 104)

The act allows package stores, drug stores, and grocery stores to sell alcohol for an additional hour, until 9:00 p.m., on weekdays and Saturdays. Under prior law, these stores could sell alcohol only until 8 p.m. on those days.

Because holders of manufacturing brew pub permits can sell beer for consumption off premises during the same hours as package, drug, and grocery stores, the act effectively extends the hours for such sales as well.

FUNDING FOR CONNECTICUT TELEVISION NETWORK (§ 105)

Starting with FY 2004, the act earmarks \$2 million per year in cable TV company gross earnings tax revenues for the Connecticut Television Network's coverage of state government deliberations and public policy events.

REAL ESTATE CONVEYANCE TAX (§ 106)

Starting July 1, 2004, the act increases the real estate conveyance tax on all sales of commercial property and on residential property that sells for more than \$300,000, as shown in Table 8. For residential property selling for more than \$300,000, the rates shown apply to the portion of the sales price that falls within the applicable bracket.

Table 8: Real Estate Conveyance Tax Rates

Property Type	Tax Rate (%)	
	Old Law	Act
Residential		
• First \$300,000	0.5	0.5
• \$300,001 - \$800,000	0.5	0.75
• Value over \$800,000	1.0	1.5
Commercial	1.0	1.5

PROFESSIONAL AND OCCUPATIONAL LICENSING FEES (§§ 107-219)

The act increases fees for 200 state professional and occupational licenses by roughly 10% each. The occupations and professions are licensed by the departments of Public Health, Consumer Protection, Education, and Environmental Protection, and the secretary of the state. It also increases the occupational tax on practicing attorneys by 10%, from \$450 to \$495 per year.

WALL STREET SETTLEMENT (§ 220)

The act directs any funds the state receives from the legal action known as the "Wall Street Settlement" to be deposited in the General Fund. EFFECTIVE DATE: Upon passage

EMPLOYEES OF STATE-AIDED INSTITUTIONS (§§ 221, 222)

The act extends the 2003 ERIP for state employees, adopted as part of PA 03-2, to employees of the American School for the Deaf, Connecticut Institute for the Blind, and Connecticut Children's Hospital, as long as they meet the requirements and retire by August 1, 2003. It also imposes the same 120-day annual limit on the number of days a retired employee of these institutions can be reemployed by the institution before jeopardizing his retirement benefits as is imposed on retired state employees.

CONSERVATION FUND TRANSFERS (§ 223)

For FYs 2004 and 2005, the act reduces, from \$3 million to \$2 million, the amount of tax revenue generated from the sale of motor fuel by distributors to boatyards, marinas, or other similar facilities that must be deposited in the Conservation Fund. It deducts the \$1 million from the allocation to the fisheries account within the fund, reducing its allocation from \$2 million to \$1 million for each year.

DELINQUENT MOTOR VEHICLE TAXES (§ 224)

By law, municipal tax collectors must notify the Department of Motor Vehicles (DMV) commissioner when property taxes on a motor vehicle or snowmobile are delinquent. The act requires municipalities to pay 50 cents for each

such vehicle for which they submit notice and requires the payments to be deposited in the General Fund.

SPECIAL TRANSPORTATION FUND REVENUE (§ 225)

For FYs 2004 and 2005, the act reduces the required quarterly transfer of motor fuel tax revenue to the Special Transportation Fund by \$250,000 from \$5.25 million to \$5 million.

REVENUE ESTIMATES (§§ 226-245)

The act contains estimated revenues for FYs 2004 and 2005 for each state fund shown in Table 9.

Table 9: Revenue Estimates for FYs 2004 and 2005

§§	Fund	Estimated Revenue	
		FY 2003-04	FY 2004-05
226,236	General Fund	\$12,484,800,000	\$13,098,700,000
227,237	Special Transportation Fund	926,400,000	941,300,000
228,238	Mashantucket Pequot & Mohegan Fund	100,000,000	100,000,000
229,239	Soldiers', Sailors', and Marines' Fund	3,500,000	3,500,000
230,240	Regional Market Operation Fund	1,000,000	1,000,000
231,241	Banking Fund	15,200,000	15,300,000
232,242	Insurance Fund	19,700,000	19,700,000
233,243	Consumer Counsel & Public Utility Control Fund	19,900,000	19,900,000
234,244	Workers' Compensation Fund	22,900,000	22,900,000
235,245	Criminal Injuries Compensation Fund	1,500,000	1,500,000

JUDICIAL FEE INCREASES ALLOCATED TO THE GENERAL FUND (§ 246)

The act repeals a provision of PA 03-2 that credited all revenue from specified court fees and attorney taxes established or increased on or after that act's effective date, up to a maximum of \$1.5 million in FY 2003 and \$4.9 million annually thereafter, to the Judicial Department's other expense account. Thus, the act makes those revenues an unrestricted part of the General Fund.

PA 03-279—HB 6720 (VETOED)
Emergency Certification

AN ACT CONCERNING THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2005, AND MAKING APPROPRIATIONS THEREFORE, AND VARIOUS TAXES AND OTHER PROVISIONS RELATED TO REVENUES OF THE STATE

SUMMARY: The act appropriates money for state agencies and programs and estimates state revenues for FYs 2004 and 2005. It directs funds to be transferred and spent for specified purposes, caps certain expenditures and hiring, and directs certain unspent appropriations from prior years to be carried forward and used for particular purposes in FYs 2004 and 2005.

The act provides revenues to fund its appropriations. It increases various taxes, reduces and limits tax credits, and cancels and delays scheduled tax reductions. It requires certain remote sellers with no nexus in Connecticut to collect and remit state use taxes on sales here. It transfers money from various special and off-budget funds to the state General Fund, earmarks revenues for specific functions and programs, and adjusts revenue transfers to and from various special funds. It also permanently eliminates the sales and use tax on hospital patient care services.

The act establishes new rules and timetables for the state to take custody of abandoned property and requires beverage container manufacturers and distributors to turn over unclaimed bottle deposits to the state.

EFFECTIVE DATE: July 1, 2003, unless otherwise noted below.

APPROPRIATIONS FOR 2003-2005 BIENNIUM (§§ 1-20)

The act appropriates money to different funds for state agencies and programs for FYs 2004 and 2005. Table 1 shows appropriations, by fund, for each year.

Table 1: Net FY 04 and 05 Appropriations By Fund

§§	Fund	Appropriation	
		FY 2004	FY 2005
1,11	General Fund	\$12,605,870,937	\$13,224,035,042
2,12	Special Transportation Fund	906,124,943	929,742,428
3,13	Mashantucket Pequot & Mohegan Fund	100,000,000	100,000,000
4,14	Soldiers', Sailors', and Marines' Fund	3,460,895	3,485,723

5,15	Regional Market Operation Fund	940,855	963,467
6,16	Banking Fund	15,134,757	15,186,508
7,17	Insurance Fund	19,657,754	19,552,499
8,18	Consumer Counsel & Public Utility Control Fund	19,342,341	19,171,466
9,19	Workers' Compensation Fund	22,435,338	22,807,794
10,20	Criminal Injuries Compensation Fund	1,425,000	1,425,000

FUNDING AND EXPENDITURE DIRECTIVES

Transfers To Maximize Federal Funds (§ 21)

The act allows the governor to transfer an agency's appropriated funds, at its request, to another agency to take advantage of federal funds as long as both agencies certify that the money will be spent for its original purpose. The governor can make the transfer if the agency requests it and the Finance Advisory Committee's (FAC) approves it. Federal funds generated from transfers can be used for reimbursing General Fund spending, expanding services, or both, as the governor, with FAC approval, determines.

Expenditure Reduction Requirements (§§ 22, 23)

The act requires the Office of Policy and Management (OPM) secretary to reduce spending for personal services and other expenses by \$13 million and \$11 million respectively, in each fiscal year of the biennium.

Rescission Authority (§ 24)

The act allows the governor, with FAC approval, to make deeper-than-normal rescissions in FY 2004 and FY 2005 appropriations to achieve collective bargaining savings required by the act or any other public or special act or any collective bargaining agreement. By law, the governor's rescission authority is ordinarily limited to 3% of total appropriations from any fund or 5% of any appropriation and may be exercised only when (1) circumstances have changed since the budget was adopted or (2) there are not enough estimated resources to fund all appropriations.

Transfers to Reserve for Salary Adjustments (§ 25)

The act allows the governor to recommend, and the FAC to approve, transfers of FY 2004

and FY 2005 General and Special Transportation Fund appropriations for personal services to the reserve for salary adjustments account to more accurately reflect the impact of collective bargaining and related costs. The governor can make transfers and add amounts from special funds as needed to implement salary increases; other employee benefits; costs related to staff reductions, including accrual payments, or achievement of agency personal services reductions; or other personal services adjustments this act or any other law authorizes.

Department of Administrative Services Positions (§ 30)

The act allows the Department of Administrative Services to fill no more than 124 positions from the General Services Revolving Fund.

Information Technology Positions (§ 31 (a))

To consolidate information technology positions within the Department of Information Technology (DOIT), the act allows the governor, with FAC approval, to make extra rescissions, revise the number of positions an agency may fill during FYs 2004 and 2005, and transfer funds and positions to DOIT.

Birth-to-Three Program (§ 36)

In both FY 2004 and 2005, the act requires the State Department of Education to transfer \$1 million of the federal special education funds it receives to the Department of Mental Retardation's Birth-to-Three Program to carry out special education-related requirements consistent with federal law.

Department of Social Services (DSS) Disproportionate Share Payments to Department of Mental Health and Addiction Services (DMHAS) Hospitals (§ 37(a))

The act requires DSS to spend appropriations for the DMHAS/Medicaid Disproportionate Share only when and in amounts OPM specifies. It requires DSS to make disproportionate share (DSH) payments to DMHAS hospitals for operating expenses and related fringe benefits and requires the hospitals to reimburse the comptroller from the fringe benefit payments. The hospitals must deposit all other funds received to "grants – other than

federal accounts” and to lapse unspent DSH funds at the end of the fiscal year.

Teachers’ Retirement System (§ 38)

The act allows the state to make the Teachers Retirement System contributions the act specifies for FYs 2004 and 2005 rather than contribute the actuarially recommended amount for those years.

Department of Higher Education (§ 39)

The act allows the Department of Higher Education to spend \$206,000 in FY 2004 and \$216,000 in FY 2005 from the private occupational school student protection account.

Department of Transportation (§ 42(b))

The act carries forward the unspent balance of prior years’ appropriations for the Transportation Strategy Board to FYs 2004 and 2005. During FY 2004, it transfers up to \$640,000 of these funds to OPM for statutorily required grants-in-aid for regional planning agencies.

Secretary of the State (§ 44)

The act requires the secretary of the state to pay up to \$617,000 of the costs for the computerized voter registration system from the commercial recording account.

Housing Program Transfer (§ 46(a))

The act requires the Department of Economic and Community Development (DECD) commissioner and Connecticut Housing Finance Authority’s (CHFA) executive director, in consultation with the OPM secretary, to develop a plan to transfer DECD’s housing programs to CHFA. The plan must detail the General Fund savings resulting from such a transfer and be submitted to the chairmen of the Housing and Finance, Revenue and Bonding committees.

While the act imposes no deadline for completing the plan, by January 1, 2004, it requires DECD and CHFA to conclude a memorandum of understanding (MOU) specifying the programs and responsibilities to be transferred, the schedule for doing so, and any other matters needed to complete the transfer. During the transfer, the act requires the

commissioner and the executive director to submit monthly reports to the committees’ chairmen concerning the MOU’s implementation and General Fund savings.

Higher Education Constituent Units (§ 48)

The act caps certain administrative spending by higher education constituent units for FYs 2004 and 2005 (see Table 2). The spending limits apply to General Fund appropriations and operating fund spending, but not to federal, private, capital bond, and fringe benefit funds.

Table 2: Higher Education Spending Limits

§	Function	Unit	Spending Limits for FYs 2004 & 2005
48(a)	System office spending excluding	Community-Technical Colleges	\$3,100,000
48(b)	telecommunication center funds, capital equipment bond funds for identified system-wide projects benefiting individual campuses, and data center funds	Connecticut State University	3,100,000
48(c)	Institutional administration spending, (system office, executive management, fiscal operations, and general administration but not logistical services, administrative computing, and development)	Community-Technical Colleges	22,000,000
48(d)		Connecticut State University	20,100,000
48(e)		UConn	13,700,000

The act requires the higher education commissioner to monitor compliance with the limits and report her findings to the Education and Appropriations committees within 60 days of the end of each quarter of FYs 2004 and 2005.

Higher Education Matching Grant Fund (§ 52)

The act requires each constituent unit that receives higher education matching grant funds to report on how it spends the funds for FYs 2004 and 2005 to the Appropriations and Higher Education committees by March 1, 2004 and March 1, 2005.

Community Justice Centers (§ 56)

The act transfers \$2 million from the Department of Correction’s FY 2005 personal services appropriation to its appropriation for community justice centers.

Grant to Stamford Hospital (§ 57)

For FYs 2004 and 2005, the act requires the DSS commissioner to provide annual grants of

\$2.5 million to Stamford Hospital from DSS' annual appropriations for DSH-Urban Hospitals in Distressed Municipalities.

Commission on Racial and Ethnic Disparity (§ 58)

For FYs 2004 and 2005, the act allocates \$50,000 per year to the Commission on Racial and Ethnic Disparity from the Judicial Department's other expenses appropriation.

Branford Hospice (§ 59)

For FYs 2004 and 2005, the act allocates \$100,000 per year from OPM's appropriation for reimbursements to towns for taxes lost on private tax-exempt property to Branford for payment in lieu of property taxes on Connecticut Hospice.

FUNDING CARRYOVER PROVISIONS

The act authorizes various unspent balances from prior years' appropriations to be carried forward rather than lapsing at the end of the fiscal year.

Table 3: Funds Carried Forward

\$	Agency	Purpose	Amount	To FY
26(b)	OPM	Collective bargaining agreements and related costs	Unspent balance	2004, 2005
27	Comptroller	Core financial systems & State Employees Retirement System data base	Unspent balance	2004
28(a)	OPM	Interlocal agreements signed before June 30, 2001	Unspent balance	2004, 2005
28(b)	OPM	Litigation settlement costs	Up to \$1.5 million	2004, 2005
28(c)	OPM	Justice Assistance Grants	Up to \$1.3 million	2004
28(d)	OPM	Drug Enforcement Program	Up to \$ 1 million	2004
29	Office of Workforce Competitiveness	Connecticut Employment and Training Commission - Workforce	Up to \$ 1 million	2004
31(b), (c)	DOIT and other agencies to which DOIT may transfer funds	Health Insurance Portability and Accountability Act	Unspent balance	2004

32	Police Officer Standards and Training Council	Training at satellite academies	Unspent balance	2004
33(a)	Labor Department	Welfare-to-Work Grant Program	Unspent balance	2004
33(b)	Labor Department	Opportunity Industrial Centers: \$100,000 each for Bridgeport and Waterbury	Up to \$200,000	2004
33(c)	Labor Department	Workforce Investment Act	Unspent balance	2004, 2005
34	Department of Public Health	Children's Health Initiatives, expand "Easy Breathing" Asthma Initiative	Unspent balance	2004
35	Office of Medical Examiner	Equipment	Unspent balance	2004
37(b)	Department of Social Services	Work Performance Bonus account	Any funds transferred to the account with FAC approval	2004
40(a)	Department of Correction	Inmate medical services	Unspent balance	2004
40(b)	Department of Correction	Inmate tracking system	Unspent balance	2004, 2005
41(a)	Department of Motor Vehicles (DMV)	Commercial vehicle information systems and networks project	Unspent balance	2004, 2005
41(b)	DMV	Upgrading DMV registration and driver license data processing systems	Unspent balance of funds appropriated for converting to fully reflective license plates	2004, 2005
42(a)	Department of Transportation (DOT)	Transportation Strategy Board	Unspent balance	2004, 2005
42(c)	DOT	Highway planning and research	Unspent balance	2004, 2005
43(a)	Department of Education (DOE)	Priority school districts	Unspent balance	2004, 2005
43(b)	DOE	School construction grants	Unspent balance	2004

Emergency Spill Response Fund (§ 45)

For FYs 2004 and 2005, the act requires the comptroller to deposit \$10.5 million of annual petroleum products gross earnings tax revenues into the Department of Environmental Protection's Emergency Spill Response Account.

TRANSFERS TO THE GENERAL FUND (§ 46(B) & (C))

For FYs 2004 and 2005, the act transfers to the General Fund \$5 million annually from the Connecticut Development Authority and \$25 million annually from the Clean Energy Fund.

ENERGY CONSERVATION AND LOAD MANAGEMENT FUNDS (§ 47)

Prior law required transferring \$1 million per month to the General Fund from electric utilities' energy conservation and load management funds until July 2005. The act eliminates these transfers as of June 2003 and instead requires transfers of \$72 million from those funds to the General Fund during the FY 2004 – 2005 biennium. The act also eliminates a requirement that transferred money be put into a nonlapsing General Fund account to pay for state agencies' electricity costs and conservation projects, and instead makes the money unrestricted.

EFFECTIVE DATE: Upon passage

FILLING STATE EMPLOYEE POSITIONS

All State Agencies (§ 49)

Unless the governor recommends it and the FAC approves, the act limits the number of positions state agencies, other than higher education constituent units, may fill to the number recommended by the Appropriations Committee, as revised by General Assembly action, set out in the Office of Fiscal Analysis report on the state budget.

Higher Education Constituent Units (§§ 50, 51)

For FYs 2004 and 2005, the act allows higher education constituent units to fill up to 100% of the faculty positions vacated because of the 2003 Early Retirement Incentive Program (ERIP). It allows the units to retain 80% of the savings attributable to the ERIP but requires them to (1) reallocate at least 10% of ERIP faculty vacancies to programs in nursing, teacher shortage, and other critical workforce areas identified by the Office of Workforce Competitiveness, in consultation with the departments of Higher Education, Education, and Labor; (2) submit a reallocation plan to the Higher Education and Employment Advancement Committee by January 1, 2004;

and (3) report to the committee on the impact of the reallocations on enrollment in shortage fields by October 1, 2004.

Legislative Commissions (§ 53)

The act bars legislative commissions from filling vacancies during FYs 2004 and 2005 unless the Legislative Management Committee considers them critical to the commission's operation.

Secretary of the State (§ 54)

The act requires the FY 2004 and 2005 costs of three voter registration positions in the Secretary of the State's Office to be paid from the commercial recording account.

RATES FOR HOME HEALTH SERVICES NURSE VISITS (§ 55)

By law, DSS pays a fee to nurses who visit patients at home solely to administer medication. The act requires (1) the fee to expire on September 30, 2003; (2) the DSS commissioner, after consulting with the Appropriations Committee chairmen, to establish new rates for such visits starting October 1, 2003; and (3) the commissioner to submit the new rates to the committee chairmen for their review by September 15, 2003.

EFFECTIVE DATE: Upon passage

REIMBURSEMENT TO SCHOOL DISTRICTS FOR HEALTH SERVICES TO PRIVATE SCHOOL STUDENTS (§ 60)

For FYs 2004 and 2005, the act continues state reimbursement grants for health services school districts must provide to Connecticut students attending private schools in the district. Reimbursement percentages range from 10% to 90%, based on town wealth, with a minimum 80% reimbursement for any town in which the number children on welfare was more than 1% of its population in 1997 or any town with a wealth ranking below 30 that provides such services to more than 1,500 students who do not live in the town.

INCOME TAX

Rate Increase and Additional Brackets (§ 61)

For four tax years, from January 1, 2003 to January 1, 2007, the act increases the number of income tax brackets from two to five by adding three new tax brackets for taxable incomes over \$500,000 for joint filers; \$265,000 for single filers; \$250,000 for married people filing separately, and \$396,000 for heads of household. It increases the tax rate on these higher income brackets from a flat 5.0% to 5.5%, 5.75%, and 5.9% (see Table 4).

Table 4: Old And New (for 2003-2007) Tax Rates and Brackets

Tax Rates (%)		Ct. Taxable Income (Income Exceeding Applicable Exemption)			
		Married Filing Jointly or as Surviving Spouse		Single and Trusts & Estates	
Old Law and as of 1/1/07	Act 1/1/03- 12/31/06	From	To	From	To
3.0 (Trusts & Estates: 5.0)	3.0	\$1	\$20,000	\$1	\$10,000
5.0	5.0	20,001	500,000	10,001	265,000
	5.5	500,001	1,000,000	265,001	531,500
	5.75	1,000,001	2,000,000	531,501	1,062,500
	5.9	Over \$2,000,000		Over \$1,062,500	
Tax Rates (%)		Head of Household		Married Filing Separately	
Old Law and as of 1/1/07	Act 1/1/03- 12/31/06	From	To	From	To
3.0 (Trusts & Estates: 5.0)	3.0	\$1	\$16,000	\$1	\$10,000
5.0	5.0	16,001	396,000	10,001	250,000
	5.5	396,001	792,000	250,001	500,000
	5.75	792,001	1,580,000	500,001	1,000,000
	5.9	Over \$1,580,000		Over \$1,000,000	

During the same four years, the act also eliminates the flat 5.0% income tax rate on trusts and estates and instead subjects their taxable income to the same tax brackets and rates as single filers. Finally, for the same four-year period, the act establishes new tax brackets for married people filing separately instead of applying the singles' brackets to such filers and sets the income levels for each bracket for married separate filers at 50% of the income levels applicable to the comparable bracket for joint filers.

Starting January 1, 2007, income tax rates and brackets revert to prior levels.

Property Tax Credit (§ 62)

The law gives taxpayers a credit against their income taxes for property taxes they pay to towns, up to certain limits. The act reduces the maximum credit from \$500 to \$460. As under prior law, the maximum goes down 10% for each \$10,000 of a taxpayer's Connecticut adjusted gross income (10% for each \$5,000 for married people filing separately) above specified levels. But under the act, the reductions apply to the entire credit amount instead of only to the credit amount over \$100, thus eliminating any credit for high-income taxpayers (see Table 5).

Table 5: Maximum Property Tax Credits

Maximum Credit		CT Adjusted Gross Income			
		Married Filing Jointly		Single (for 2003 only)	
Prior Law	Act	From	To	From	To
\$500	\$460	\$24,001	\$100,500	\$12,501	\$54,500
460	414	100,501	110,500	54,501	64,500
420	368	110,501	120,500	64,501	74,500
380	322	120,501	130,500	74,501	84,500
340	276	130,501	140,500	84,501	94,500
300	230	140,501	150,500	94,501	104,500
260	184	150,501	160,500	104,501	114,500
220	138	160,501	170,500	114,501	124,500
180	92	170,501	180,500	124,501	134,500
140	46	180,501	190,500	134,501	144,500
100	0	Over \$190,500		Over \$144,500	
Maximum Credit		Head of Household		Married Filing Separately	
Prior Law	Act	From	To	From	To
\$500	\$460	\$19,001	\$78,500	\$12,001	\$50,250
460	414	78,501	88,500	50,251	55,250
420	368	88,501	98,500	55,251	60,250
380	322	98,501	108,500	60,251	65,250
340	276	108,501	118,500	65,251	70,250
300	230	118,501	128,500	70,251	75,250
260	184	128,501	138,500	75,251	80,250
220	138	138,501	148,500	80,251	85,250
180	92	148,501	158,500	85,251	90,250
140	46	158,501	168,500	90,251	95,250
100	0	Over \$168,500		Over \$95,250	

The income levels at which the maximum credit reduction starts for singles shown in Table 4 apply only for the 2003 tax year. Starting January 1, 2004, the income at which the reduction starts for such filers increases every year until January 1, 2009, when it reaches \$64,501.

EFFECTIVE DATE: Income tax changes are effective on passage and apply to tax years starting on or after January 1, 2003.

SALES AND USE TAX

Rate Increase (§§ 63-65)

For four years, from July 1, 2003 through June 30, 2007, the act increases sales and use tax rates from 6% to 6.5%. Starting July 1, 2007, the rate reverts to 6%.

Computer and Data Processing Services (§§ 63,65)

The act repeals the final step of a scheduled phase-out of the sales and use tax on computer and data processing services formerly set to take effect July 1, 2004, thus maintaining a 1% tax on such services.

Hospital Patient Care Services (§§ 63,65)

The act permanently eliminates the 5.75% sales and use tax on hospital patient care services. The tax was suspended for two years, from July 1, 2001 through June 30, 2003. Under prior law, the tax applied to payments for such services that hospitals received on or after July 1, 2003.

Remote Sellers (§ 78)

The act requires new contracts for state agency purchases of supplies, equipment, and similar items from sellers with no physical presence (“nexus”) in Connecticut to include an agreement requiring the contractor and its affiliates to collect use tax on all Connecticut sales during the term of the state contract. The requirement applies to affiliates that control, are controlled by, or are under common control with, the contractor.

The act specifies certain terms agreements must contain and allows them to provide that contractors and affiliates collect use tax only on items subject to the 6% tax rate (although the act raises the rate to 6.5% for four years).

Exemption for Newspapers (§ 98)

Starting July 1, 2003, the act restores an exemption for newspapers from the sales and use tax. PA 03-2 applied a 6% tax to newspaper sales starting April 1, 2003.

Sales-Tax-Free Week (§ 120)

The act eliminates a sales tax exemption for clothing and footwear costing less than \$300 that applies during the third week of August (the third Sunday of the month to the following Saturday) every year, a period known as the “sales-tax-free week.”

BUSINESS TAXES

Surcharges (§ 66-68)

For tax years 2004 and 2005, the act imposes a 20% annual surcharge on (1) the corporation tax and (2) the \$250 tax on limited liability companies, limited liability partnerships, limited partnerships, and S corporations. Companies subject to the corporation tax must calculate their surcharges based on their tax liability before credits. The 20% surcharge already applies to those taxes for 2003.

EFFECTIVE DATE: Upon passage and applicable to income and taxable years starting on or after January 1, 2004.

Insurance Premium Tax Credit Limit (§ 69)

The act limits the total value of the credits an insurance company or HMO may take against the 1.75% premium tax in any year to 70% of its pre-credit tax liability for that year. This limit already applies to corporation tax credits.

EFFECTIVE DATE: Upon passage and applicable to income years starting on or after January 1, 2003.

Gross Earnings Tax on Satellite T.V. Service (§§ 74,75)

The act imposes a 5% tax on gross earnings from businesses providing one-way satellite transmission of video programs to Connecticut subscribers. It requires each satellite TV company’s taxable gross earnings to be apportioned to Connecticut based on the proportion of its Connecticut subscribers on the first and last day of each tax year to its total subscribers. It requires companies to report the number of total and Connecticut subscribers to DRS on their tax returns, which must be filed every year by April 1. The new tax applies to gross earnings on sales on or after July 1, 2003.

INHERITANCE AND TRANSFER TAXES

Succession Tax Phase-Out Delay (§ 70)

The act delays each remaining step of the phase-out of the succession tax for two years and, by barring the rate reduction scheduled for January 1, 2003 from taking effect, maintains the 2002 tax rates through the end of 2004. Its affects estates of people who die on or after January 1, 2003 that exceed certain values, and that pass either to collateral descendants, such as brothers, sisters, nephews, and nieces (Class B heirs) or to other, more remote, heirs (Class C heirs).

Under prior law, the succession tax was scheduled for elimination as of January 1, 2004 for Class B heirs and as of January 1, 2006 for Class C heirs. The act delays elimination for Class B heirs to January 1, 2006 and for Class C heirs to January 1, 2008.

EFFECTIVE DATE: Upon passage and applicable to transfers from estates of those who die on or after January 1, 2003.

Generation-Skipping Transfer and Estate Taxes (§ 71-73)

The act decouples the Connecticut generation-skipping transfer and estate taxes from the federal ones by setting the state tax rates at the amount of the federal credit for such state taxes as of January 1, 2001, rather than that allowable as of the date of the transfer or death. It also fixes the value of property subject to the taxes at the value prescribed under the federal tax law in effect as of January 1, 2001.

Under prior law, the state taxes were linked to the corresponding federal taxes in effect on the transfer or death date, and the state tax rates were set to absorb the maximum amount of the federal credit at the time of the transfer or death. The 2001 federal tax reduction law phases out the corresponding federal taxes and the credit against them for the state taxes paid, thus effectively eliminating any state taxes linked to the federal law.

EFFECTIVE DATE: Upon passage and applicable to transfers and the estates of people who die on or after January 1, 2003.

Gift Tax Phase-Out Delay (§ 76)

The act delays by two years the remaining steps of the phase-out of the tax on gifts between \$25,000 and \$1 million, thus maintaining the

2003 gift tax rates until January 1, 2006. Under the act, the phase-out resumes as of that date and runs until January 1, 2010. The phase-out was scheduled to run from January 1, 2004 to January 1, 2008.

EFFECTIVE DATE: Upon passage and applicable to calendar years starting January 1, 2003.

TOBACCO SETTLEMENT FUNDS (§ 77)

Starting in FY 2002, the act eliminates annual transfers of \$12 million from the Tobacco Settlement Fund to the Tobacco and Health Trust Fund and \$4 million to the Biomedical Research Fund. Instead, it requires all Tobacco Settlement Fund disbursements to go to the General Fund.

The act also eliminates (1) obsolete language concerning required settlement fund disbursements in FY 1999-00 and FY 2000-01 and (2) a grant program administered by OPM, in consultation with legislative leaders and the chairmen and ranking members of the Public Health and Appropriations committees, to reduce tobacco abuse through prevention, education, cessation, treatment, enforcement, and health needs programs.

UNCLAIMED BOTTLE DEPOSITS (§§ 79-81)

The act requires a distributor or manufacturer that sells beverage containers and collects deposits on them under the state's bottle deposit law to place the deposits in a separate, interest-bearing bank account and pay any unclaimed deposits in the accounts to the DRS commissioner every quarter. The commissioner must place the money in the General Fund.

The act applies to the first distributor to sell a beverage container in the state that is subject to the bottle deposit law and to manufacturers who sell such containers directly to retailers. It requires them to file financial reports on their special accounts with DRS within one month after the end of each calendar quarter, starting October 31, 2004. Payers must transfer unclaimed deposits to DRS within seven days after filing the report and are subject to penalties for failure to pay on time. They must follow accounting procedures and other requirements specified by DRS. The act gives the state treasurer authority to examine a distributor's or manufacturer's records relating to the account and allows her to impose penalties for audit adjustments or underpayments. It also allows the attorney general to institute actions to enforce the

act or its regulations.

Violators are subject to fines of between \$50 and \$100 for a first offense; \$100 to \$250 for a second offense, and \$250 to \$500 for a third offense.

EFFECTIVE DATE: July 1, 2004, except for the special account requirements, which are effective on passage and applicable to sales on or after July 1, 2004.

UNCLAIMED PROPERTY (§§ 82-97 & 99)

By law, most property held or owed in this state and remaining unclaimed by the owner is presumed abandoned after a specified amount of time passes. The state treasurer assumes custody and is responsible for any ownership or other types of claims in the property. This act:

1. reduces the amount of time that must pass without a claim on property before it is presumed abandoned (see Table 6 below);
2. alters some of the requirements for the presumption of abandonment, alters some definitions, and provides some new ones;
3. provides more specific rules for certain property, such as gift certificates and mineral proceeds (see Table 7 below);
4. changes the treasurer’s powers to examine people about unclaimed property, to demand unclaimed property, and to ask the attorney general to bring suit;
5. prohibits holders from imposing abandonment fees;
6. changes when the treasurer must pay interest on abandoned property and determines the interest rate based on a rate set by the banking commissioner;
7. specifies that the treasurer must follow the Uniform Administrative Procedures Act in adopting regulations to enforce the abandoned property laws; and
8. makes other changes related to the duties of a holder of abandoned property, agreements to locate property, and records of issuing a check, draft, or instrument as prima facie evidence.

Table 6: Time Reductions For Property To Be Considered Abandoned

<i>Property</i>	<i>Considered Abandoned After (years)</i>	
	<i>Prior Law</i>	<i>Act</i>
Held by banks or financial institutions		
• Demand or savings deposit	5	3
• Matured time deposit	5	3
• Funds paid toward purchase of shares in a financial organization, or interest or dividends on the shares	5	3
• Uncashed certified checks, drafts, traveler’s checks for which a financial institution is directly liable	5	3
• Funds or personal property in safe deposit boxes or similar repositories	10	5
Held by insurance companies (proceeds payable on life and other types of insurance policies or matured or terminated annuity contracts)	5	3
Held by business associations (stocks, dividends, profits, ownership interests, etc.)	5	3
Traveler’s checks on which a business association is directly liable	15	10
Held by government, agencies, or courts	5	3

Table 7: New Rules For Certain Types Of Abandoned Property

<i>Property</i>	<i>Considered Abandoned After (years)</i>
Mineral proceeds	3
Insurance company demutualization payments	1
Wages, other than those collected from minimum or overtime wage law violators and payable under another law to an employee’s spouse or next of kin	1
Utility deposits, refunds, and other sums owed	1
Unredeemed gift certificates	3

REVENUE ESTIMATES (§§ 101-119)

The act contains estimated revenues for FYs 2004 and 2005 for each state fund shown in Table 8.

Table 8: Revenue Estimates for FYs 2004 and 2005

§§	Fund	Estimated Revenue	
		FY 2004	FY 2005
100,110	General Fund	\$12,606,500,000	\$13,226,700,000
101,111	Special Transportation Fund	926,400,000	941,300,000
102,112	Mashantucket Pequot & Mohegan Fund	100,000,000	100,000,000
103,113	Soldiers', Sailors', and Marines' Fund	3,500,000	3,500,000
104,114	Regional Market Operation Fund	1,000,000	1,000,000
105,115	Banking Fund	15,200,000	15,300,000
106,116	Insurance Fund	19,700,000	19,700,000
107,117	Consumer Counsel & Public Utility Control Fund	19,900,000	19,900,000
108,118	Workers' Compensation Fund	22,500,000	22,800,000
109,119	Criminal Injuries Compensation Fund	1,500,000	1,500,000

GAAP ACCOUNTING ELIMINATED (§ 120)

The act repeals the authorization for the comptroller to use Generally Accepted Accounting Principles (GAAP) to maintain the state's financial statements starting July 1, 2003.

PA 03-1

PA 03-67

PA 03-113

PA 03-157

PA 03-165

PA 03-172

PA 03-185

PA 03-194

PA 03-204

PA 03-279

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